Transportation Standards  The proposed transportation standards contained in §§ 3.161 through 3.168 have been written to provide birds with the same general protection and care as that provided for other species of animals covered by the AWA. Some birds, however, do have special transportation needs. For example, while most birds require space to make normal postural adjustments during transport, there are some birds that may injure themselves if their movements are not restricted. Therefore, the intention of the proposed transportation standards for birds is to account for these animals’ unique needs while still providing them with equivalent protection and care as other covered animals.

We note that many foreign air carriers are members of the International Air Transport Association (IATA) and may already comply with most of the physical requirements contained in this proposed rule. The IATA regulations generally align with the intent of the AWA in ensuring the humane and safe transportation of animals but diverge from the proposed regulations and standards in certain areas, such as recordkeeping requirements. Where such divergences exist, the AWA regulations and standards would need to be followed.

CONSIGNMENTS TO CARRIERS AND INTERMEDIATE HANDLERS—PROPOSED § 3.161  Regulated entities, such as dealers and exhibitors, may elect to consign their bird to a carrier or intermediate handler in connection with the animal's transportation in commerce. To ensure the health and well-being of birds during such transport in commerce, we are proposing to establish several conditions that must be met before carriers and intermediate handlers can accept a bird for transport. Specifically, we would provide that carriers and intermediate handlers must not accept a live bird for transport in commerce more than 4 hours before the scheduled departure time of the primary conveyance on which the animal is to be transported. However, we would provide that a carrier or intermediate handler may agree with anyone consigning a bird to extend this time by up to 2 hours if specific prior scheduling of the animal shipment to a destination has been made, provided that the extension is not detrimental to the health and well-being of the bird as determined by the consignor.

Carriers and intermediate handlers would not be allowed to accept a live bird for transport in commerce unless they are provided with the name, address, and telephone number of the consignee. Carriers and intermediate handlers would also not be allowed to accept a live bird for transport in commerce unless the consignor certifies in writing to the carrier or intermediate handler that the bird was offered food and water during the 4 hours prior to delivery to the carrier or intermediate handler. Carriers and intermediate handlers must not accept unweaned birds for transport unless transport instructions are specified as a part of the program of veterinary care.

Certification for shipment of birds would have to be securely attached to the outside of the primary enclosure in a manner that makes it easy to notice and read. The certification would have to include the following information for each live bird: The consignor's name, address, email address, and telephone number; the number of birds; the species or common names of the birds; the time and date the bird was last fed and watered; and the specific instructions for the next feeding(s) and watering(s) for a 24-hour period; and the consignor's signature and the date and time the certification was signed.

Carriers and intermediate handlers would not be allowed to accept a live bird for transport in commerce in a primary enclosure unless they are provided with the name, address, and telephone number of the consignee.

Carriers and intermediate handlers would also not be allowed to accept a live bird for transport in commerce unless their animal holding area can maintain climatic and environmental conditions in accordance with the requirements of proposed § 3.168. (As discussed below, § 3.168 sets out climatic and environmental conditions for the transportation of animals and requires, among other things, that such transportation must be done in a manner that does not cause overheating, excessive cooling, or adverse environmental conditions that could cause discomfort or stress.)

Following the arrival of any live birds at the bird holding area of the terminal cargo facility, we would require that carriers and intermediate handlers attempt to notify the consignee at least once in every 6-hour period. The time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee would have to be recorded on the copy of the shipping document retained by the carrier or intermediate handler and on a copy of the shipping document accompanying the bird shipment.

PRIMARY ENCLOSURES USED TO TRANSPORT LIVE BIRDS

Under proposed § 3.162, no person subject to the AWA regulations would be allowed to transport or deliver for transport in commerce a bird unless the following requirements are met:

PRIMARY ENCLOSURES: CONSTRUCTION OF PRIMARY ENCLOSURES—PROPOSED § 3.162(A)  Birds would have to be contained in a primary enclosure such as a compartment, transport cage, carton, or crate, except as provided in proposed paragraph (e) in § 3.162. Primary enclosures used to transport birds would have to be constructed so that:
The primary enclosure is strong enough to contain the birds securely and comfortably and to withstand the rigors of transportation normally encountered during transportation;

- The interior of the enclosure has no sharp points or edges and no protrusions that could injure the birds contained therein;

- The bird is at all times securely contained within the enclosure and cannot put any part of its body outside the enclosure in a way that could result in injury to itself, to handlers, or to other persons or to other animals nearby;

- The birds can be easily and quickly removed from the enclosure in an emergency;

