



FEB 23 2009

United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

1400 Independence
Avenue, SW

Washington, DC
20250

The Honorable Robert Menendez
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510-3004

Dear Senator Menendez:

This is in further response to your October 28, 2008, letter to the U.S. Department of Transportation (DOT) concerning the reporting of deaths, injuries, and losses of animals being transported commercially by air.

We recognize and share your interest in the welfare of these animals and appreciate the opportunity to respond to your inquiry. DOT officials requested that we address the last four bulleted questions and requests for information in your letter. We are responding to those questions in the order in which they were presented:

- How is the safety of animals, who are not considered typical household pets, ensured?

As you know, our Agency enforces the Animal Welfare Act (AWA), a law designed to protect regulated animals from inhumane treatment. Under the AWA, regulated animals are defined as warmblooded animals used for research, testing, experimentation, or exhibition, or as a pet. The AWA excludes birds, rats of the genus *Rattus*, and mice of the genus *Mus* bred for use in research; horses not used for research purposes; and other farm animals used or intended for use as food or fiber or intended to improve animal nutrition, breeding, management, production efficiency, or the quality of food or fiber.

In accordance with our AWA authority, our Agency requires entities that commercially transport regulated animals to be registered with us. Airlines that transport AWA-regulated animals must protect the animals from extremes of weather and temperature; ship them in suitable containers; provide them with food and water; and, ensure that the animals are accompanied by the correct documentation. These requirements apply to dealers, breeders, retailers, pet stores, distributors, and others, as well as domestic flights within the United States and international flights.

The Wendell H. Ford Aviation Investment and Reform Act requires U.S. airlines to file reports with DOT concerning the loss, injury, and death of animals during air transportation. DOT reporting requirements define regulated animals differently and cover warm or coldblooded animals kept as pets in a U.S. family household at the time of transportation. We interpret the legislation to cover all warmblooded animals—regardless of their pet



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status—at the time of transport. By interpreting the law in this manner, we believe we can best achieve our mandated goal of ensuring the humane treatment and safety of animals transported by air.

- How does the public know when the safety of these supposed nonanimals has been compromised?

The public can access monthly reports filed by the airlines through the DOT Web site. Our Agency receives unredacted versions of those reports, which include the names of owners and the names of the airline officials filing the reports with DOT. We carefully examine those reports to determine if we need to follow up with the airlines and—as appropriate—take AWA enforcement action.

In addition, we conduct periodic, unannounced inspections at major airports to ensure compliance with our regulations. During these inspections, our specialists examine the condition of the animals and adherence to the requirements described above. If an airline accepts an unsuitable shipment, we have the authority to pursue AWA enforcement action against the airline. It is important to note that at this time we do not receive advance notification of planned shipments of regulated animals. Although this lack of notification makes it difficult for our specialists to be on site in advance of animal shipments, our officials do continually gather information to assess trends and improve their chances of being present when animals are actually being transported. The results of our inspections and investigations are available to the public, and we have posted instructions on how to obtain such documents, as well as a wealth of related information, on our Animal Care program's Web site at www.aphis.usda.gov/animal_welfare/index.shtml.

In addition, our Agency responds to complaints from the public and media reports that come to our attention, such as the *Atlanta Journal Constitution* article you mention. We investigate these complaints to determine if AWA violations occurred, and to consider what enforcement action should be taken. It was through this process that we learned about the Maggie Mae incident. In April 2008, we opened an investigation, which is currently ongoing. We assure you that, if we determine through our investigation that AWA violations occurred, we will take appropriate action as warranted. Possible penalties range from letters of warning, to civil penalties of up to \$3,750 per violation, to cease-and-desist orders.

- How many animals traveling on airplanes are considered commercial shipments? I would also like an estimate of the number of animal deaths, injuries, and losses that are unreported because they are not considered pets.

We regret that we do not have any accurate data on the number of commercial shipments, deaths, injuries, or losses. DOT shares copies of airline reports with us, but these reports only include information about pets. Also, our specialists do not inspect (and do not

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maintain records for) every commercial animal shipment. Our Agency only has data on the number of deaths, injuries, or losses of cases we investigate. We will work with DOT to determine if we can both gather additional data in the future.

Again, we appreciate and share your commitment to ensuring the welfare of animals transported by air, and we hope this information is helpful.

Sincerely,

A handwritten signature in black ink that reads "Kevin Shea". The signature is written in a cursive, slightly slanted style.

Kevin Shea
Acting Administrator