



**U.S. Department
of Transportation**

Office of the Secretary
of Transportation

GENERAL COUNSEL

400 Seventh St., S.W.
Washington, D.C. 20590

December 23, 2008

The Honorable Robert Menendez
United States Senate
Washington, DC 20510

Dear Senator Menendez:

Thank you for your letter of October 28 regarding the U.S. Department of Transportation's (DOT) regulation requiring the reporting of the loss, injury or death of animals in air transport. I appreciate the opportunity to provide you information about the reasons that the Department believes its definition of an animal properly carries out the statutory mandate.

As you know, pursuant to 49 U.S.C. § 41721, the Department requires airlines to report monthly on any incidents involving the loss, injury or death of an animal that occurs while it is traveling in the airline's care, custody or control. In your letter, you indicate that the Department defines "animals" in the rule to mean those that are being kept as a pet in a family household in the United States and that this definition is too narrow and does not reflect congressional intent.

Section 41721 does not define "animal" and indeed it directs the Secretary to do so. Providing some guidance, House Report 106-153 calls on the Department of Transportation "to work with airlines to improve the training of employees so that... they will be better able to explain to passengers the conditions under which their pets are being carried." In addition, section 41721(e) states that the air transport of an animal includes the entire period during which an animal is in the custody of an air carrier until the animal is *returned* to the owner or guardian. Returned implies that the animal is returned to the party that tendered it at the origin point. We therefore concluded that Congress intended the word "animal" to cover pets being transported by their owners. We did not in this case limit the coverage of the rule based on cost or other considerations.

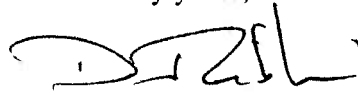
In addition, you express concern that consumers and the government are unaware of the loss, injury or death of some animals that are transported by airlines. Like you, I am committed to safe air travel for animals. A month-by-month breakdown of incidents involving loss, injury or death of animals is available in the Department of Transportation's Air Travel Consumer Report at <http://airconsumer.oost.dot.gov>. This report provides useful information on which carriers have the best records of transporting pets safely. We have no data on the loss, injury or death of animals during commercial shipments. However, we understand that air carriers carry large numbers of animals, including livestock, zoo animals, and pets, such as tropical fish and birds, in such shipments.

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Your letter also indicates that you would like a detailed response regarding the treatment of animals traveling on airplanes, particularly animals that are not considered pets. We have forwarded your last four questions regarding the treatment of animals to the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) for appropriate handling. Although DOT issued the regulation for reporting the loss, injury or death of animals in air transportation and publishes the monthly reports on those incidents, the overall health and safety standards for the transportation of animals by airlines are administered by APHIS. I would like to emphasize that the commercial shipments of animals that are not reported to DOT are still subject to APHIS standards.

A copy of this letter will be sent to Dr. Jerry Depoyster at the U.S. Department of Agriculture, who can address your remaining concerns. If I can provide further information or assistance, please feel free to call me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D.J. Gribbin". The signature is stylized with a large, sweeping initial "D" and a long, horizontal stroke extending to the right.

D.J. Gribbin