- Unless the enclosure is permanently affixed to the conveyance, adequate handholds or other devices such as handles are provided on its exterior, and enable the enclosure to be lifted without tilting it, and ensure that anyone handling the enclosure will not be in contact with the bird contained inside;

- Unless the enclosure is permanently affixed to the conveyance, it is clearly marked on top and on one or more sides with the words “Live Animals,” in letters at least 1 inch (2.5 centimeters) high, and with arrows or other markings to indicate the correct upright position of the primary enclosure;

- Any material, treatment, paint, preservative, or other chemical used in or on the enclosure is nontoxic to the bird and not harmful to its health or well-being;

- A bird that has a fractious or stress-prone disposition must be contained in an enclosure that is padded on the top and sides and has protective substrate on the bottom to prevent injury to the bird during transport;

- Proper ventilation must be provided to the birds in accordance with proposed paragraph (b) in § 3.162;

- The primary enclosure has a solid, leak-proof bottom or a removable, leak-proof collection tray. If a mesh or other nonsolid floor is used in the enclosure, it would have to be designed and constructed so that the bird cannot put any part of its body through the holes in the mesh or the openings in the nonsolid floor; and

- If substrate (newspaper, towels, litter, straw, etc.) is used in the primary enclosure, the substrate would have to be clean and made of a suitably absorbent material that is safe and nontoxic to the birds.

These proposed standards would consider the need for birds to be supported and protected from injury during transportation.

PRIMARY ENCLOSURES: VENTILATION—PROPOSED § 3.162(B) Ventilation is very important to ensure that birds are provided adequate fresh air for their respiratory needs. Therefore, unless the primary enclosure is permanently affixed to the conveyance, there would have to be ventilation openings located on two vertical walls of the primary enclosure that are at least 16 percent of the surface area of each such wall or ventilation openings located on all four walls of the primary enclosure that are at least 8 percent of the total surface area of each such wall. At least one-third of the total minimum area required for ventilation of the primary enclosure would have to be located on the lower one-half of the primary enclosure, and at least one-third of the total minimum area required for ventilation of the primary enclosure must be located on the upper one-half of the primary enclosure. This requirement would be modeled on our existing ventilation requirements for rabbits, which we have found to provide sufficient ventilation for the purposes of humane care.

Unless the primary enclosure is permanently affixed to the conveyance, we would require that projecting rims or other devices be on the exterior of the outside walls with any ventilation openings to prevent obstruction of the ventilation openings. The projecting rims or similar devices would have to be large enough to provide a minimum air circulation space of 0.75 inches (1.9 centimeters) between the primary enclosure and anything the enclosure is adjacent to, unless 90 percent or greater of the surface area of the enclosure wall is open (e.g., cage mesh). We would require that any visually obscuring mesh used to provide security for the bird in the enclosure not interfere with proper ventilation. Again, this requirement is modeled on an existing requirement, found in paragraph (a)(5) of § 3.61 of the regulations, that we have found to be effective.

If a primary enclosure is permanently affixed within the animal cargo space of the primary conveyance so that the front opening is the only source of ventilation for such primary enclosure, the front opening would have to open directly to the outside or to an unobstructed aisle or passageway within the primary conveyance. Such front ventilation opening would have to be at least 90 percent of the total surface area of the front wall of the primary enclosure and covered with bars, wire mesh, or smooth expanded metal.

PRIMARY ENCLOSURES: CLEANING OF PRIMARY ENCLOSURES—PROPOSED § 3.162© Primary enclosures used to hold or transport birds in commerce would have to be cleaned and sanitized before each use in accordance with proposed § 3.158 by the dealer, research facility, exhibitor, or operator of an auction sale.

PRIMARY ENCLOSURES: COMPATIBILITY—PROPOSED § 3.162(D) Live birds transported in the same primary enclosure would have to be of the same species or compatible species and maintained in compatible groups. Socially dependent birds would have to be able to see and hear each other.

PRIMARY ENCLOSURES: SPACE AND PLACEMENT—PROPOSED § 3.162€ We would require that primary enclosures used to transport live birds be large enough to ensure that each bird contained therein has sufficient space to turn about freely and to make normal postural adjustments, except that certain species may be restricted in their movements according to
professionally accepted standards when such freedom of movement would constitute a danger to the birds, their handlers, or other persons.

**PRIMARY ENCLOSURES: ACCOMPANYING DOCUMENTS AND RECORDS—PROPOSED § 3.162(f)** Documents accompanying the shipment of birds would have to be attached in an easily accessible manner to the outside of a primary enclosure which is part of such shipment and could not be allowed to obstruct ventilation openings.

