

UNITED STATES DEPARTMENT OF AGRICULTURE JUN 3 07

BEFORE THE SECRETARY OF AGRICULTURE

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In re:	)	AWA Docket No. 03-0029
	)	AWA Docket No. 03-0031
	)	AWA Docket No. 04-0011
	)	AWA Docket No. 05-0001
DELTA AIR LINES, INC.,	)	AWA Docket No. 05-0020
a Delaware corporation,	)	AWA Docket No. 05-0023
	)	AWA Docket No. 05-0025
	)	
Respondent.	)	CONSENT DECISION AND ORDER

These proceedings were instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(the "Act"), by seven complaints filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent, Delta Air Lines, Inc., willfully violated the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondent Delta Air Lines, Inc., admits the allegations in each of the complaints, as set forth herein as findings of fact and conclusions of law, waives oral hearing and further procedure, and consents and agrees to the entry of this decision. The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Delta Air Lines, Inc. ("Delta"), is a Delaware corporation whose business address is Hartsfield-Atlanta International Airport, 1030 Delta Boulevard, Post Office Box 20574, Atlanta, Georgia 30320-2574. At all times mentioned herein, respondent Delta was registered as a carrier, as that term is defined in the Act and the Regulations.

AWA Docket No. 03-0029

2. On May 2, 2003, respondent Delta transported six healthy juvenile male German Shepherd dogs from Frankfurt, Germany, to Atlanta, Georgia. The dogs were to be transported to Dayton, Ohio, on flight 1517, which was scheduled to arrive at approximately 7:30 p.m. that evening. Instead, the dogs were placed in the forward cargo compartment on flight 520, which was scheduled to depart Atlanta at 9:45 p.m., and to arrive in Dayton at 11:09 p.m. The equipment used for flight 520 was an MD-88. There is no cooling system in the forward cargo compartment of an MD-88, and once the loading door is closed, there is no system for air circulation in the compartment. Flight 520 left the gate at 10:11 p.m., but did not take off for over two hours because of bad weather. The pilot elected not to return to the gate, but to remain in line on the runway, and turned the engines and the air conditioning off so that refueling would not be required. At least one of the passengers heard the dogs barking in a distressed manner. Flight 520 did not arrive in Dayton, Ohio, until after 1:30 a.m., on May 3, 2002. Four of the dogs were dead. At approximately 2:00 a.m., one dog (Orlando) died upon arrival at Anstadt Animal Hospital, Tipp City, Ohio. The sixth dog (Koxo) survived.

3. On May 2 and 3, 2002, respondent Delta failed to handle six German Shepherd dogs as expeditiously and carefully as possible in a manner that would not cause them trauma, overheating, physical harm and unnecessary discomfort.

4. On May 2 and 3, 2000, respondent Delta failed to comply with the minimum standards for the humane transportation of dogs, as follows:

a. The animal cargo space in which respondent Delta transported the six German Shepherd dogs was not designed and constructed to protect their health and ensure their safety and comfort at all times, and specifically, did not afford them sufficient ventilation.

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b. The animal cargo space in which respondent Delta transported the six German Shepherd dogs did not have a supply of air that was sufficient for the normal breathing of all of the animals being transported in it.

c. Respondent Delta did not provide the six German Shepherd dogs with adequate air for breathing at all times during their transportation.

d. Respondent Delta did not observe the six German Shepherd dogs in its custody as frequently as circumstances allowed to make sure that they had sufficient air for normal breathing, to determine whether they were in obvious physical distress, and, if so, to arrange for veterinary care as soon as possible.

AWA Docket No. 03-0031

5. On March 10, 2000, respondent Delta transported three juvenile female English bulldogs from Asheville, North Carolina, to Atlanta, Georgia. One of the dogs (Bonnie) died of asphyxiation upon or shortly after arrival in Atlanta. The two other dogs suffered respiratory distress.

6. On March 10, 2000, respondent Delta failed to handle the three English bulldogs as expeditiously and carefully as possible in a manner that would not cause them trauma, overheating, behavioral stress, physical harm, and unnecessary discomfort.

