

Presidential Documents

Title 3—

Proclamation 6653 of March 2, 1994

The President

American Red Cross Month, 1994

By the President of the United States of America

A Proclamation

Over a century ago, Clara Barton founded the American Red Cross to provide hope, compassion, and care to victims of catastrophe and destruction. Today over 150 countries uphold the idea of neutral and impartial assistance to all people in times of great pain, disaster, or war. In 2,600 chapters across the United States, and on 200 U.S. military installations around the world, over 1.4 million American Red Cross volunteers and more than 23,000 paid staff work diligently to save lives and to assist those in crisis.

It is fitting that in this month, which celebrates the coming of spring and the rebirth of nature, we take the time to acknowledge the many outstanding accomplishments of the American Red Cross. As the Honorary Chairman of this praiseworthy organization, I am proud to commend everyone who is associated with its life-saving efforts. The dedicated members of this organization have enabled thousands of people who thought hope had abandoned them to experience new and bright beginnings. Since 1881 the American Red Cross has helped millions who have entered its doors seeking shelter, food, financial assistance, training, and most important, compassion.

The last 12 months will go down in history as a litany of disasters of every description, from the Midwest floods to the California fires and earthquakes to the winter storms that gripped a large part of the country. The American Red Cross rose to each challenge in its usual timely and efficient manner, restoring hope for so many in need. The Red Cross is in the business of responding to disasters, large and small, 365 days a year. It also provides blood to hospital patients, who otherwise might not survive.

For many, the Great Flood of 1993 did not become a frightening headline until well into the summer. For the American Red Cross, however, the floodwaters had been a serious concern since early spring. Nine months after the flooding started, over 20,000 Red Cross workers had participated in the relief operation, more than 2.8 million meals had been served, and approximately 35,000 families had received assistance from Red Cross case-workers.

While thousands of Red Cross workers helped victims recover from the floodwaters in the Midwest, Red Cross personnel in California faced a different challenge—fire. Hundreds of families fleeing the raging California fires found haven in Red Cross shelters. Fire victims were provided comfort and strength as they tried to rebuild their lives out of the ashes.

As 1993 came to a close and many of us began preparing for holiday meals, the Red Cross also was preparing meals—for cold and hungry people, victims of the winter storms that lashed out across the Nation. Once again, feeding vans were busily dispensing hot coffee and sandwiches, comfort and hope. The Red Cross set up over 100 shelters in 6 states, bringing security and warmth to those in need.

The year 1994 began with nature's awesome display of power, tearing Southern California asunder in the Northridge earthquakes. Again the Red Cross was there to help those left homeless and hungry.

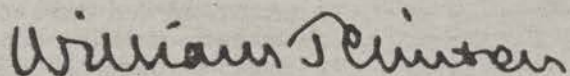
Thanks to the American Red Cross blood program, thousands receive life-giving donations and are able to enjoy one more birthday, one more anniversary, one more day of sunshine. The American Red Cross collects, processes, and distributes more than half the Nation's blood supply—all while ensuring that it is the safest in the world. Over 6 million times last year, donors came to the Red Cross to give the gift of life to others.

Through the network of the International Red Cross and Red Crescent Movement, families around our globe were able to locate and communicate with loved ones with whom they had lost contact due to wars or refugee movements. Prisoners of war saw hope come into their cells in the form of a Red Cross emblem. American Red Cross delegates called such places as Armenia, Croatia, and Cambodia home last year as they brought medical care, skilled relief workers, food, and reassurance to countries suffering from the ravages of disaster, disease, and war.

The Red Cross has earned our abiding respect, and we look forward to seeing its symbol of hope continue to shine brightly across this great land. A very grateful Nation thanks the American Red Cross for a job extremely well done.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the month of March 1994, as "American Red Cross Month." I urge all Americans to continue their generous support of the Red Cross and its chapters nationwide through contributions of time, funds, and blood donations.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of March, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.



Presidential Documents

Proclamation 6654 of March 2, 1994

Women's History Month, 1994

By the President of the United States of America

A Proclamation

When author Zora Neale Hurston was growing up in Eatonville, Florida, at the beginning of the century, her mother encouraged her to "jump at the sun"—to set lofty goals—even if she were not certain to reach them. In many ways, Zora did "jump at the sun," writing books, articles, and plays that have earned her a place among America's finest writers and anthropologists. Her mother's words became a powerful metaphor for her life, and Zora's brilliant works reflect the vibrant history of the many women whose lives she studied.

Zora Neale Hurston might never have imagined that women would one day have the opportunity to take her mother's teaching literally. But from Sally Ride to Mae Jemison to Kathryn Sullivan, astronauts have soared closer to the sun than most humans ever dreamed. As we celebrate Women's History Month, 1994, Americans take special pride in the scope of women's achievements, exemplified by the daring spirit of these pioneering individuals. We watched in awe recently as astronaut Sullivan performed complex repairs on the Hubble space telescope by the light of the rising sun. And we shared her happiness as she basked in the love of her family at the end of a successful mission. From author to astronaut to able parent, women have embraced a myriad of challenging roles throughout our Nation's history.

But America has not yet fulfilled its promise of equality for all people. While more women than ever now hold public office in our country, more women than ever must also bear sole responsibility for caring for their families. We rely on women's knowledge and expertise in every aspect of life, and yet we as a society fail to provide many of our families the care and support they so desperately need. We take satisfaction in knowing that women have gained equality under the law, but we must also recognize the ways in which true equality is still only a dream. Zora's "sun" eludes our grasp. This month, we rededicate ourselves to reaching it.

On this occasion, we celebrate the lives of women too long missing from our history books. We listen to the voices of women too long absent from our national memory. Most important, we look forward to a day when society need not remind itself to note the extraordinary accomplishments of women. We dream of a time when, in passing the lessons of this generation from teacher to student, from parent to child, we tell a story of women and men working side by side. We will say that it took all people, striving together, to build a just and compassionate world of liberty, charity, and peace.

The Congress, by Public Law 103-22, has designated March 1994 as "Women's History Month" and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim March 1994 as Women's History Month. I invite all Americans to observe this month with appropriate programs, ceremonies, and activities, and to remember throughout the year the rich and varied contributions that women make to our world.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of March, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.

William Clinton

[FR Doc. 94-5418

Filed 3-4-94; 12:29 pm]

Billing code 3195-01-P

Presidential Documents

Proclamation 6655 of March 3, 1994

To Amend the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Pursuant to sections 501 and 502 of the Trade Act of 1974, as amended ("Trade Act") (19 U.S.C. 2461 and 2462), and having due regard for the eligibility criteria set forth therein, I have determined that it is appropriate to designate Ukraine as a beneficiary developing country for purposes of the Generalized System of Preferences ("GSP").