**PRIMARY CONVEYANCES (MOTOR VEHICLE, RAIL, AIR, AND MARINE)—PROPOSED § 3.163** We would require that the animal cargo space of primary conveyances used in transporting live birds be designed, constructed, and maintained in a manner that at all times protects the health and well-being of the animals transported in them, ensures their safety and comfort, and minimizes the entry of exhaust from the primary conveyance during transportation. The animal cargo space would have to have a supply of Start Printed Page 9900 air that is sufficient for the normal breathing of all the animals being transported in it, and each primary enclosure containing birds would have to be positioned in the animal cargo space in a manner that provides protection from the elements and that allows each bird enough air for normal breathing. During transportation, we would require that the climatic conditions in the animal cargo area shall be maintained in accordance with the requirements of proposed § 3.168. We would require that primary enclosures be positioned in the primary conveyance in a manner that allows the birds to be quickly and easily removed from the primary conveyance in an emergency. We would also require that the interior of the bird cargo space be kept clean. Finally, we would provide that live birds may not be transported with any material, substance (e.g., dry ice), or device which may reasonably be expected to be injurious to the health and well-being of the birds unless proper precaution is taken to prevent such injury.

**FOOD AND WATER REQUIREMENTS—PROPOSED § 3.164** All weaned birds would have to be offered food and potable water within 4 hours before being transported in commerce. We would also require all birds transported in their own primary conveyance be provided potable water or other source of hydration to at least every 12 hours after such transportation is initiated, except for birds which, according to professionally accepted standards, require watering or feeding more or less frequently. All weaned birds would have to be fed at least once in each 24-hour period, except as directed by veterinary treatment, normal fasts, or other professionally accepted standards. Birds that require feeding more or less frequently would have to be fed accordingly. A sufficient quantity of food and water or other source of hydration would have to accompany the bird to meet its needs for food and water during period of transport, except as directed by veterinary treatment and other professionally accepted standards. Any dealer, research facility, exhibitor, or operator of an auction sale offering any live bird to any carrier or intermediate handler for transportation in commerce would have to securely affix to the outside of the primary enclosure used for transporting the bird written instructions for the in-transit food and water requirements of the bird contained in the enclosure. We would prohibit carriers and intermediate handlers from accepting any live birds for transportation in commerce unless written instructions concerning the food and water requirements of the bird being transported are affixed to the outside of its primary enclosure. The instructions would have to be attached in accordance with proposed § 3.162(f) and in a manner that makes them easy to notice and read.

**CARE IN TRANSIT—PROPOSED § 3.165**

**CARE IN TRANSIT: SURFACE TRANSPORTATION (GROUND AND WATER)—PROPOSED § 3.165(A)** During surface transportation, we would require in § 3.165(a) that any person subject to the AWA regulations transporting birds in commerce must ensure that the operator of the conveyance, or a person accompanying the operator, visually observes the birds as frequently as circumstances may allow, but not less than once every 4 hours, to ensure that the birds are receiving sufficient air for normal breathing, that climatic and environmental conditions are being maintained in accordance with the requirements in proposed § 3.168, and that all other applicable standards are met. The regulated person would have to ensure that the operator or person accompanying the operator determines whether any of the birds are in physical distress and obtains any veterinary care needed for the birds as soon as possible.

**CARE IN TRANSIT: AIR TRANSPORTATION—PROPOSED § 3.165(B)** Similarly, when transported by air, we would require in § 3.165(b) that live birds be visually observed by the carrier as frequently as circumstances may allow, but not less than once every 4 hours, if the animal cargo space is accessible during flight. If the animal cargo space is not accessible during flight, the carrier would have to visually observe the live birds whenever they are loaded and unloaded and whenever the bird cargo space is otherwise accessible to ensure that they are receiving sufficient air for normal breathing, that climatic and environmental conditions are being maintained in accordance with the requirements in proposed § 3.168, and that all other applicable standards are met. The carrier would have to determine whether any such live birds are in physical distress and arrange for any needed veterinary care as soon as possible.

**CARE IN TRANSIT: PROHIBITION ON THE TRANSPORT OF ILL, INJURED, OR DISTRESSED BIRDS—PROPOSED § 3.165©** Finally, in proposed § 3.165(c), we would prohibit any person subject to the AWA regulations from transporting in commerce birds that are ill, injured, or in physical distress, except to receive veterinary care for the condition.
TERMINAL FACILITIES—PROPOSED § 3.166

TERMINAL FACILITIES: PLACEMENT—PROPOSED § 3.166(A) We would require that carriers and intermediate handlers not commingle shipments of live birds with other animals or inanimate cargo in animal holding areas of terminal facilities. This proposed standard would help to ensure that the live birds are accessible and that the following standards concerning cleaning, sanitization, and pest control in terminal facilities are met.