7. On March 10, 2000, respondent Delta failed to comply with the minimum standards for the humane transportation of dogs, as follows:

a. The animal cargo space in which respondent Delta transported the three English bulldogs was not designed and constructed to protect their health and ensure their safety and comfort at all times, and specifically, did not afford them sufficient space and ventilation.

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b. The animal cargo space in which respondent Delta transported the three English bulldogs did not have a supply of air that was sufficient for the normal breathing of all of the animals being transported in it.

c. Respondent Delta did not position each of the three English bulldogs' primary enclosures in the animal cargo space in a manner that allowed each dog enough air for normal breathing.

d. Respondent Delta did not provide the three English bulldogs with adequate air for breathing at all times during their transportation.

e. Respondent Delta did not observe the three English bulldogs in its custody as frequently as circumstances allowed to make sure that they had sufficient air for normal breathing, and failed to determine whether they were in obvious physical distress and arrange for veterinary care as soon as possible.

AWA Docket No. 04-0011

8. On February 8, 2002, respondent Delta transported a juvenile coatimundi from Ft. Myers, Florida, to La Guardia Airport, Queens, New York. A coatimundi is a tropical American mammal related to the raccoon, but with a longer body and tail and a long, flexible snout. The coatimundi was consigned to respondent Delta in Ft. Myers, Florida, on February 8, 2002. It arrived in New York that evening at approximately 11:30 p.m. Respondent Delta placed the animal in its animal cargo room, where it remained for four days. On February 8 or 9, 2002, respondent Delta made an attempt to notify the consignee that the animal had arrived. On February 10, 2003, respondent Delta made a second attempt to contact the consignee. The consignee did not pick up the animal. On February 10, 2002, respondent Delta notified the consignor that the coatimundi had not been picked up by the consignee.

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9. From February 8 through February 12, 2002, respondent Delta did not provide any food or water to the animal. On February 12, 2002, respondent Delta transported the coatimundi to Ft. Myers, Florida, to the consignor, who took the animal to an emergency pet hospital, where it was pronounced dead the following day, February 13, 2002.

10. On February 8, 2002, respondent Delta accepted the coatimundi for transportation, in commerce, on a C.O.D. basis, without a written guarantee by the consigner for the payment of all transportation, including return transportation, if the shipment is unclaimed.

11. On February 9, 2002, respondent Delta failed to attempt to notify the consignee of the coatimundi, at least once every 6 hours for a period of 24 hours after arrival of the coatimundi at the animal holding area of the terminal cargo facility.

12. On February 8 and 9, 2002, respondent Delta failed to record 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 on the copy of the shipping document retained by respondent Delta and on a copy of the shipping document accompanying the animal shipment.

13. On February 9, 2002, respondent Delta failed to return the coatimundi to the consignor, on the next practical available transportation after failing to locate the consignee within 24 hours of the C.O.D. shipment of the animal and by failing to notify the consignor.

14. On February 10, 2002, respondent Delta failed to return the coatimundi to the consignor, on the next practical available transportation after 48 hours, and by failing to notify the consignor.

15. On February 8, 9, 10, 11, and 12, 2002, respondent Delta failed to feed and care for the coatimundi that respondent Delta accepted in commerce under a C.O.D. arrangement, until the animal was returned to the consignor upon failure of the consignee to accept delivery.

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16. On February 9, 10, 11, and 12, 2002, respondent Delta failed to handle the coatimundi as expeditiously and carefully as possible in a manner that would not cause it physical harm and unnecessary discomfort.

17. On February 9, 10, 11, and 12, 2002, respondent Delta failed to comply with the minimum standards for the humane transportation of warm-blooded animals, and specifically:

a. failed to provide any potable water to the coatimundi at least every 12 hours after acceptance for transportation in commerce;

b. failed to feed the coatimundi at least once in each 24 hour period; and

c. failed to provide needed veterinary care to the coatimundi.

18. On February 12, 2002, respondent Delta transported the coatimundi while it was in obvious physical distress, having had no food or water for four days.

