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July 8, 2008

Docket No. APHIS-2006-0024
Regulatory Analysis and Development
APHIS, Station 3A-03.8
4700 River Road, Unit 118
Riverdale, MD 20737-1238

Re: Docket No. APHIS-2006-0024—Minimum Age Requirements for the Transport of Animals

Dear Sir/Madam:

We appreciate the opportunity to comment on Docket No. APHIS-2006-0024, in which USDA-APHIS proposes to amend the Animal Welfare Act (AWA) regulations by:

- (1) adding a minimum age requirement (eight weeks) for the transport of animals in commerce, and
- (2) allowing unweaned and/or animals of younger than required age to be transported without their mothers for medical treatment and scientific research, provided certain conditions are met.

After a careful review of the proposed rule as published in the *Federal Register*, the American Veterinary Medical Association (AVMA) recommends it not be adopted in its current form.

As a general comment, additional information about what prompted this proposal would have assisted us in providing a more detailed and meaningful response. The background of the proposed rule references enforcement issues associated with the transport of young animals. In doing so, concern is expressed about injuries, illnesses, and death of some young animals transported before they were weaned and/or before reaching eight weeks of age, but the actual number of animals affected, and the species, age, and conditions and duration of transport of those affected is not provided (and in some cases is indicated to not be known). The absence of such critical information makes it difficult to determine the origin and extent of any existing problems and whether the remedies proposed are likely to be effective in addressing related concerns.

Specifically, and with respect to part one of the proposal, although the AVMA agrees, in principle, that all animals protected under the AWA should be subject to species-appropriate requirements that ensure their humane care, we are bothered by the lack of a scientific basis for randomly assigning a minimum age of eight weeks for transport of all covered species. The physiological and psychological (including social) needs of the diversity of species covered under the AWA vary considerably, as do their rates of maturation, nursing intervals, and ages at weaning. Although we recognize the agency's desire for as much uniformity as possible in requirements for animals covered under the AWA, we also believe any requirements imposed should be scientifically justified. In our opinion, insufficient justification has been provided in this proposal to support the blanket application of an 8-week minimum. We are also concerned that a singular focus on the age of the animal to be transported does not sufficiently consider other important transport factors, including (but not limited to) whether it is advisable for the baby to travel with the mother and under what

conditions, the availability of properly designed transport housing (e.g., vehicles, cages) for mother and baby, and the accessibility of appropriate pre- and post-weaning diets for neonates/juveniles. All of these factors could drive required transport conditions and age of transport, per species. Without information about the conditions mostly closely associated with the morbidities and mortalities prompting this proposal, selection of which factor to target seems premature.

With respect to part two of the proposal, whereas we recognize the theoretical merits of having a transportation plan, particularly for at-risk animals, the requirements as presented are confusing, potentially burdensome, and/or appear to conflict with existing AWA regulations. For example, exemptions are provided for transport of animals younger than eight weeks old for purposes of medical care or when the animals are destined for a registered research facility and need to be acquired at that age to satisfy a specific research protocol. It is not clear, however, whether 'research facility' or 'veterinarian' as specified in the proposal does or does not include exhibition facilities, such as zoos. The AVMA is aware of instances where orphaned mammals at a variety of developmental stages have been transported to other facilities for adoptive or care purposes. Would these instances be considered to meet the medical care criterion?

As another example, under current regulations responsibility for paperwork falls to the consignor; in contrast, this proposal seems to suggest that responsibility would now be assigned to the consignee. This could present challenges if transport were delayed and last-minute adjustments that were in the best interest of the animal(s) needed to be made because the consignee may not be aware of the details of transport. Assuming the intent is that responsibility for paperwork rests with the supplier (i.e., consistent with existing regulations for consignment to carriers and intermediate handlers), then commercial dealers of large numbers of common laboratory species might be responsible for preparing, seeking approval for, and executing thousands of plans per year. Assigning the USDA-APHIS transport approval process to regional offices as suggested in the proposed rule could potentially result in confusion regarding applicable responsibility and authority when animals are transported across regional boundaries, as well as disagreements between regulators regarding the appropriateness of the arrangements which would need to be resolved and could create approval and transport delays.

Furthermore, the proposed rule indicates IACUC-approved research protocols would be required to transport unweaned dogs and cats to a registered research facility. Since current regulations already require an IACUC-approved protocol for use of *all* covered species in research, testing, or teaching, it appears unnecessary to include duplicate language in the proposed rule.

We also note the proposed rule requires the signature of not only the attending veterinarian, but also the head of the animal care staff. Since the attending veterinarian is already assigned responsibility by regulation to oversee the appropriateness of all aspects of animal care and use, it is not clear why an additional signature is necessary.

Having made these points, the AVMA supports the provision within the proposed rule that would amend and clarify the existing regulations to explicitly allow for animals to be transported for routine and emergency medical care, without the requirement for a transport plan.

Our final concern is whether USDA-APHIS/Animal Care has sufficient personnel and monetary resources to manage the additional enforcement responsibilities (including but not limited to paperwork) likely to be incurred should this proposal be adopted. We are acutely aware of the time and financial challenges that USDA-APHIS/Animal Care staff members face in attending to their existing enforcement duties. In the absence of useful data indicating the extent of the need for remedies and providing a rationale for remedies as proposed, it is not clear to us that the additional duties imposed on USDA-APHIS/Animal Care staff will actually improve the welfare of covered animals; certainly, we would not want an increased workload to negatively impact activities that data suggest are critical for ensuring those animals' well being. In addition, we are concerned about the impact of potential time delays associated with the transport plan approval process on both covered entities and covered animals.

The AVMA considered the alternatives suggested by USDA-APHIS for handling the proposed rule and, given the absence of data provided to justify the rule as well as discrepancies between the age requirement specified in the proposed rule and the physiological and psychological development of the variety of species covered under the AWA, believes the first option (i.e., no changes to current regulations) is the only applicable of the three options at this time. Option two (i.e, allow transport of weaned animals without an eight-week minimum age requirement) suffers from potential discrepancies between the USDA-APHIS definition of 'weaned' ("an animal has become accustomed to take solid food and has so done, without nursing, for a period of at least 5 days") and definitions provided in various medical dictionaries (Dorland's: "to discontinue breastfeeding and substitute other feeding habits" and Stedman's: "permanent deprivation of breast milk and commencement of nourishment with other food") that do not preclude the use of a liquid or gruel diet. We found option three to be problematic, because the adult weight of a species, while it often correlates, is not a singular indicator of the rate of development of an animal.

The objective of the AVMA is to advance the science and art of veterinary medicine, and the Association has a long-term concern for, and commitment to, the welfare and humane treatment of animals. The AVMA represents more than 77,000 veterinarians and is the recognized voice for the profession in presenting its views to government, academia, agriculture, animal owners, the media, and other concerned members of the public. We appreciate the opportunity to offer comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Lyle P. Vogel". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Lyle P. Vogel, DVM, MPH, DACVPM
Assistant Executive Vice President

AWC/GCG