TERMINAL FACILITIES: CLEANING, SANITIZATION, AND PEST CONTROL—PROPOSED § 3.166(B) We are proposing to require that all animal holding areas of terminal facilities be cleaned and sanitized in a manner prescribed in proposed § 3.158, as often as necessary to prevent an accumulation of debris or excreta and to minimize vermin infestation and disease hazards. Terminal facilities would have to follow an effective program in all animal holding areas for the control of insects, ectoparasites, and other pests.

TERMINAL FACILITIES: VENTILATION—PROPOSED § 3.166© We would require that ventilation be provided in any animal holding area in a terminal facility containing birds, by means of windows, doors, vents, or air conditioning.

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TERMINAL FACILITIES: VENTILATION—PROPOSED § 3.166© We would require that ventilation be provided in any animal holding area in a terminal facility containing birds, by means of windows, doors, vents, or air conditioning. The air would have to be circulated by fans, blowers, or air conditioning so as to minimize drafts, odors, and moisture condensation.

TERMINAL FACILITIES: CLIMACTIC AND ENVIRONMENTAL CONDITIONS—PROPOSED § 3.166(D) We would require that the climatic and environmental conditions in animal holding areas be maintained in accordance with the proposed performance standard in § 3.168.

HANDLING—PROPOSED § 3.167 We are proposing to require that any person subject to the AWA regulations who moves (including loading and unloading) live birds within, to, or from the animal holding area of a terminal facility or a primary conveyance does so as quickly and efficiently as possible and provides sufficient shade to protect the birds from the direct rays of the sun and sufficient protection to allow the birds the option to remain dry during rain, snow, and other precipitation. We would also require that climatic and environmental conditions be maintained in accordance with the proposed requirements in § 3.168. We would require that any person handling a primary enclosure containing a live bird uses care and avoids causing physical harm or distress to the bird. We would not allow a primary enclosure containing a live bird to be tossed, dropped, or tilted, or stacked in a manner which may reasonably be expected to result in its falling.

CLIMATIC AND ENVIRONMENTAL CONDITIONS DURING TRANSPORTATION—PROPOSED § 3.168 Finally, we are proposing to require that the transportation of all live birds be done in a manner that does not cause overheating, excessive cooling, or adverse environmental conditions that could cause discomfort or stress. When climatic or environmental conditions, including temperature, humidity, exposure, ventilation, pressurization, time, or other environmental conditions, or any combination thereof, present a threat to the health or well-being of a live bird, appropriate measures would have to be taken immediately to alleviate the impact of those conditions. The different climatic and environmental factors prevailing during a journey would have to be considered when arranging for the transportation of and when transporting live birds. Considerations may include, but would not be limited to:

- The temperature and humidity level of any enclosure used during transportation of live birds would have to be controlled by adequate ventilation or any other means necessary;
- Appropriate care would have to be taken to ensure that live birds are not subjected to prolonged drafts detrimental to their health or well-being;
- Appropriate care would have to be taken to ensure that live birds are not exposed to direct heat or cold if detrimental to their health or well-being, such as placement in direct sunlight or near a hot radiator; and
During prolonged air transit stops in local climatic conditions that could produce excessive heat for live birds held in aircraft compartments, the aircraft doors would have to be opened and, if necessary, ground equipment must be used to control the condition of the air within compartments containing live birds.

We would also provide examples of factors to consider when meeting these requirements. Specifically, we would state that, in order to determine what climatic and environmental conditions are appropriate for a live bird, factors such as, but not limited to, the bird's age, species, physiological state, last feeding and watering, and acclimation would have to be considered when such information is available. Finally, for birds that are not able to maintain a constant body temperature at ambient temperatures, we would require their transportation in a brooder or other temperature-regulating unit that effectively assists the bird in maintaining a constant body temperature during transport. Signs that a bird is able to independently maintain a constant body temperature include the bird's ability to open its eyes fully and sit erect and the appearance of full or partial feathering on the body of the bird. We would require that the temperature of the brooder or other temperature-regulating unit would have to be monitored during transportation and appropriate for the live bird. Written instructions for the temperature requirements of birds transported in brooders or other temperature-regulating units would have to be securely affixed to the outside of the primary enclosure used for transporting the bird. The instructions would have to be attached in accordance with proposed § 3.162(f) in a manner that makes them easily noticed and read.

We believe the standards we propose in this document would ensure the humane handling, care, treatment, and transportation of birds covered by the AWA.