AWA Docket No. 05-0001

19. On December 18 and 19, 2001, respondent Delta transported a 10-week old Neopolitan mastiff puppy from San Francisco, California to Newark, New Jersey. The puppy was consigned to respondent Delta in San Francisco, California, on December 18, 2001, at approximately 10:45 a.m. It arrived in Newark, New Jersey, that evening at approximately 11:40 p.m. Respondent off-loaded the puppy, in its enclosure, from the airplane and placed it on a cargo cart. At approximately 12:20 a.m., on December 19, 2001, respondent transported the cargo cart to respondent's cargo building, and discovered that the puppy was no longer inside the enclosure. The puppy was never recovered.

20. On December 18 and 19, 2001, respondent Delta failed to handle the Neopolitan mastiff puppy as expeditiously and carefully as possible in a manner that would not cause it physical harm and excessive cooling.

21. On December 18 and 19, 2001, respondent Delta failed to comply with the minimum standards for the humane transportation of dogs, and specifically:

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- a. failed to attempt to notify the consignee upon the arrival of the Neopolitan mastiff puppy, and at approximately 12:40 a.m., respondent's personnel misinformed the consignee (who was at the Newark airport's cargo area to pick up the puppy) that the puppy had not arrived yet.
  - b. failed to observe the Neopolitan mastiff puppy when it was unloaded and as frequently as circumstances allowed, and specifically, respondent failed to observe the puppy when it was off-loaded with sufficient frequency to ensure its safe handling.
  - c. removed the Neopolitan mastiff puppy from its primary enclosure during transportation for reasons other than the cleaning of the enclosure, and did not place the puppy in another primary enclosure or facility that meets the requirements of the Standards.
  - d. failed to comply with all of the transportation regulations until the consignee took physical possession of the Neopolitan mastiff puppy or until the puppy was returned to the consignor.
  - e. failed to move the Neopolitan mastiff puppy to the animal holding area of the terminal facility as quickly and efficiently as possible, and the puppy was in the last cargo bin that was unloaded and when unloaded was left outside on the ramp and the cargo cart while inanimate cargo was taken into the terminal facility.
  - f. exposed the Neopolitan mastiff puppy to outdoor temperatures below 50 degrees Fahrenheit without being placed in a covered transporting device, and to ambient temperatures of below 45 degrees Fahrenheit for a period of more than 45 minutes.
  - g. failed to handle the primary enclosure containing the Neopolitan mastiff puppy with care, and failed to avoid causing physical harm or distress to the puppy.
  - h. placed the primary enclosure containing the Neopolitan mastiff puppy on an unattended conveyor belt, or elevated conveyor belt.
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i. stacked the primary enclosure containing the Neopolitan mastiff puppy in a manner that caused it to be hit by inanimate luggage and fall.

AWA Docket No. 05-0020

22. On October 20, 2004, respondent Delta transported an 8-week old male English bulldog puppy from Bentonville, Arkansas, to Dallas, Texas, en route to Portland, Oregon. The puppy, contained in a pet carrier measuring 27" by 20" by 19", was consigned to respondent Delta at the Northwest Arkansas Regional Airport, in Bentonville, Arkansas, on October 20, 2004, at approximately 5:30 a.m. The puppy arrived in its carrier in Dallas, Texas, and respondent Delta off-loaded the puppy, in its enclosure, from the plane. Thereafter, respondent loaded the empty pet carrier onto a connecting flight to Salt Lake City, Utah. The pet carrier that arrived in Salt Lake City, Utah, contained no dog and no documentation. The puppy was never recovered.

23. On October 20, 2004, respondent Delta failed to handle the English bulldog puppy as expeditiously and carefully as possible in a manner that would not cause it trauma, behavioral stress, physical harm, or unnecessary discomfort.

24. On October 20, 2004, respondent Delta failed to comply with the minimum standards for the humane transportation of dogs, as follows:

a. Respondent Delta failed to observe the English bulldog puppy when it was unloaded and as frequently as circumstances allowed, and specifically failed to observe the puppy when it was loaded and off-loaded, and with sufficient frequency to ensure its safe handling.

b. Respondent Delta removed the English bulldog puppy from its primary enclosure during transportation for reasons other than the cleaning of the enclosure, and did not place it in another primary enclosure or facility that met the requirements of the Standards.