2. Section 604 of the Trade Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule ("HTS") the substance of the provisions of that Act, and of other acts affecting import treatment, and actions thereunder.

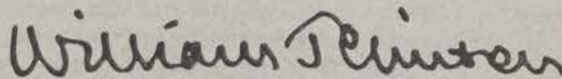
NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to sections 501 and 604 of the Trade Act, do proclaim that:

(1) General note 4(a) to the HTS, listing those countries whose products are eligible for benefits of the GSP, is modified by inserting "Ukraine" in alphabetical order in the enumeration of independent countries.

(2) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this proclamation are hereby superseded to the extent of such inconsistency.

(3) The modifications to the HTS made by paragraph (1) of this proclamation shall be effective with respect to articles that are: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after 15 days after the date of publication of this proclamation in the **Federal Register**:

IN WITNESS WHEREOF, I have hereunto set my hand this third day of March, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.



[FR Doc. 94-5441

Filed 3-4-94; 2:15 pm]

Billing code 3195-01-P

Editorial note: For the President's message to Congress on trade with Ukraine, his news conference with Ukrainian President Leonid Kravchuk, the Joint Statement on Development of U.S.-Ukrainian Friendship and Partnership, and the Joint Statement on Economic and Commercial Cooperation, see issue 9 of the *Weekly Compilation of Presidential Documents*.

THE JOURNAL OF THE
ROYAL ANTHROPOLOGICAL INSTITUTE

The Journal of the Royal Anthropological Institute is a quarterly publication devoted to the study of human evolution, physical anthropology, and ethnology. It is the principal journal of the Royal Anthropological Institute, which was founded in 1871. The Institute's primary concern is the study of the human race, its origin, development, and distribution. The Journal is edited by the President of the Institute, and its content is determined by the Council. It is published by the Royal Society, which is the parent body of the Institute. The Journal is a valuable source of information for students and researchers in the field of anthropology. It contains original research papers, reviews, and reports on the activities of the Institute. The Journal is also a record of the progress of the science of anthropology. It is a must-read for anyone interested in the study of the human race.

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Presidential Documents

Executive Order 12901 of March 3, 1994

Identification of Trade Expansion Priorities

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 141 and 301-310 of the Trade Act of 1974, as amended (the "Act") (19 U.S.C. 2171, 2411-2420), and section 301 of title 3, United States Code, and to ensure that the trade policies of the United States advance, to the greatest extent possible, the export of the products and services of the United States and that trade policy resources are used efficiently, it is hereby ordered as follows:

Section 1. Identification. (a) Within 6 months of the submission of the National Trade Estimate Report (required by section 181(b) of the Act (19 U.S.C. 2241)) for 1994 and 1995, the United States Trade Representative ("Trade Representative") shall review United States trade expansion priorities and identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent. The Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and shall publish in the *Federal Register*, a report on the priority foreign country practices identified.

(b) In identifying priority foreign country practices under paragraph (a) of this section, the Trade Representative shall take into account all relevant factors, including:

- (1) the major barriers and trade distorting practices described in the National Trade Estimate Report;
- (2) the trade agreements to which a foreign country is a party and its compliance with those agreements;
- (3) the medium-term and long-term implications of foreign government procurement plans; and
- (4) the international competitive position and export potential of United States products and services.

(c) The Trade Representative may include in the report, if appropriate, a description of the foreign country practices that may in the future warrant identification as priority foreign country practices. The Trade Representative also may include a statement about other foreign country practices that were not identified because they are already being addressed by provisions of United States trade law, existing bilateral trade agreements, or in trade negotiations with other countries and progress is being made toward their elimination.

Sec. 2. Initiation of Investigation. Within 21 days of the submission of the report required by paragraph (a) of section 1, the Trade Representative shall initiate under section 302(b)(1) of the Act (19 U.S.C. 2412(b)(1)) investigations under title III, chapter 1, of the Act with respect to all of the priority foreign country practices identified.

Sec. 3. Agreements for the Elimination of Barriers. In the consultations with a foreign country that the Trade Representative is required to request under section 303(a) of the Act (19 U.S.C. 2413(a)) with respect to an investigation initiated by reason of section 2 of this order, the Trade Representative shall seek to negotiate an agreement that provides for the elimination of the practices that are the subject of the investigation as quickly

as possible or, if that is not feasible, provides for compensatory trade benefits. The Trade Representative shall monitor any agreement entered into under this section pursuant to the provisions of section 306 of the Act (19 U.S.C. 2416).

Sec. 4. Reports. The Trade Representative shall include in the semiannual report required by section 309 of the Act (19 U.S.C. 2419) a report on the status of any investigation initiated pursuant to section 2 of this order and, where appropriate, the extent to which such investigations have led to increased opportunities for the export of products and services of the United States.

Sec. 5. Presidential Direction. The authorities delegated pursuant to this order shall be exercised subject to any subsequent direction by the President in a particular matter.

William Clinton

THE WHITE HOUSE,
March 3, 1994.

[FR Doc. 94-5434

Filed 3-4-94; 1:24 pm]

Billing code 3195-01-P

Editorial note: For the President's statement on this Executive order, see issue 9 of the *Weekly Compilation of Presidential Documents*.

Rules and Regulations

Federal Register

Vol. 59, No. 45

Tuesday, March 8, 1994

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 93-137-1]

Importation of Ratites and Hatching Eggs of Ratites

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are providing that ratites and hatching eggs of ratites may not be imported into the United States unless specified identification and recordkeeping requirements regarding their origin and movement are met in the country of export. This action is necessary to help ensure that ratites and hatching eggs of ratites that could pose a disease risk to poultry and livestock in the United States are not imported into this country.

DATES: Interim rule effective March 8, 1994. Consideration will be given only to comments received on or before May 9, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93-137-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Keith Hand, Senior Staff Veterinarian,

Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 768, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-5907.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as the regulations) regulate the importation of certain animals and birds, including ostriches and other flightless birds known as ratites, and their hatching eggs, to prevent the introduction of communicable diseases of livestock and poultry.

Section 92.101 of the regulations imposes general restrictions on the importation of ratites and hatching eggs of ratites, including the requirement that they be produced by a pen-raised flock and, in the case of ratites, be maintained in a pen-raised flock. This requirement is necessary to help ensure that ratites imported into the United States are not wild-caught birds that may have been exposed to communicable diseases and that may not have a known health history.

Section 92.103(a) of the regulations requires that an application to import ratites or hatching eggs of ratites specify the number of ratites or hatching eggs intended for importation. Section 92.103(a)(2)(iii) provides that a permit to import ratites or hatching eggs of ratites will be denied or withdrawn unless a representative of the Animal and Plant Health Inspection Service (APHIS) has visited the premises where the flock of origin is kept within the 12-month period before the intended importation, and has determined that the flock is pen-raised and contains sufficient breeding pairs to produce the number of ratites or hatching eggs intended for importation.

Section 92.104 requires that ratites or hatching eggs of ratites imported into the United States be accompanied by a certificate that certifies, among other things, that the flock of origin is pen-raised and the ratites covered by the certificate were produced by and maintained in that flock. These provisions are necessary to help ensure that ratites and hatching eggs that are not produced by a pen-raised flock, and that consequently pose a potential health risk, are not brought into the

flock and subsequently imported into the United States.

However, based on our experience enforcing the regulations, we have found that, even with the requirements described above, it can sometimes be difficult to monitor the number of ratites and hatching eggs being exported from certain flocks. We believe this difficulty in monitoring has led to occasions where smuggled or wild-caught ratites or hatching eggs of such ratites have been brought into a flock, then imported into the United States, purportedly as a pen-raised part of that flock.

The regulations in § 92.106(b) contain requirements for the quarantine of ratites and hatching eggs of ratites upon arrival in the United States. Although we consider these requirements for quarantine to be effective in identifying and preventing the entry of ratites with communicable diseases, the increased risk presented by smuggled or wild-caught ratites jeopardizes the health of other ratites in quarantine and unnecessarily increases the risk of the entry of a ratite with a communicable disease.

Therefore, in this interim rule, we are establishing provisions that require identification of all ratites and hatching eggs of ratites in flocks from which ratites or hatching eggs of ratites are intended for importation into the United States, and that require strict monitoring and recordkeeping of the number of ratites and hatching eggs produced in, brought into, or exported from a flock. These requirements, discussed below, will help ensure that only ratites and hatching eggs of ratites pen-raised on approved premises are imported into the United States.

We are requiring in § 92.101(b)(3)(i)(B) (newly added in this interim rule) that each ratite produced in a flock from which ratites or hatching eggs of ratites are intended for importation into the United States be identified with an identification number by means of a microchip implanted in the pipping muscle at 1-day of age. We are also requiring that each ratite added to the flock from outside the flock be identified by means of microchip upon arrival in the flock, and that each ratite already in the flock as of the effective date of this interim rule be identified before the next visit to the premises by an APHIS representative under § 92.101(a)(2)(iii) (discussed above).

Unlike our requirement for the 1-day-old chicks, however, we are not requiring that the microchip be implanted in any specified location on the older birds.

The microchip identification required by this interim rule will make possible a cross-referencing system by which the Department and the national government of the country from which the ratites are to be exported can help ensure that only ratites and hatching eggs of ratites from pen-raised flocks on approved premises are imported into the United States.

We are requiring microchip identification, rather than some other form of identification, because we have determined that it is the most effective and humane form of identification for ratites. External forms of identification such as tags can be easily removed or switched. This is less likely to happen with an imbedded microchip. Because of the thin hide of a ratite, we do not consider hot-iron branding to be effective or humane.

Based on importations to date, we expect virtually all ratites imported into the United States to be those required to be microchipped at 1-day of age. The pipping muscle, located behind the head of a ratite chick, is enlarged at the time of hatching to assist the chick in breaking through the shell. Requiring the microchip to be implanted in the same place for each such ratite will facilitate our reading of the microchips and make it easier to determine if a ratite has been identified (discussed below under the heading "Microchip Readers"). Because the pipping muscle decreases in size as a ratite grows, it would not be practicable to require that it be the site of implantation for older ratites. However, as noted above, we expect few older ratites to be imported into the United States, and are therefore not requiring that such ratites be microchipped at any particular location on their body.

As part of the cross-referencing system made possible by the microchip identification, we are requiring that the country from which ratites or their hatching eggs are exported have in place procedures and requirements, discussed below, for monitoring the number of ratites or hatching eggs of ratites produced on each premises over a set production season. (We are adding to the regulations a definition of production season, discussed below under the heading "Definition of Production Season.")

Under § 92.101(b)(3)(i)(I) of this interim rule, a production ceiling for each premises must be set. The ceiling is to be calculated jointly by a full-time

salaried veterinary officer of the national government of the country of export and the APHIS representative who visits the premises prior to an import permit being issued. The ceiling is based on the number of eggs that the ratites in the flock can reasonably be expected to produce over a given production season. The ceilings established will take into account not only the number of ratites in the flock, but also factors such as the age and the type of the ratites. Establishing this ceiling will help prevent ratites and hatching eggs of ratites from being "laundered" through the flock for importation into the United States.

Under § 92.101(b)(3)(i)(C) of this interim rule, on the date that each hatching egg is produced in a flock from which ratites or hatching eggs of ratites are intended for importation into the United States, the hatching egg must be marked in indelible ink with the date of production.

Under § 92.101(b)(3)(i)(D) of this interim rule, the owner or manager of a premises from which ratites or hatching eggs of ratites are intended for importation into the United States is required to maintain on a daily basis registers listing the following: (1) Number of live ostriches hatched in the flock, added to the flock, or removed from the flock, including microchip identification number; (2) number of eggs produced in the flock and date of production, and number of eggs removed from the flock and date of production; and (3) number of eggs in incubator/hatcher and date of production. The owner or manager of the premises must submit a copy of the registers to the National Veterinary Service of the country of export on a quarterly basis. When the national government receives these registers, it must in turn submit a copy to the APHIS Administrator on a quarterly basis.

Under § 92.101(b)(3)(i)(F) of this interim rule, the national government of the country of export, using these registers, must maintain a registry of premises. In this registry, the national government is required to list each ratite according to its microchip number. The national government is also required to maintain a count of hatching eggs of ratites produced on the premises. Under § 92.101(b)(3)(i)(G) of this interim rule, no premises may be added to the registry until a veterinary officer of the national government or an employee of that government responsible for the protection of fish and wildlife visits the premises and determines that all ratites and hatching eggs of ratites on the premises are identified as required.

Under § 92.101(b)(3)(i)(J) of this interim rule, the country from which the eggs are exported must also conduct random inspections of premises that have been added to the registry. These inspections must be conducted at least twice for each production season for each premises, and must be carried out either by a veterinary officer of the national government of the country of export or an employee of that government responsible for the protection of fish and wildlife. The inspector must determine whether all ratites and hatching eggs of ratites are identified as required, and will use the markings on the eggs to determine whether the number of eggs in the flock are within the ceiling established for the flock. Ratites or hatching eggs not identified as required will be ineligible for the export certificate required under § 92.104(a) of the regulations (discussed below). The results of these inspections, as well as the results of the initial inspection described in the preceding paragraph, must be recorded on the copy of the quarterly reports that the country of export must send to the Administrator. Based on this information, APHIS will deny or withdraw an import permit for ratites or hatching eggs of ratites from any premises on which all ratites and hatching eggs are not marked as required.

