

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 93

[Docket No. 01–023–1]

#### Microchip Implants as an Official Form of Identification for Pet Birds

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to allow the use of microchip implants as an acceptable form of identification for pet birds of U.S. origin returning to this country after being outside the United States. The regulations currently provide for the use of leg bands or tattoos to identify such birds, but microchips have become the preferred method of identification used by avian veterinary practitioners. This proposed change would provide for the use of an additional means of identifying certain U.S. origin pet birds while continuing to provide protection against the introduction of communicable poultry diseases into the United States.

**DATES:** We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by March 12, 2002.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–023–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–023–1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and

address in your message and “Docket No. 01–023–1” on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Sara Kaman, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–8364.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 93 (referred to below as the regulations) regulate the importation of certain animals and birds, including pet birds, to prevent the introduction of communicable diseases of livestock and poultry.

The regulations in § 93.101(c)(2)(i) currently require that pet birds of U.S. origin returning to the United States must have been identified prior to departure from the United States with a leg band or tattoo identification number. The leg band or tattoo number must be listed on the veterinary health certificate that was issued prior to the bird's departure from the United States. This health certificate must accompany the bird upon its return to the United States.

However, it is increasingly difficult for pet bird owners to obtain a leg band or tattoo, since most private avian veterinarians no longer utilize these forms of identification. Although some psittacine birds may be banded by the breeder as hatchlings, microchip implants are the preferred form of identification for most private avian veterinarians because some birds do not adapt well to wearing a leg band (they chew the band or catch it on objects,

potentially injuring themselves), and because the thin skin of birds makes it difficult to read a tattoo.

Therefore, we are proposing to allow owners of birds of U.S. origin the option of identifying their pet birds with a microchip implant. We would amend the regulations in this respect to state that the veterinary health certificate accompanying the bird must show the leg band, tattoo, or microchip identification number that was affixed to the bird prior to the departure of the bird from the United States. This proposed change would provide for the use of an additional means of identifying certain U.S. origin pet birds while continuing to provide protection against the introduction of communicable poultry diseases into the United States.

#### Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are proposing to allow the use of microchip implants as an acceptable form of identification for pet birds of U.S. origin returning to this country after being outside the United States. The regulations currently provide for the use of leg bands or tattoos to identify such birds, but microchips have become the preferred method of identification used by avian veterinary practitioners. This proposed change would provide for the use of an additional means of identifying certain U.S. origin pet birds.

The groups affected by this proposed rule would be pet bird owners who travel with their birds outside the United States and microchip manufacturers. According to the port of entry records of the Animal and Plant Health Inspection Service (APHIS), approximately 400 bird owners traveled outside of the United States with their pet birds in calendar year 2000. Under this proposed rule, those bird owners would be allowed to use microchip identification instead of the leg bands or tattoos currently provided for by the regulations. Bird owners would benefit from this proposed change because it is becoming more difficult to find a veterinarian who carries leg bands for pet bird identification, and tattoos are

rarely used to identify birds any more. Microchips will thus make the task of identifying a pet bird before leaving the United States more convenient. In most cases, an APHIS inspector at the port of entry would be able to use a microchip scanner to confirm the identity of the bird without handling the bird or removing it from the cage, thus avoiding additional stress on the bird.

Bird owners who choose to identify their birds with a microchip would have to pay \$25 to \$40 per microchip plus the cost of the veterinarian office visit to insert the microchip. The cost of the microchips is projected to be slightly higher than the conventional leg band, although current costs for leg bands and tattoos are not available due to the lack of veterinarians who will perform these services.

Microchip manufacturers could potentially benefit from a slight increase in microchip sales generated by this proposed rule. It appears that all potentially affected microchip manufacturers (NAICS code 334111) are small entities, according to Small Business Administration criteria (i.e., 1,000 or fewer employees).

In summary, this proposed rule would provide pet bird owners with an additional means of identifying their pet birds while allowing APHIS to maintain the high level of security required in order to keep avian diseases, such as exotic Newcastle disease and highly pathogenic avian influenza, from entering the United States.

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

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products,

Quarantine, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 93 as follows:

#### **PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS**

1. The authority citation for part 93 would continue 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, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

#### **§ 93.101 [Amended]**

2. In § 93.101, paragraph (c)(2)(i) would be amended by removing the words “leg band or tattoo number” and adding the words “number from the leg band, tattoo, or microchip” in their place and by removing the words “leg band or tattoo on” and adding the words “number from the leg band, tattoo, or microchip on” in their place.

Done in Washington, DC, this 7th day of January 2002.

**W. Ron DeHaven,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 02–740 Filed 1–10–02; 8:45 am]

**BILLING CODE 3410–34–U**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. 2001–NM–251–AD]**

**RIN 2120–AA64**

#### **Airworthiness Directives; Boeing Model 737 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM); Extension of the comment period.

**SUMMARY:** This document extends the period for public comment on the above-referenced NPRM that proposes the superseding of two existing airworthiness directives (AD), applicable to certain Boeing Model 737 series airplanes. The NPRM proposes to require installation of a new rudder control system and changes to the adjacent systems to accommodate that new rudder control system. This proposal is prompted by FAA

determinations that the existing system design architecture is unsafe due to inherent failure modes, including single-jam modes and certain latent failures or jams, which, when combined with a second failure or jam, could cause an uncommanded rudder hardover event and consequent loss of control of the airplane. Additionally, the current rudder operational procedure is not effective throughout the entire flight envelope. This extension of the comment period is necessary to assure that all interested persons have ample opportunity to present their views on the proposed requirements of the NPRM.

**DATES:** Comments must be received by February 14, 2002.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–251–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: [9-anm-nprmcomment@faa.gov](mailto:9-anm-nprmcomment@faa.gov). Comments sent via fax or the Internet must contain “Docket No. 2001–NM–251–AD” in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

#### **FOR FURTHER INFORMATION CONTACT:**

Kenneth W. Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2673; fax (425) 227–1181.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format: