

Title 14—Aeronautics and Space
CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 13569; Amdt. No. 121-111]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Stowage of Containers for Transport of Animals Aboard Aircraft

The purpose of this amendment to Part 121 of the Federal Aviation Regulations is to require that cargo containers housing live animals for carriage by air in the cargo compartments of aircraft be secured in the cargo compartment in such a fashion as to prevent shifting and be protected from the hazards of shifting of other cargo, and to assure that ventilation areas of the container are not obstructed.

This amendment is based on a notice of proposed rulemaking (Notice No. 74-10) published in the Federal Register on March 11, 1974 (39 FR 9456). Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all comments received in response to the Notice. Except for minor editorial changes, and except as specifically discussed hereinafter, this amendment and the reasons therefor are the same as those in Notice No. 74-10.

The FAA received more than 150 public comments in response to Notice 74-10. Most of the comments expressed concern for the safety of animals when they are transported by air. A majority expressed encouragement that the FAA is initiating measures to aid in assuring the safe carriage of animals aboard aircraft.

Many commentators made suggestions that were not within the scope of the Notice. A number of the commentators recommended that regulations be adopted to assure that the cargo compartments in which animals are carried are adequately ventilated, and that measures are taken to control temperature extremes and excessive noise in those compartments. Some commentators suggested that only healthy animals be allowed to be offered for transportation by air and that the time that an animal may be left at an airport before and after being transported by air be limited. Other recommendations included requirements for the construction of the containers that house live animals, for the feeding, watering, and medical care of animals during transit, and the notification of the crew when animals are on board the aircraft. These comments will be retained by the FAA for consideration in future FAA studies

concerning the carriage of animals by air and in connection with the interagency committee referred to below.

Some commentators objected to the proposed requirements that a container housing a live animal be securely attached to the cargo compartment and that the container be isolated from other cargo to the extent necessary to prevent physical contact, since compliance with these requirements would be prohibitively expensive. One of those commentators also pointed out that the requirement that each animal container be isolated from physical contact with any other cargo would require the separation of multiple containers of animals, such as shipments of poultry. In the light of this comment and after further consideration of the problem of protecting an animal container from damage by other cargo, this provision has been revised to require only that each animal container be protected by use of webbing, partitions, or other means that prevent crushing or other damage to the container by other cargo in the cargo compartment under normally anticipated flight and ground conditions. It should be noted that this revision would also allow compliance with new § 121.288(a) by one securing device, such as a net, for a group of animal containers.

In proposing § 121.288, it was realized that there would be expense involved in providing adequate means of attaching animal containers to the cargo compartment and protecting them from damage from the other cargo; however, in view of the number of reports of injury or death to animals resulting from damage to containers caused by tumbling or shifting in the cargo compartments the FAA has determined that these requirements are necessary to prevent the shifting of cargo that could cause breaking of these containers or blocking of the means of ventilation. Moreover, the rule, as adopted, has been clarified by specifically stating that the securing of the animal container to the cargo compartment must be in a manner that prevents shifting.

One commentator stated that the proposed regulation would have the effect of requiring all animals to be shipped in containers. The FAA does not agree since the regulation, as adopted, specifically applies only to animals that are in fact carried in containers in cargo compartments.

Some commentators were concerned that the Notice did not differentiate between warm and cold-blooded animals since the needs of these two kinds of animals may differ with respect to ventilation, heat control, and other environmental factors. In this connection one commentator pointed out that certain cold-blooded animals do not require ventilation when carried in containers. Al-

though the regulations, as adopted, applies to any kind of live animal, warm or cold-blooded, the requirement that a container housing live animals be located in the cargo compartment in such a manner as to assure that ventilation areas are not obstructed does not preclude the carriage of containers constructed without ventilation areas, nor does it set any standards for container construction.

As was noted in Notice No. 74-10, the Committee on Government Operations of the United States House of Representatives in a report entitled "Problems in Air Shipment of Domestic Animals" (House Report 93-746; December 21, 1973) recommended that the Department of Agriculture, the Civil Aeronautics Board, and the Federal Aviation Administration form an interagency committee to identify existing problems and to develop corrective regulations and standards, and methods of enforcement of those regulations and standards. That committee has been formed and will meet to consider the problems regarding the transportation of live animals by air. Moreover, the Department of Transportation is participating in the Civil Aeronautics Board's investigation of the *Rules and Practices Relating to the Acceptance and Carriage of Live Animals in Domestic Air Freight Transportation*, CAB Docket 26310, which will consider matters related to the proper stowage of live animals in air transportation.

(Secs. 313(a), 601(a); Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421(a)); Sec. 6 (c), Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, and for the reasons stated in Notice No. 74-10, Part 121 of the Federal Aviation Regulations is amended, effective October 18, 1974, by adding a new § 121.288 to read as follows:

§ 121.288 Carriage of live animals in containers in cargo compartments.

No certificate holder may carry a live animal in a container in a cargo compartment unless the container is—

- (a) Securely attached to the cargo compartment in a manner that prevents shifting;
- (b) Protected by use of webbing, partitions, or other means that prevent crushing or other damage to the container by other cargo in the cargo compartment under all normally anticipated flight and ground conditions; and
- (c) Located in the cargo compartment in a manner that assures that ventilation areas of the container are not obstructed.

Issued in Washington, D.C., on August 9, 1974.

ALEXANDER P. BUTTERFIELD,
Administrator.

(As published in the Federal Register [39 F.R. 29917] on Aug 19, 1974)