These requirements, taken together, will make it easier to detect incidence of birds or eggs being smuggled onto a premises. The initial visit to the premises, described above, along with the calculation of a production ceiling, will establish how many ratites are on the premises and the number of hatching eggs they can reasonably be expected to produce. The registers, microchip identification, and subsequent site inspections will help ensure that the number of ratites and hatching eggs on or leaving the premises are consistent with those initial calculations.

Under this interim rule, the Department and the national government of the country of export will be able to monitor the number of ratites and eggs exported from the flocks to the United States by means of the health certificate required under § 92.104 of the regulations. Under the existing regulations, this certificate must accompany ratites or hatching eggs of ratites imported into the United States. It is issued by a full-time salaried veterinary officer of the national government of the exporting country. Under the existing regulations, it contains information regarding the health of the flock, and the origin and

handling of ratites and hatching eggs of ratites imported into the United States.

In this interim rule, we are adding to §§ 92.104 (c) and (d) the requirement that a certificate contain the certification that the flock from which ratites or hatching eggs of ratites are exported has not exceeded the ceiling on production established under this interim rule. We are also requiring that the certificate indicate the number of ratites or hatching eggs of ratites being shipped to the United States. By comparing this information with the information on the registers and with the ceiling on production calculated under this interim rule, both the Department and the national government of the country of origin will be able to determine the number of ratites and hatching eggs left available for export during a given production season. We are also requiring that the certificate indicate that all ratites in the flock from which the hatching eggs come were identified in accordance with § 92.101(b)(3)(i)(B).

We recognize that flock owners may wish to replenish or increase their breeding stock by bringing ratites into the flock from another flock. In order to account for birds being added to the flock, we are requiring in § 92.101(b)(3)(i)(G) that each premises from which ratites or hatching eggs of ratites are exported to the United States receive approval from the National Veterinary Service of that country before ratites are added to the premises from outside the premises. We are also requiring that the national government provide that ratites may not be added to a flock during a production season. This restriction is necessary to facilitate the quota system established by this interim rule.

Microchip Readers

We are also providing that, as a condition of importing ratites into the United States, the person intending to import the ratites provide the APHIS veterinary inspector at the intended port of entry with a reader capable of reading the microchip identification of each of the ratites. This will enable APHIS to determine whether the ratites are identified as required. Importing ratites not properly identified, and not providing a reader capable of reading the microchips, will be a violation of the regulations and the ratites will be refused entry.

Denial or Withdrawal of Import Permit

Section 92.103 of the existing regulations requires, among other things, that an importer apply for and obtain an import permit from APHIS before importing ratites or hatching eggs

of ratites into the United States. We are providing in this interim rule that a permit will be denied or withdrawn if the importer or a person responsibly connected with the importer's business, or the operator of the farm of the flock of origin, or a person responsibly connected with the owner of the flock of origin, is or has been convicted of any crime under any law regarding the import or export of goods, regarding the illegal movement of goods within a country, or involving fraud, bribery, extortion or any other crime involving a lack of the integrity needed for the conduct of operations affecting the importation of ratites, as determined by the Administrator.

For the purposes of the regulations, a person shall be deemed to be responsibly connected with the importer's business or the owner of the flock of origin if such person has an ownership, mortgage, or lease interest in the physical plant of the importer's business or the farm of the flock of origin, or if such person is a partner, officer, director, holder or owner of 10 per centum or more of the voting stock of the importer's business or the farm of the flock of origin, or is an employee of the importer or the owner of the flock of origin.

These provisions regarding denial or withdrawal of a permit are based on those set forth in § 92.106(c)(6) regarding the denial of approval and removal of approval of a commercial bird quarantine facility. We consider these provisions necessary to reduce the risk that attempts will be made to import smuggled birds into the United States.

We are also setting forth in § 92.103(a)(2)(vii) provisions that provide for the notification of persons who have a permit denied or withdrawn, and that provide such persons, upon request in the case of a dispute of material facts, the opportunity for a hearing with respect to the merits or validity of such action, in accordance with rules of practice which shall be adopted for the proceeding.

Definition of Pen-Raised

We are also amending the definition of pen-raised in § 92.100, to provide that a flock will not be considered to be pen-raised if ratites captured in the wild are added to it after the effective date of this interim rule. As discussed earlier in this interim rule, wild-caught ratites pose a significant risk of having been exposed to communicable diseases, and may not have a known health history. Adding such ratites to an otherwise pen-raised flock significantly increases the chances of disease being transmitted to other

ratites in the flock. However, prior to the publication of this interim rule, we had no reliable mechanism for determining whether wild-caught ratites had been brought into a flock. With the establishment of the identification and monitoring provisions of this interim rule, we now are able to make such a determination. Therefore, we are amending the definition of pen-raised as described above, to help ensure that ratites exposed to ratites captured in the wild are not imported into the United States.

Definition of Production Season

In this interim rule, we use the term production season. We are defining production season to mean that period of time, usually approximately 9 months each year, from the time ratites in a flock begin laying eggs until the ratites cease laying eggs. Ratites by nature follow a set cycle for laying eggs, and, for reasons of health and productivity, must be given a period of rest between "production seasons." In most cases, a production season lasts approximately 9 months, but this may vary according to factors such as the type, age, and geographical location of the ratites.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to help ensure that ratites imported into the United States, and ratites hatched from ratite hatching eggs imported into the United States, do not transmit diseases to poultry and livestock in the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the *Federal Register*. We will consider comments that are received within 60 days of publication of this rule in the *Federal Register*. After the comment period closes, we will publish another document in the *Federal Register*. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866.

This interim rule requires that foreign producers of ratites or ratite hatching eggs intended for importation into the

United States maintain registers of ratites and hatching eggs on their premises and update them daily. It also requires that ratites in a flock from which ratites or hatching eggs of ratites are intended for importation into the United States be identified with a microchip. Additionally, it requires that ratite hatching eggs in the flock be marked with indelible ink.

At present, 29 ratite farms in 7 countries are approved to ship ratites or ratite hatching eggs to the United States. The number of approved foreign farms varies each month due to annual recertification requirements. There are 2,000 to 3,000 ratite farms in the United States. Virtually all of them are small businesses, as are the approximately 20 domestic entities that currently import ratites and ratite hatching eggs into the United States.

We anticipate that requiring APHIS-approved ratite producers to maintain registers and update them daily will have a negligible impact on the domestic ratite market. However, the identification requirements in this interim rule are expected to increase slightly the cost of importing ratites and ratite hatching eggs. Requiring that ratite hatching eggs be marked with indelible ink is expected to increase operational costs of foreign producers by about \$0.50 per egg. Requiring each live ratite to be identified by microchip is expected to cost foreign producers about \$6.35 per ratite. Foreign producers will likely increase their prices to cover the cost of proposed identification requirements.

If the cost of identifying each ratite and ratite hatching egg is passed along to United States buyers, the identification and marking requirements in this interim rule will increase the cost of importing ratites and ratite hatching eggs by an average of \$3.00 each. Current market prices for ratites released from quarantine in the United States range from \$1,565 for a 45-day-old ratite chick to \$50,000 for an adult ratite.

We estimate that the requirements of this interim rule will increase annual costs to foreign producers by approximately \$198,375. We expect that a total of approximately 52,500 ratites and hatching eggs of ratites will be imported into the United States in 1994. Of these, we estimate that approximately 23 percent will survive quarantine, with a total value of approximately \$34,543,425. Therefore, the estimated cost of the requirements of this interim rule will be less than .6 percent of the retail value of ratites released from quarantine.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule will be submitted for approval to the Office of Management and Budget. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, and (2) Clearance Officer, OIRM, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 92

Animal disease, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622, 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

Subpart A to Part 92—[Amended]

2. In part 92, Subpart A—Birds, footnotes 2 through 13 and the references to them are redesignated as footnotes 3 through 14, respectively.

3. In § 92.100, the definition of *pen-raised* is revised, and a definition of

production season is added to read as follows:

§ 92.100 Definitions.

Pen-raised. Cared for in a fenced enclosure, such that the ratites are kept apart from wild ratites, poultry, and other animals; can be readily observed, and be restrained for inspection and treatment. A flock is not considered to be pen-raised if ratites captured in the wild have been added to it after March 8, 1994.

Production season. That period of time, usually approximately 9 months each year, from the time ratites in a flock begin laying eggs until the ratites cease laying eggs.

4. Section 92.101 is amended by revising paragraph (b)(3)(i) to read as follows:

§ 92.101 General prohibitions; exceptions.

(b) * * *

(3)(i) Except for ratites imported as zoological birds, ratites and hatching eggs of ratites shall not be imported into the United States unless the following conditions are met: (A) The ratites or hatching eggs are produced by a pen-raised flock, and, in the case of ratites, maintained in a pen-raised flock;

(B) Each ratite produced in the flock is identified with an identification number by means of a microchip implanted in the pipping muscle at 1-day of age, each ratite added from outside the flock is identified in like manner upon arrival in the flock, except that the microchip need not be implanted in the pipping muscle, and each ratite already in the flock as of March 8, 1994 is identified in like manner, prior to the next visit to the flock premises by an APHIS representative under § 92.103(a)(2)(iii), except that the microchip need not be implanted in the pipping muscle;

(C) On the date it is produced, each hatching egg produced in the flock is marked in indelible ink with the date of production.

(D) The owner or manager of the premises from which the ratites or hatching eggs are intended for importation into the United States maintains on a daily basis a register listing the following: (1) Number of live ratites hatched in the flock or added to the flock, and number of live ratites removed from the flock, and the microchip number for each of these ratites;

(2) Number of eggs produced in the flock and date of production, and

number of eggs removed from the flock and date of production; and

(3) Number of eggs in incubator/hatcher and date of production;

(E) The owner or manager of the premises submits a copy of the registers to the National Veterinary Service of the country of export on a quarterly basis. The country of export in turn submits a copy of the registers to the Administrator on a quarterly basis;²

(F) The country from which the ratites or hatching eggs are exported to the United States maintains a registry of premises that wish to export ratites or hatching eggs of ratites to the United States, that lists each ratite according to the microchip number required under paragraph (b)(3)(i)(D) of this section, and also maintains a count of hatching eggs of ratites produced on or added to the premises;

(G) Before a premises is added to the registry, either a veterinary officer of the national government of the country of export, or an employee of that government responsible for the protection of fish and wildlife, visits the premises and determines that all ratites and hatching eggs of ratites are identified as required under paragraphs (b)(3)(i)(B) and (b)(3)(i)(C) of this section.

(H) The country from which the ratites or hatching eggs of ratites are exported to the United States requires each premises from which ratites or hatching eggs of ratites are exported to the United States to receive approval from the National Veterinary Service of that country before ratites are added to the premises from outside the premises, and also prohibits the addition of ratites to a flock during production seasons;

(I) The country from which ratites or hatching eggs of ratites are exported to the United States establishes a maximum number of hatching eggs of ratites that may be produced on each premises over a set production season. The ceiling for each premises is calculated jointly by a full-time salaried veterinary officer of the national government of the country of export and the APHIS representative who conducts the site visit required under § 92.103(a)(2)(iii);

(J) The country of export conducts random inspections of each premises intending to export ratites or hatching eggs of ratites to the United States, at least twice during each production season, to ensure that all ratites and hatching eggs of ratites on the premises

are identified as required under paragraphs (b)(3)(i)(D) and (b)(3)(i)(E) of this section. These inspections must be conducted by either a veterinary officer of the national government of the country of export or an employee of that government responsible for the protection of fish and wildlife. If any ratites or hatching eggs are not identified as required, the country of export must not issue the export certificate required under § 92.104(a). The country of export must record, on the copy of the quarterly report required to be sent to the Administrator under paragraph (b)(3)(i)(E) of this section, whether all ratites and hatching eggs are identified as required;

(K) The country of export requires each premises on which ratites or hatching eggs of ratites intended for export to the United States are kept to submit to the National Veterinary Service of that country a copy of the certificate required under § 92.104(a);

(L) The person intending to import ratites into the United States provides the APHIS veterinary inspector at the intended port of entry with a reader capable of reading the microchip implanted in each of the ratites.

* * * * *

5. In § 92.103, new paragraphs (a)(2)(iv), (a)(2)(v), (a)(2)(vi), and (a)(2)(vii) are added to read as follows:

§ 92.103 Import permits for birds*; and reservation fees for space at quarantine facilities maintained by APHIS.

(a) * * *

(2) * * *

(iv) A permit to import ratites or hatching eggs of ratites will be denied or withdrawn if an inspection of the premises of the flock or origin, carried out by the national government of the country of export under § 92.101 (b)(3)(i)(G) and (b)(3)(i)(J), indicates that the ratites and hatching eggs are not identified and marked as required under §§ 92.101 (b)(3)(i)(B) and (b)(3)(i)(C).

(v) A permit will be denied or withdrawn if: (A) The importer or a person responsibly connected with the importer's business is or has been convicted of any crime under any law regarding the import or export of goods, regarding the illegal movement of goods within a country, or involving fraud, bribery, extortion or any other crime involving a lack of the integrity needed for the conduct of operations affecting the importation of ratites, as determined by the Administrator.

(B) The operator of the farm of the flock of origin, or a person responsibly connected with the owner of the flock of origin, is or has been convicted of any crime under any law regarding the import or export of goods, regarding the illegal movement of goods within a country, or involving fraud, bribery, extortion or any other crime involving a lack of the integrity needed for the conduct of operations affecting the importation of ratites, as determined by the Administrator.