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c. Respondent Delta failed to comply with all of the transportation regulations until the consignee took physical possession of the English bulldog puppy or until it was returned to the consignor.

d. Respondent Delta failed to handle the primary enclosure containing the English bulldog puppy with care, and failed to avoid causing physical harm or distress to the puppy.

AWA Docket No. 05-0023

25. On November 22, 2003, respondent Delta transported three cats from Portland, Oregon to Greensboro, North Carolina, through Atlanta, Georgia. Two of the cats flew with their owners in the cabin, but respondent Delta required the third cat (Hereford) to be transported in a pet carrier in cargo. Respondent Delta assured the cats' owners that Hereford would be safe. Respondent's bagroom agent and ramp agent in Portland noted that Hereford appeared distressed. Hereford was dead upon arrival in Greensboro, North Carolina .

26. On November 22, 2003, respondent Delta failed to handle Hereford as expeditiously and carefully as possible in a manner that would not cause it trauma, behavioral stress, physical harm, or unnecessary discomfort.

27. On November 22, 2003, respondent Delta failed to comply with the minimum standards for the humane transportation of cats, as follows:

a. Respondent Delta failed to observe Hereford when it was unloaded and loaded, and as frequently as circumstances allowed, and specifically, respondent Delta failed to observe the cat when it was loaded and off-loaded in Atlanta, Georgia, and with sufficient frequency to ensure its safe handling.

b. Respondent Delta transported Hereford when it was obviously in physical distress, other than for the purpose of receiving veterinary care.

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c. Respondent Delta failed to comply with all of the transportation regulations until the consignee took physical possession of Hereford or until the cat was returned to the consignor.

AWA Docket No. 05-0025

28. On October 30, 2004, respondent Delta transported two cats from Asheville, North Carolina, to Phoenix, Arizona, through Atlanta, Georgia. One of the cats, a 5-year old male domestic long-hair (Smokey), weighed approximately fourteen pounds, and was transported in cargo in a carrier measuring 10 inches by 15 inches. Smokey died en route to Atlanta, Georgia.

29. On October 30, 2004, respondent Delta failed to handle Smokey as expeditiously and carefully as possible in a manner that would not cause it trauma, behavioral stress, physical harm, or unnecessary discomfort.

30. On October 30, 2004, respondent Delta failed to comply with the minimum standards for the humane transportation of cats, as follows:

a. Respondent Delta accepted Smokey for transport in a primary enclosure that did not meet the requirements of section 3.14 of the Standards.

b. Respondent Delta transported Smokey in a primary enclosure that was not large enough to ensure that the animal had enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position.

c. Respondent Delta failed to comply with all of the transportation regulations until the consignee took physical possession of Smokey or until the cat was returned to the consignor.

Conclusions of Law

1. The respondent having admitted the allegations in the complaint, and the parties having agreed to the entry of this decision, such decision will be entered.

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AWA Docket No. 03-0029

2. On May 2 and 3, 2002, respondent Delta violated sections 2.100(b) and 2.131(a)(1) of the Regulations by failing to handle six German Shepherd dogs as expeditiously and carefully as possible in a manner that would not cause them trauma, overheating, physical harm and unnecessary discomfort. 9 C.F.R. §§ 2.100(b), 2.131(a)(1)[renumbered as 2.131(b)(1)].

3. On May 2 and 3, 2000, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b), by failing to comply with the minimum standards for the humane transportation of dogs (9 C.F.R. §§ 3.13-3.19), as follows:

a. The animal cargo space in which respondent Delta transported the six German Shepherd dogs was not designed and constructed to protect their health and ensure their safety and comfort at all times, and specifically, did not afford them sufficient ventilation. 9 C.F.R. § 3.15(a).

b. The animal cargo space in which respondent Delta transported the six German Shepherd dogs did not have a supply of air that was sufficient for the normal breathing of all of the animals being transported in it. 9 C.F.R. § 3.15(b).

c. Respondent Delta did not provide the six German Shepherd dogs with adequate air for breathing at all times during their transportation. 9 C.F.R. § 3.15(d).

d. Respondent Delta did not observe the six German Shepherd dogs in its custody as frequently as circumstances allowed to make sure that they had sufficient air for normal breathing, to determine whether the animals were in obvious physical distress, and to arrange for veterinary care as soon as possible. 9 C.F.R. § 3.17(b).

