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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 331 and 381

[Docket No. 95-044F]

Designation of the State of Hawaii Under the Federal Meat Inspection Act and the Poultry Products Inspection Act

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: Representatives of Hawaii have advised the Agency that, due to a lack of funding, the State of Hawaii will no longer continue administering its State meat and poultry inspection programs after October 31, 1995. The Food Safety and Inspection Service (FSIS) is mandated by law to assume the responsibility, previously held by the State of Hawaii, for administering the meat and poultry inspection programs with respect to establishments operating, and operations and transactions, within the State. Therefore, in accordance with the law, the Secretary is designating the State of Hawaii to receive Federal inspection of meat and poultry inspection programs with respect to establishments operating, and operations and transactions, within the State, and FSIS is amending the Federal meat and poultry inspection regulations by adding Hawaii to the list of "designated" States.

DATES: This final rule will be effective on November 1, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Connie L. Bacon, Assistant Director, Federal-State Relations, Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700, (202) 720-6313.

SUPPLEMENTARY INFORMATION:

Background

Under section 301(c) of the Federal Meat Inspection Act (FMIA) and section 5(c) of the Poultry Products Inspection Act (PPIA), a State may administer State meat and poultry inspection programs provided the State has developed and is effectively enforcing State meat and poultry inspection requirements at least equal to Federal meat and poultry inspection requirements under titles I and IV of the FMIA and sections 1-4, 6-10, and 12-22 of the PPIA (collectively referred to below as the titles). These titles contemplate continuous, ongoing programs. When States can no longer effectively enforce meat and poultry inspection requirements at least equal to Federal requirements, then they must be "designated" by the Secretary under these provisions of the Acts.

In accordance with the FMIA and PPIA, the Secretary had determined that the State of Hawaii had developed and was enforcing State meat and poultry inspection requirements for establishments at least equal to Federal meat and poultry inspection requirements under the titles. However, on July 28, 1995, representatives of the State of Hawaii notified FSIS that, due to a lack of funding, Hawaii will no longer continue to administer its State meat and poultry inspection programs after October 31, 1995. They have requested that the Department assume responsibility for carrying out the provisions of the titles within the State.

In view of the termination date, it is determined that the State of Hawaii would not effectively enforce requirements at least equal to those imposed under the titles. Therefore, the Secretary of Agriculture must designate the State of Hawaii under section 301(c)(3) of the FMIA and section 5(c)(3) of the PPIA. Therefore, on and after November 1, 1995, the provisions of the titles will apply to establishments operating, and operations and transactions, within the State, unless exempted under sections 23(a) or 301(c)(2) of the FMIA or sections 15 or 5(c)(2) of the PPIA.

Owners or operators of Hawaii's meat and poultry establishments wishing to continue operations after October 31, 1995, should contact the FSIS Regional Office for information concerning requirements and exemptions under the Acts and applications for inspection and

requests for surveys of establishments at the following address: Regional Director, Western Regional Office, Inspection Operations, FSIS, U.S. Department of Agriculture, 620 Central Avenue, Building 2C, Alameda, CA 94501, (510) 337-5074.

The Administrator has determined that there is good cause for issuing this final rule without prior notice and opportunity for public comment. Since the State of Hawaii has advised FSIS that its State-operated meat and poultry inspection programs will be discontinued, the Agency is mandated by law to assume the responsibilities for administering the meat and poultry inspection programs for establishments operating, and operations and transactions within the State. It is necessary therefore, to designate the State of Hawaii immediately, in accordance with section 301(c)(3) of the FMIA and section 5(c)(3) of the PPIA in order to carry out the Secretary's responsibilities under the Acts.

Additionally, it does not appear that additional relevant information would be made available to the Secretary by public participation in this rulemaking proceeding. Accordingly, under the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures are impracticable and contrary to the public interest.

Executive Order 12866 and Regulatory Flexibility Act

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

The Administrator, FSIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The U.S. Department of Agriculture, pursuant to law, is assuming the responsibility, previously held by the State of Hawaii, of administering the meat and poultry inspection programs with respect to meat and poultry establishments operating, and operations and transactions within the State. This action will affect approximately 46 State and 11 Talmadge Aiken meat and poultry establishments in Hawaii, and most, if not all, of which may be presumed to be small businesses.

However, this is not a substantial number of establishments given the approximately 6,800 small meat and small poultry establishments nationwide, which are either federally or State inspected. Additionally, the application of certain Federal facility and other requirements will be flexible and each facility will be reviewed with regard to the circumstances peculiar to that establishment. Furthermore, it is not anticipated that significant costs will be incurred by these Hawaii establishments as a result of this action. Those specific establishments requiring some upgrading of facilities will be provided up to 18 months in which to submit blueprints and sketches and up to 36 months in which to improve their facilities.

Executive Order 12778

This final 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 Requirements

This rule has been reviewed under the Paperwork Reduction Act and imposes no new paperwork or recordkeeping requirements.

List of Subjects

9 CFR Part 331

Meat inspection.

9 CFR Part 381

Poultry and poultry products inspection.

Accordingly, part 331 of the Federal meat inspection regulations (9 CFR part 331) is amended to read as follows:

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

1. The authority citation for part 331 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

§ 331.2 Designation of States under paragraph 301(c) of the Act.

2. The table in § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is amended in the "State" column, by adding "Hawaii" immediately below "Guam" and in the

"Effective date of application of Federal provisions" column, by adding "November 1, 1995" on the line with "Hawaii."

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

4. The table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended in the "State" column, by adding "Hawaii" is added immediately below "Guam" and in the "Effective date of application of Federal provisions" column, by adding "November 1, 1995" on the line with "Hawaii."

Done at Washington, DC, on: October 18, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–26297 Filed 10–23–95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95-CE-23-AD; Amendment 39-9410; AD 95-22-03]

Airworthiness Directives; Beech Aircraft Corporation Models 60 and A60 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Beech Aircraft Corporation (Beech) Models 60 and A60 airplanes. This action requires incorporating flight manual supplement revisions into the Airplane Flight Manual (AFM) that would specify a minimum airspeed for operating the affected airplanes in icing conditions. Reports of several incidents and accidents on the affected airplanes related to flight in icing conditions prompted the proposed action. The actions specified by the proposed AD are intended to prevent loss of control of the airplane because of the airplane traveling too slowly in icing conditions.

EFFECTIVE DATE: December 12, 1995.

ADDRESSEES: Service information that applies to this AD may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at

the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95-CE-23-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Bennett L. Sorensen, Flight Test Pilot, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone (316) 946–4165; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Beech Models 60 and A60 airplanes was published in the Federal Register on June 5, 1995 (60 FR 29513). The proposed action requires incorporating flight manual supplement revisions into the Airplane Flight Manual (AFM) that would specify a minimum airspeed for operating the affected airplanes in icing conditions. Accomplishment of the proposed action would be in accordance with Beech Model 60 and A60 Pilot's Operating Handbook/Airplane Flight Manual (POH/AFM) supplement "FLIGHT IN KNOWN ICING CONDITIONS", Revised: January, 1995, part number (P/N) 60-590001-17.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 243 airplanes in the U.S. registry would be affected by the proposed AD, that it would take less than 1 workhour per airplane to accomplish the proposed action. Since an owner/operator who holds a private pilot's certificate as authorized by sections 43.7 and 43.11 of the Federal Aviation Regulations (14 CFR 43.7 and 43.11) can accomplish this action, the only cost impact upon the public is the time it takes to incorporate these AFM supplement revisions.

The compliance time of the AD is presented in calendar time instead of hours time-in-service. Although the unsafe condition develops as a result of