(vi) For the purposes of this section, a person shall be deemed to be responsibly connected with the importer's business or the owner of the flock of origin if such person has an ownership, mortgage, or lease interest in the physical plant of the importer's business or the farm of the flock of origin, or if such person is a partner, officer, director, holder or owner or 10 per centum or more of the voting stock of the importer's business or the farm of the flock of origin, or is an employee of the importer or the owner of the flock of origin.

(vii) A permit may be denied or withdrawn at any time by the Administrator, for any of the reasons provided in paragraphs (a)(2) (ii), (iii), (iv), or (v) of this section. Before such action is taken, the importer or the operator of the farm of the flock of origin will be informed of the reasons for the proposed action and, upon request in case of a dispute of material facts, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action, in accordance with rules of practice which shall be adopted for the proceeding. However, withdrawal of a permit shall become effective pending final determination in the proceeding, when the Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the importer or the operator of the farm of the flock of origin. In the event of oral notification, written confirmation shall be given to the importer or the operator of the farm of the flock of origin as promptly as circumstances permit. This withdrawal shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Administrator.

* * * * *

6. Section 92.104 is amended by redesignating paragraphs (c)(12) and (c)(13) as paragraphs (c)(15) and (c)(16), and by adding new paragraphs (c)(12), (c)(13), and (c)(14), and paragraphs

² Copies should be mailed to Administrator, c/o Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

* For other permit requirements for birds, the regulations issued by the U.S. Department of the Interior (50 CFR parts 14 and 17) should be consulted.

(d)(8), (d)(9), and (d)(10) to read as follows:

§ 92.104 Certificate for pet birds, commercial birds, zoological birds, and research birds.

* * * * *

(c) * * *
(12) The number of ratites contained in the shipment;

(13) That the number of ratites and hatching eggs of ratites exported from the flock of origin has not exceeded the ceiling established under § 92.101(b)(2)(iii)(I);

(14) That all ratites in the flock from which the hatching eggs come were identified in accordance with § 92.101(b)(3)(i)(B);

* * * * *

(d) * * *
(8) The number of hatching eggs contained in the shipment;

(9) That the number of ratites hatching eggs of ratites exported from the flock of origin has not exceeded the ceiling established under § 92.101(b)(2)(iii)(I); and

(10) That all ratites in the flock from which the hatching eggs come were identified in accordance with § 92.101(b)(3)(i)(B).

Done in Washington, DC, this 1st day of March 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94-5164 Filed 3-7-94; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-145-AD; Amendment 39-8847; AD 94-05-09]

Airworthiness Directives; Beech Model 400A Airplanes Equipped With Certain Tosington Cabin Seat Frames

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Beech Model 400A airplanes, that requires an inspection to detect fatigue-related cracking in certain cabin seat frames; measurement to determine gap size between the bearing shafts and certain seat frames; and repair, if necessary. This amendment is prompted by in-service inspection reports of fatigue-related cracking radiating outward from the bushings

welded into the cabin seat frames. The actions specified by this AD are intended to prevent separation of the cabin seat frames from their bases during an emergency landing.

DATES: Effective April 7, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 7, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Tosington Enterprises, Inc., 2261 Madera Road, Simi Valley, California 93065. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Laurence Engler, Aerospace Engineer, Airframe Branch, ACE-120W, FAA, Small Airplane Directorate, Wichita ACO, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4122; fax (316) 946-4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Beech Model 400A airplanes was published in the *Federal Register* on November 8, 1993 (58 FR 59223). That action proposed to require a one-time visual inspection to detect fatigue-related cracking in certain cabin seat frames; measurement to determine gap size between the bearing shafts and certain seat frames; and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 41 Beech Model 400A airplanes of the affected design in the worldwide fleet. The FAA estimates that 29 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required

actions, and that the average labor rate is \$55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$1,595, or \$55 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

94-05-09 Beech Aircraft Corporation:

Amendment 39-8847. Docket 93-NM-145-AD.

Applicability: Model 400A airplanes; serial numbers RK-1 through RK-40 inclusive, and RK-45; equipped with Tosington Cabin Seat Frames having serial numbers prior to 5606, on which Modification Kit Number 303-307 has not been installed; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the cabin seat frames from their bases during an emergency landing, accomplish the following: (a) Within 200 hours time-in-service after the effective date of this AD, perform a visual inspection to detect fatigue-related cracking extending radially outward from the bushings welded into the cabin seat frames, in accordance with Tosington Enterprises, Inc., Service Bulletin 001, dated July 1993. If any cracking is found, prior to further flight, repair by welding in accordance with the service bulletin.

(b) Within 200 hours time-in-service after the effective date of this AD, measure the gap size between the bearing shaft and the lower aft and/or forward seat frames in accordance with Tosington Enterprises, Inc., Service Bulletin 001, dated July 1993.

(1) If the gap size is 0.32 inch or greater, prior to further flight, repair by reinforcing the cabin seat frame in accordance with the service bulletin.

(2) If the gap size is less than 0.32 inch, no further action is required.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(d) Special flight permits may be issued in accordance with Federal Aviation Regulations (FAR) 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspection, repairs, and measurement shall be done in accordance with Tosington Enterprises, Inc., Service Bulletin 001, dated July 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Tosington Enterprises, Inc., 2261 Madera Road, Simi Valley, California 93065. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft

Certification Office (ACO), 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on April 7, 1994.

Issued in Renton, Washington, on February 28, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-4951 Filed 3-7-94; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 91-NM-65-AD; Amendment 39-8802; AD 94-02-04]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the airworthiness directive (AD) number for the above-captioned AD that was published in the *Federal Register* on Tuesday, February 1, 1994 (59 FR 4567). A typographical error in the processing of the document resulted in two AD's having the same AD number. In all other respects, the original document is correct.

DATES: Effective March 3, 1994.

The incorporation by reference of Boeing Service Bulletin 727-53-0197, Revision 1, dated April 9, 1992, as listed in the regulation is approved by the Director of the Federal Register as of March 3, 1994 (59 FR 4567, February 1, 1994).

FOR FURTHER INFORMATION CONTACT: Phil Forde 206-227-2771.

SUPPLEMENTARY INFORMATION: A final rule Airworthiness Directive (AD), applicable to all Boeing Model 727 series airplanes, was published in the *Federal Register* on Tuesday, February 1, 1994 (59 FR 4567), with an effective date of March 3, 1994. As published, that AD contained a typographical error: The AD number for that rule was shown incorrectly as "94-04-04," rather than the correct AD number of "94-02-04." Because of this error, two AD's were published with the same AD number. This document corrects the AD number of amendment 39-8802 to 94-02-04. Since none of the regulatory information has been changed, the final rule is not being republished.