AWA Docket No. 03-0031

4. On March 10, 2000, respondent Delta violated sections 2.100(b) and 2.131(a)(1) of the Regulations, by failing to handle three English bulldogs as expeditiously and carefully as possible in a

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manner that would not cause them trauma, overheating, behavioral stress, physical harm, and unnecessary discomfort. 9 C.F.R. §§ 2.100(b), 2.131(a)(1)[renumbered as 2.131(b)(1)].

5. On March 10, 2000, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the minimum standards for the humane transportation of dogs (9 C.F.R. §§ 3.13-3.19), as follows:

a. The animal cargo space in which respondent Delta transported the three English bulldogs was not designed and constructed to protect their health and ensure their safety and comfort at all times, and specifically, did not afford them sufficient space and ventilation. 9 C.F.R. § 3.15(a).

b. The animal cargo space in which respondent Delta transported the three English bulldogs did not have a supply of air that was sufficient for the normal breathing of all of the animals being transported in it. 9 C.F.R. § 3.15(b).

c. Respondent Delta did not position each of the three English bulldogs' primary enclosures in the animal cargo space in a manner that allowed each dog enough air for normal breathing. 9 C.F.R. § 3.15(c).

d. Respondent Delta did not provide the three English bulldogs with adequate air for breathing at all times during their transportation. 9 C.F.R. § 3.15(d).

e. Respondent Delta did not observe the three English bulldogs in its custody as frequently as circumstances allowed to make sure that they had sufficient air for normal breathing, and failed to determine whether the animals were in obvious physical distress, and arrange for veterinary care as soon as possible. 9 C.F.R. § 3.17(b).

AWA Docket No. 04-0011

6. On February 8, 2002, respondent Delta violated section 2.79(a) of the Regulations (9 C.F.R. § 2.79(a)), by accepting a juvenile coatimundi for transportation, in commerce, on a C.O.D. basis,

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without a written guarantee by the consignor for the payment of all transportation, including return transportation, if the shipment is unclaimed.

7. On February 9, 2002, respondent Delta violated section 2.79(b) of the Regulations (9 C.F.R. § 2.79(b)), by failing to attempt to notify the consignee of the coatimundi at least once every 6 hours for a period of 24 hours after the coatimundi's arrival at the animal holding area of the terminal cargo facility.

8. On February 8 and 9, 2002, respondent Delta violated section 2.79(b) of the Regulations (9 C.F.R. § 2.79(b)), by failing to record 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 on the copy of the shipping document retained by respondent Delta and on a copy of the shipping document accompanying the animal shipment.

9. On February 9, 2002, respondent Delta violated section 2.79(b) of the Regulations (9 C.F.R. § 2.79(b)), by failing to return the coatimundi to the consignor, on the next practical available transportation after failing to locate the consignee within 24 hours of the C.O.D. shipment of the animal and by failing to notify the consignor.

10. On February 10, 2002, respondent Delta violated section 2.79(b) of the Regulations (9 C.F.R. § 2.79(b)), by failing to return the coatimundi to the consignor, on the next practical available transportation after 48 hours, and by failing to notify the consignor.

11. On February 8, 9, 10, 11, and 12, 2002, respondent Delta violated section 2.79(c) of the Regulations (9 C.F.R. § 2.79(c)), by failing to feed and care for the coatimundi that respondent Delta accepted in commerce under a C.O.D. arrangement, until the animal was returned to the consignor upon failure of the consignee to accept delivery.

12. On February 9, 10, 11, and 12, 2002, respondent Delta violated section 2.131(a)(1) of the Regulations (9 C.F.R. § 2.131(a)(1))[renumbered as 2.131(b)(1)], by failing to handle the coatimundi as

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expeditiously and carefully as possible in a manner that would not cause it physical harm and unnecessary discomfort.

13. On February 9, 10, 11, and 12, 2002, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the minimum standards for the humane transportation of warm-blooded animals (9 C.F.R. §§ 3.3.136-3.142), as follows:

a. Respondent Delta failed to provide any potable water to the coatimundi at least every 12 hours after acceptance for transportation in commerce, as required by section 9 C.F.R. § 3.139(a) of the Standards.

b. Respondent Delta failed to feed the coatimundi at least once in each 24 hour period, as required by 9 C.F.R. § 3.139(b) of the Standards.

c. Respondent Delta failed to provide needed veterinary care to the coatimundi, as required by 9 C.F.R. § 3.140(a) of the Standards.

