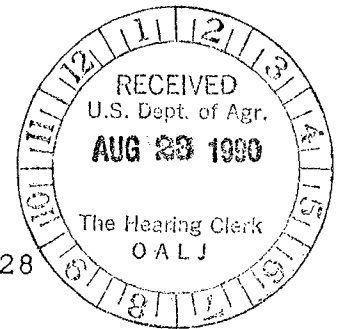


UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE



In re: ) AWA Docket No. 90-28  
Delta Airlines, Inc., )  
Respondent ) Decision and Order

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent 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).

The respondent admits the jurisdictional allegations in paragraph I of the complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

(a) Delta Airlines, Inc., hereinafter referred to as the respondent, is a corporation having its principal place of business at Hartsfield Atlanta International Airport, Atlanta, Georgia 30320.

(b) The respondent, at all times material herein, was a registered carrier under the Act.

#### Conclusions

The respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

#### Order

1. Respondent, his 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, and in particular, shall cease and desist from:

(a) Accepting for transportation or transporting live animals in primary enclosures which are not marked with the words "Live Animal" and with arrows or other markings indicating the correct upright position of the container;

(b) Accepting for transportation or transporting live animals without feed and water instructions affixed to the outside of the primary enclosure;

(c) Accepting for transportation or transporting live animals in primary enclosures which are not large enough to allow each animal to turn about freely in a standing position using normal body movements, to stand and sit erect, and to lie in a natural position;

(d) Accepting for transportation or transporting live animals in primary enclosures which do not contain sufficient litter to absorb and cover excreta;

(e) Failing to exercise due care in the handling of shipments of live animals;

(f) Accepting for transportation or transporting live animals in primary enclosures which do not have the required openings for ventilation;

(g) Accepting for transportation or transporting live animals in primary enclosures which do not have the required projecting rims;

(h) Accepting for transportation or transporting live animals in primary enclosures which do not have the required hand-holds or other devices for lifting without tilting;

(i) Accepting for transportation live animals more than six hours prior to scheduled departure;

(j) Placing live animals that have been accepted for transportation in a holding area where the air temperature exceeds 85 degrees Fahrenheit; and

(k) Failing to provide animals accepted for transportation food and water as required.

2. To assure that the transportation of animals by Delta Air Lines, Inc. is conducted in accordance with the Animal Welfare Act and the regulations and standards issued thereunder, the respondent shall ensure that all employees involved in accepting and/or handling animals for transportation are properly

trained. To achieve that end, respondent shall re-evaluate its present training program and institute a revised program which will be conducted on a continual basis, with refresher training provided as necessary. Respondent will seek the views of APHIS with respect to its Animal Welfare Act training program and its recently produced training video on live animal acceptance and handling. Within 90 days of the effective date of this order, respondent will provide APHIS with copies of Delta's Animal Welfare Act training materials, as well as the name of a Delta contact person who, upon request, will furnish information with respect to training session dates, times, and locations where such training programs will be held. Personnel who have attended Delta's training program will have such training recorded in their training records, which will be available for inspection by APHIS.

3. Respondent is assessed a civil penalty of \$10,000, which shall be paid by a certified check or money order made payable to the Treasurer of the United States.

The provisions of this order shall become effective on the first day after service of this decision on the respondent.

Copies of this decision shall be served upon the parties.

Delta Airlines, Inc.  
Respondent, by

C. A. Thompson JRA  
(Name) C. A. Thompson  
(Title) Senior Vice President - Stations

Alexander W. Samofal  
Alexander W. Samofal  
Attorney for Complainant

Done at Washington, D.C.  
this 23 day of August, 1990

H. A. Bensten  
Administrative Law Judge