Issued in Renton, Washington, on March 2, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-5240 Filed 3-7-94; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 93-NM-77-AD; Amendment 39-8840; AD 94-05-02]

Airworthiness Directives; Fokker Model F-28 Mark 1000, 2000, 3000, and 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F-28 series airplanes, that requires the implementation of a corrosion prevention and control program either by accomplishing specific tasks or by revising the maintenance inspection program to include such a program. This amendment is prompted by reports of incidents involving corrosion and fatigue cracking in transport category airplanes that are approaching or have exceeded their economic design goal; these incidents have jeopardized the airworthiness of the affected airplanes. The actions specified by this AD are intended to prevent degradation of the structural capabilities of the airplane due to the problems associated with corrosion.

DATES: Effective April 7, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 7, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal

Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Fokker Model F-28 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the *Federal Register* on November 9, 1993 (58 FR 59418). That action proposed to require the implementation of a corrosion prevention and control program either by accomplishing specific tasks or by revising the maintenance inspection program to include such a program.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters support the proposed rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 46 airplanes of U.S. registry will be affected by this AD, that it will take an average of approximately 7 work hours per basic task to accomplish the 77 basic tasks called out in the Fokker Corrosion Prevention and Control Program (CPCP) Document; this represents a total average of 539 work hours (this figure includes not only inspection time, but access and closure time as well). The average labor rate is \$55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators for the 4-year average inspection cycle is estimated to be \$1,363,670, or \$29,645 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, most prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this AD. As a

matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this AD, makes a finding of an unsafe condition, this means that this cost-beneficial level of safety is no longer being achieved and that the required actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this AD would be redundant and unnecessary.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

94-05-02 Fokker: Amendment 39-8840.
Docket 93-NM-77-AD.

Applicability: Model F-28 Mark 1000, MK 2000, MK 3000, and MK 4000 series airplanes (does not include Model MK 0100 series airplanes), certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

Note 1: This AD references Fokker Document SE-253, "F-28 Corrosion Control Program," including all revisions through September 15, 1992, (hereafter referred to as "the Document"), for basic tasks, definitions of corrosion levels, compliance times, and reporting requirements. In addition, this AD specifies inspection and reporting requirements beyond those included in the Document. Where there are differences between the AD and the Document, the AD prevails.

Note 2: As used throughout this AD, the term "the FAA" is defined differently for different operators, as follows: For those operators complying with paragraph (a) of this AD, "the FAA" is defined as "the Manager of the Standardization Branch, ANM-113, FAA, Transport Airplane Directorate." For those operators operating under Federal Aviation Regulation (FAR) Part 121 or 129, and complying with paragraph (b) of this AD, "the FAA" is defined as "the cognizant Principal Maintenance Inspector (PMI)." For those operators operating under FAR Part 91 or 125, and complying with paragraph (b) of this AD, "the FAA" is defined as "the cognizant Maintenance Inspector at the appropriate FAA Flight Standards office."

Note 3: The FAA recommends that priority for implementing the corrosion prevention and control program, specified in this AD, be given to older aircraft and areas requiring a significant upgrade of previous maintenance procedures to meet the program requirements.

To preclude degradation of the structural capabilities of the airplane due to the problems associated with corrosion, accomplish the following:

(a) Except as provided in paragraph (b) of this AD, complete each of the basic tasks specified in section 2.4 of the Document in accordance with the procedures of the Document and the schedule specified in paragraphs (a)(1) and (a)(2) of this AD.

Note 4: A "basic task," as defined in section 2.4 of the Document, includes inspections; procedures for a corrective action, including repairs, under identified circumstances; application of sealants or corrosion inhibitors; and other follow-on actions.

Note 5: Airplane "areas" are those items listed in columnar form in the "ACTION" statement of each task, as listed in the Document.

Note 6: Basic tasks completed in accordance with the Document before the effective date of this AD may be credited for compliance with the initial basic task requirements of paragraph (a)(1) of this AD.

Note 7: Where non-destructive inspection (NDI) methods are employed, in accordance with section 2.4 of the Document, the standards and procedures used must be acceptable to the Administrator in accordance with FAR section 43.13.

(1) Complete the initial basic task of each aircraft zone specified in section 2.4 of the Document as follows: (i) For airplane areas that have not yet exceeded the "Initial Inspection Time (IIT)" for a basic task as of one year after the effective date of this AD: Initial compliance must occur no later than the IIT, or no later than one Repeat Inspection Time (RIT) interval measured from a date one year after the effective date of this AD, whichever occurs later.

(ii) For airplane areas that have exceeded the IIT for a particular basic task as of one year after the effective date of this AD: Initial compliance must occur within one RIT interval for that task, or within 6 years, measured from a date one year after the effective date of this AD, whichever occurs first.

(iii) Notwithstanding paragraphs (a)(1)(i) and (a)(1)(ii) of this AD, accomplish the initial basic task, for each area that exceeds the IIT for that area, at a minimum rate of one such area every two years, beginning one year after the effective date of this AD.

Note 8: This paragraph does not require inspection of any area that has not exceeded the IIT for that area.

Note 9: This minimum rate requirement may cause an undue hardship on some small operators. In those circumstances, requests for adjustments to the implementation rate will be evaluated on a case-by-case basis under the provisions of paragraph (h) of this AD.

(2) Repeat each basic task at a time interval not to exceed the RIT interval specified in the Document for that task.

(b) As an alternative to the requirements of paragraph (a) of this AD: Prior to one year after the effective date of this AD, revise the FAA-approved maintenance/inspection program to include the corrosion control program specified in the Document; or to include an equivalent program that is approved by the FAA. In all cases, the initial basic task for each airplane area must be completed in accordance with the compliance schedule specified in paragraph (a)(1) of this AD.

(1) Any operator complying with paragraph (b) of this AD may use an alternative recordkeeping method to that otherwise required by FAR section 91.417 or section 121.380 for the actions required by this AD, provided it is approved by the FAA and is

included in a revision to the FAA-approved maintenance/inspection program.

(2) Subsequent to the accomplishment of the initial basic task, extensions of RIT intervals specified in the Document must be approved by the FAA.

(c) To accommodate unanticipated scheduling requirements, it is acceptable for an RIT interval to be increased by up to 10%, but not to exceed 6 months. The FAA must be informed, in writing, of any such extension within 30 days after such adjustment of the schedule.