14. On February 12, 2002, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the minimum standards for the humane transportation of warm-blooded animals, by transporting the coatimundi while it was in obvious physical distress, having had no food or water for four days, in contravention of 9 C.F.R. § 3.140(a) of the Standards.

AWA Docket No. 05-0001

15. On December 18 and 19, 2001, respondent Delta violated section 2.131(a)(1) of the Regulations (9 C.F.R. § 2.131(a)(1))[renumbered as 2.131(b)(1)], by failing to handle a 10-week old Neopolitan mastiff puppy as expeditiously and carefully as possible in a manner that would not cause it physical harm, excessive cooling.

16. On December 18 and 19, 2001, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the minimum standards for the humane transportation of dogs (9 C.F.R. §§ 3.13-3.19), as follows:

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a. Respondent Delta failed to attempt to notify the consignee upon the arrival of the Neopolitan mastiff puppy, in noncompliance with section 3.13(f) of the Standards (9 C.F.R. § 3.13(f)), and specifically, at approximately 12:40 a.m., respondent's personnel misinformed the consignee (who was at the Newark airport's cargo area to pick up the puppy) that the puppy had not arrived yet.

b. Respondent Delta failed to observe the Neopolitan mastiff puppy when it was unloaded and as frequently as circumstances allowed, and specifically failed to observe the puppy when it was off-loaded with sufficient frequency to ensure its safe handling, as required by section 3.17(b) of the Standards (9 C.F.R. § 3.17(b)).

c. Respondent Delta removed the Neopolitan mastiff puppy from its primary enclosure during transportation for reasons other than the cleaning of the enclosure, and did not place it in another primary enclosure or facility that met the requirements of the Standards, as required by section 3.17(d) of the Standards (9 C.F.R. § 3.17(d)).

d. Respondent Delta failed to comply with all of the transportation regulations until the consignee took physical possession of the Neopolitan mastiff puppy or until the puppy was returned to the consignor, as required by section 3.17(e) of the Standards (9 C.F.R. § 3.17(e)).

e. Respondent Delta failed to move the Neopolitan mastiff puppy to the animal holding area of the terminal facility as quickly and efficiently as possible, as required by section 3.19(a) of the Standards (9 C.F.R. § 3.19(a)), and specifically, the puppy was in the last cargo bin that was unloaded and when unloaded was left outside on the ramp and the cargo cart while inanimate cargo was taken into the terminal facility.

f. Respondent Delta exposed the Neopolitan mastiff puppy to outdoor temperatures below 50 degrees Fahrenheit without being placed in a covered transporting device, and to

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ambient temperatures of below 45 degrees Fahrenheit for a period of more than 45 minutes, in contravention of section 3.19(a)(3) of the Standards (9 C.F.R. § 3.19(a)(3)).

g. Respondent Delta failed to handle the primary enclosure containing the Neopolitan mastiff puppy with care, and failed to avoid causing physical harm or distress to the puppy, as required by section 3.19(b) of the Standards (9 C.F.R. § 3.19(b)).

h. Respondent Delta placed the primary enclosure containing the Neopolitan mastiff puppy on an unattended conveyor belt, or elevated conveyor belt, in contravention of section 3.19(b)(1) of the Standards (9 C.F.R. § 3.19(b)(1)).

i. Respondent Delta stacked the primary enclosure containing the Neopolitan mastiff puppy in a manner that caused it to be hit by inanimate luggage and fall, in contravention of section 3.19(b)(2) of the Standards (9 C.F.R. § 3.19(b)(2)).

AWA Docket No. 05-0020

17. On October 20, 2004, respondent Delta violated section 2.131(b)(1) of the Regulations (9 C.F.R. § 2.131(b)(1)), by failing to handle an 8-week old English bulldog puppy as expeditiously and carefully as possible in a manner that would not cause it trauma, behavioral stress, physical harm, or unnecessary discomfort.

