

§ 3.113

9 CFR Ch. I (1–10 Edition)

(c) Carriers or intermediate handlers whose facilities fail to maintain a temperature within the range of 7.2 °C (45 °F) to 23.9 °C (75 °F) allowed by § 3.117 of this subpart may accept for transportation or transport, in commerce, any marine mammal consigned by any department, agency, or instrumentality of the United States or of any State or local government, or by any person (including any licensee or registrant under the Act, as well as any private individual) if the consignor furnishes to the carrier or intermediate handler a certificate executed by the attending veterinarian on a specified date that is not more than 10 days prior to delivery of the animal for transportation in commerce, stating that the marine mammal is acclimated to a specific air temperature range lower or higher than those prescribed in §§ 3.117 and 3.118. A copy of the certificate must accompany the shipment to destination. The certificate must include at least the following information:

- (1) Name and address of the consignor;
- (2) The number, age, and sex of animals in the shipment;
- (3) A certifying statement (e.g., “I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to an air temperature range of _____”); and
- (4) The signature of the attending veterinarian and the date.

(d) Carriers and intermediate handlers must attempt to notify the consignee (receiving party) at least once in every 6-hour period following the arrival of any marine mammals at the animal holding area of the terminal cargo facility. 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 must 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 animal shipment.

[66 FR 254, Jan. 3, 2001]

§ 3.113 Primary enclosures used to transport marine mammals.

No dealer, research facility, exhibitor, or operator of an auction sale shall

offer for transportation or transport, in commerce, any marine mammal in a primary enclosure that does not conform to the following requirements:

(a) Primary enclosures that are used to transport marine mammals other than cetaceans and sirenians must:

(1) Be constructed from materials of sufficient structural strength to contain the marine mammals;

(2) Be constructed from material that is durable, nontoxic, and cannot be chewed and/or swallowed;

(3) Be able to withstand the normal rigors of transportation;

(4) Have interiors that are free from any protrusions or hazardous openings that could be injurious to the marine mammals contained within;

(5) Be constructed so that no parts of the contained marine mammals are exposed to the outside of the enclosures in any way that may cause injury to the animals or to persons who are nearby or who handle the enclosures;

(6) Have openings that provide access into the enclosures and are secured with locking devices of a type that cannot be accidentally opened;

(7) Have such openings located in a manner that makes them easily accessible at all times for emergency removal and potential treatment of any live marine mammal contained within;

(8) Have air inlets at heights that will provide cross ventilation at all levels (particularly when the marine mammals are in a prone position), are located on all four sides of the enclosures, and cover not less than 20 percent of the total surface area of each side of the enclosures;

(9) Have projecting rims or other devices placed on any ends and sides of the enclosures that have ventilation openings so that there is a minimum air circulation space of 7.6 centimeters (3.0 inches) between the enclosures and any adjacent cargo or conveyance wall;

(10) Be constructed so as to provide sufficient air circulation space to maintain the temperature limits set forth in this subpart; and

(11) Be equipped with adequate handholds or other devices on the exterior of the enclosures to enable them to be lifted without unnecessary tilting and to ensure that the persons handling the enclosures will not come in

contact with any marine mammal contained inside.

(b) Straps, slings, harnesses, or other devices used for body support or restraint, when transporting marine mammals such as cetaceans and sirenians must:

(1) Be designed so as not to prevent access to the marine mammals by attendants for the purpose of administering in-transit care;

(2) Be equipped with special padding to prevent trauma or injury at critical weight pressure points on the body of the marine mammals; and

(3) Be capable of keeping the animals from thrashing about and causing injury to themselves or their attendants, and yet be adequately designed so as not to cause injury to the animals.

(c) Primary enclosures used to transport marine mammals must be large enough to assure that:

(1) In the case of pinnipeds, polar bears, and sea otters, each animal has sufficient space to turn about freely in a stance whereby all four feet or flippers are on the floor and the animal can sit in an upright position and lie in a natural position;

(2) In the case of cetaceans and sirenians, each animal has sufficient space for support of its body in slings, harnesses, or other supporting devices, if used (as prescribed in paragraph (b) of this section), without causing injury to such cetaceans or sirenians due to contact with the primary transport enclosure: *Provided, however,* That animals may be restricted in their movements according to professionally accepted standards when such freedom of movement would constitute a danger to the animals, their handlers, or other persons.

(d) Marine mammals transported in the same primary enclosure must be of the same species and maintained in compatible groups. Marine mammals that have not reached puberty may not be transported in the same primary enclosure with adult marine mammals other than their dams. Socially dependent animals (e.g., sibling, dam, and other members of a family group) must be allowed visual and olfactory contact whenever reasonable. Female marine mammals may not be transported in

the same primary enclosure with any mature male marine mammals.

(e) Primary enclosures used to transport marine mammals as provided in this section must have solid bottoms to prevent leakage in shipment and must be cleaned and sanitized in a manner prescribed in §3.107 of this subpart, if previously used. Within the primary enclosures used to transport marine mammals, the animals will be maintained on sturdy, rigid, solid floors with adequate drainage.

(f) Primary enclosures used to transport marine mammals, except where such primary enclosures are permanently affixed in the animal cargo space of the primary conveyance, must be clearly marked on top (when present) and on at least one side, or on all sides whenever possible, with the words "Live Animal" or "Wild Animal" in letters not less than 2.5 centimeters (1 inch) in height, and with arrows or other markings to indicate the correct upright position of the container.

(g) Documents accompanying the shipment must be attached in an easily accessible manner to the outside of a primary enclosure that is part of such shipment or be in the possession of the shipping attendant.

(h) When a primary transport 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 must open directly to the outside or to an unobstructed aisle or passageway within the primary conveyance. Such front ventilation opening must 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.

[66 FR 255, Jan. 3, 2001]

§3.114 Primary conveyances (motor vehicle, rail, air and marine).

(a) The animal cargo space of primary conveyances used in transporting live marine mammals must be constructed in a manner that will protect the health and assure the safety and comfort of the marine mammals contained within at all times. All primary conveyances used must be sufficiently