(d)(1) If, as a result of any inspection conducted in accordance with paragraphs (a) or (b) of this AD, Level 3 corrosion is determined to exist in any airplane area, accomplish either paragraph (d)(1)(i) or (d)(1)(ii) within 7 days after such determination:

(i) Submit a report of that determination to the FAA and complete the basic task in the affected aircraft zones on all Model F-28 series airplanes in the operator's fleet; or

(ii) Submit to the FAA for approval one of the following: (A) A proposed schedule for performing the basic tasks in the affected aircraft zones on the remaining Model F-28 series airplanes in the operator's fleet, which is adequate to ensure that any other Level 3 corrosion is detected in a timely manner, along with substantiating data for that schedule; or

(B) Data substantiating that the Level 3 corrosion found is an isolated occurrence.

Note 10: Notwithstanding the provisions of Section 2.1 of the Document, which would permit corrosion that otherwise meets the definition of Level 3 corrosion (i.e., which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA (ref. Note 2 of this AD) for approval.

(2) The FAA may impose schedules other than those proposed, upon finding that such changes are necessary to ensure that any other Level 3 corrosion is detected in a timely manner.

(3) Within the time schedule approved under paragraph (d)(1) or (d)(2) of this AD, accomplish the basic tasks in the affected aircraft zones of the remaining Model F-28 series airplanes in the operator's fleet.

(e) If, as a result of any inspection after the initial inspection conducted in accordance with paragraphs (a) or (b) of this AD, it is determined that corrosion findings exceed Level 1 in any area, within 60 days after such determination, implement a means, approved by the FAA, to reduce future findings of corrosion in that area to Level 1 or better.

(f) Before any operator places into service any airplane subject to the requirements of

this AD, a schedule for the accomplishment of basic tasks required by this AD must be established in accordance with paragraph (f)(1) or (f)(2) of this AD, as applicable:

(1) For airplanes previously maintained in accordance with this AD, the first basic task in each aircraft zone to be performed by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that task. After each basic task has been performed once, each subsequent task must be performed in accordance with the new operator's schedule.

(2) For airplanes that have not been previously maintained in accordance with this AD, the first basic task for each aircraft zone to be performed by the new operator must be accomplished prior to further flight or in accordance with a schedule approved by the FAA.

(g) Within 7 days after the date of detection of any Level 3 corrosion, and within 3 months after the date of detection of any Level 2 corrosion, submit a report to Fokker of such findings, in accordance with section 2.5 of the Document.

Note 11: Reporting to the FAA of Level 2 and Level 3 corrosion found as a result of any opportunity inspections is highly desirable.

(h) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through the cognizant Maintenance Inspector at the appropriate FAA Flight Standards office, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

Note 12: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(i) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(j) Reports of inspection results required by this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) and have been assigned OMB Control Number 2120-0056.

(k) The basic tasks shall be done in accordance with Fokker Document SE-253 "F28 Corrosion Control Program," revised through September 15, 1992, which contains the following list of effective pages:

Task No.	Page No.	Revision level shown on page	Date shown on page
Introduction			
	1-2, 5-8, 10-15, 17-19	3	Jan. 1, 1992.
	3-4, 9, 16, 20, 25	3-1	Sept. 15, 1992.
	21-24, 26	1	Jan. 1, 1992.
Corrosion inspections			
010-00	010/01	3	Jan. 1, 1992.
020-00	020/01		
030-00	030/01		
040-00	040/01		
050-00	050/01		
100-00	100/01		
110-00	110/01		
120-00	120/01		
120-01	120/02		
130-00	130/01		
130-01	130/02		
140-00	140/01		
140-01	140/02		
150-00	150/01		
160-00	160/01		
200-00	200/01		
250-00	250/01		
250-01	250/02		
250-02	250/03		
250-03	250/04		
270-00	270/01		
280-00	280/01		
290-00	290/01		
290-01	290/02		
290-02	290/03		
290-03	290/04		
290-04	290/05		
300-00	300/01		
300-01 cont.	300/03		
300-02	300/04		
400-00	400/01		
410-00	410/01		
420-00	420/01		
520-00	520/01		
520-01	520/02	3	Jan. 1, 1992
520-02	520/03		
530-00	530/01		
537-00	537/01		
537-01	537/02		
537-02	537/03		
538-00	538/01		
538-01	538/02		
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750-00	750/01		
760-00	760/01		
800-00	800/01		
810-00	810/01		
810-01	810/02		
820-00	820/01		
910-00	910/01		
910-02	910/03		
920-00	920/01		
920-01	920/02		

Task No.	Page No.	Revision level shown on page	Date shown on page
930-00	930/01		
940-00	940/01		
950-00	950/01		
980-00	980/01		
300-01	300/02	3-1	Sept. 15, 1992.
300-03	300/05		
560-01	560/02		
820-01	820/02		
910-01	910/02		
920-02	920/03		
940-01	940/02		
980-01	980/02		
Appendix A			
	1-11	3	Jan. 1, 1992.
Appendix B			
	1	3-1	Sept. 15, 1992.
Appendix C			
	1-3	3	Jan. 1, 1992.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on April 7, 1994.

Issued in Renton, Washington, on February 18, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-4277 Filed 3-7-94; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 71

[Airspace Docket No 94-ACE-05]

Modification of Class D Airspace; Waterloo, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the official description of the Class D airspace associated with the Waterloo Municipal Airport, Waterloo, Iowa, by adding the phrase: "This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/

Facility Directory." On September 16, 1993, Airspace Reclassification discontinued the use of the terms "control zone" and "airport traffic area." Airspace designated from the surface for an airport where there is an operating control tower is now Class D airspace. The intended effect of this action is to allow a variation of Class D airspace effective times to coincide with the operating hours of the Waterloo Municipal Airport Traffic Control Tower (ATCT), Waterloo, Iowa.

EFFECTIVE DATE: 0901 UTC, April 28, 1994.

FOR FURTHER INFORMATION CONTACT:

Dale L. Carnine, Airspace Specialist, Air Traffic Division, System Management Branch, ACE-530b, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

Airspace Reclassification, effective September 16, 1993, has discontinued the use of the terms "control zone" and "airport traffic area." Airspace designated from the surface for an airport where there is an operating control tower is now Class D airspace. Prior to September 16, 1993, the Waterloo control zone was in effect 24 hours a day, 7 days a week. However, the Waterloo ATCT was a part-time facility with the hours published in the North Central Airport/Facility Directory. The intended effect of this action is to allow a variation to the Class D airspace

effective times to coincide with the operating hours of the Waterloo ATCT.

The Rule

This amendment to part 71 of the Federal Aviation Regulations modifies the Class D airspace at the Waterloo Municipal Airport, Waterloo, Iowa. The purpose of this amendment is to allow a variation to the Class D airspace effective times to coincide with the operating hours of the Waterloo ATCT. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public is not particularly interested. The coordinates for this airspace docket are based on North American Datum 83. Class D airspace areas designated as surface areas for airports are published in Paragraph 5000 of FAA Order 7400.9A, dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The amended Class D airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations that needs frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as