18. On October 20, 2004, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the minimum standards for the humane transportation of dogs, as follows:

a. Respondent Delta failed to observe the English bulldog puppy when it was unloaded and as frequently as circumstances allowed, and specifically, respondent Delta failed to observe the puppy when it was loaded and off-loaded, and with sufficient frequency to ensure its safe handling, as required by section 3.17(b) of the Standards (9 C.F.R. § 3.17(b)).

b. Respondent Delta removed the English bulldog puppy from its primary enclosure during transportation for reasons other than the cleaning of the enclosure, and did not place the puppy in another primary enclosure or facility that meets the requirements of the Standards, as required by section 3.17(d) of the Standards (9 C.F.R. § 3.17(d)).

c. Respondent Delta failed to comply with all of the transportation regulations until the consignee took physical possession of the English bulldog puppy or until it was returned to the consignor, as required by section 3.17(e) of the Standards (9 C.F.R. § 3.17(e)).

d. Respondent Delta failed to handle the primary enclosure containing the English bulldog puppy with care, and failed to avoid causing physical harm or distress to the puppy, as required by section 3.19(b) of the Standards (9 C.F.R. § 3.19(b)).

AWA Docket No. 05-0023

19. On November 22, 2003, respondent Delta violated section 2.131(b)(1) of the Regulations (9 C.F.R. § 2.131(b)(1)), by failing to handle a cat (Hereford) as expeditiously and carefully as possible in a manner that would not cause it trauma, behavioral stress, physical harm, or unnecessary discomfort.

20. On November 22, 2003, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the minimum standards for the humane transportation of cats, as follows:

a. Respondent Delta failed to observe Hereford when it was unloaded and loaded, and as frequently as circumstances allowed, and specifically, respondent failed to observe the cat when it was loaded and off-loaded in Atlanta, Georgia, and with sufficient frequency to ensure its safe handling, as required by section 3.17(b) of the Standards (9 C.F.R. § 3.17(b)).

b. Respondent Delta transported Hereford when it was obviously in physical distress, other than for the purpose of receiving veterinary care, in contravention of section 3.17(c) of the Standards (9 C.F.R. § 3.17(c)).

c. Respondent Delta failed to comply with all of the transportation regulations until the consignee took physical possession of Hereford or until the cat was returned to the consignor, as required by section 3.17(e) of the Standards (9 C.F.R. § 3.17(e)).

AWA Docket No. 05-0025

21. On October 30, 2004, respondent Delta violated section 2.131(b)(1) of the Regulations (9 C.F.R. § 2.131(b)(1)), by failing to handle a cat (Smokey) as expeditiously and carefully as possible in a manner that would not cause trauma, behavioral stress, physical harm, or unnecessary discomfort.

22. On October 30, 2004, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the minimum standards for the humane transportation of cats, as follows:

a. Respondent Delta accepted Smokey for transport in a primary enclosure that did not meet the requirements of section 3.14 of the Standards, in contravention of section 3.13(d) of the Standards (9 C.F.R. § 3.13(d)).

b. Respondent Delta transported Smokey in a primary enclosure that was not large enough to ensure that the animal had enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position, in contravention of section 3.14(e) of the Standards (9 C.F.R. § 3.14(e)).

c. Respondent Delta failed to comply with all of the transportation regulations until the consignee took physical possession of Smokey or until the cat was returned to the consignor, as required by section 3.17(e) of the Standards (9 C.F.R. § 3.17(e)).

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Order

1. Respondent Delta, its agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder.

2. Respondent Delta is assessed a civil penalty of \$187,500, and shall grant the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, an allowed pre-petition claim for said amount in respondent Delta's Chapter 11 bankruptcy case, Chapter 11 Case No. 05-17923, United States Bankruptcy Court, Southern District of New York.

The provisions of this order shall become effective immediately. Copies of this decision shall be served upon the parties.

DELTA AIR LINES, INC.  
a Delaware corporation

By:   
David A. Seiler  
Senior Attorney

  
Colleen A. Carroll  
Attorney for Complainant

Done at Washington, D.C.  
this 10th day of November 2005

  
Marc R. Hillson  
Chief Administrative Law Judge