

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

14 CFR Parts 234, 244, 250,253, 259, and 399

Docket No. DOT-OST-2010-0140

RIN No. 2105-AD92

Enhancing Airline Passenger Protections

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Clarification to Notice of Proposed Rulemaking

SUMMARY: The Department of Transportation is clarifying its notice of proposed rulemaking (NPRM) published in the Federal Register on June 8, 2010, which, among other issues, solicits comments on options to provide greater access to air travel for persons with peanut allergies.

DATES: Comments should be filed by August 9, 2010. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT-OST-2010-0140 by any of the following methods:

- Federal Rulemaking Portal: go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal Holidays.
- Fax: (202) 493-2251.

Instructions: You must include the agency name and docket number DOT-OST-2010-0140 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.) You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://DocketsInfo.dot.gov>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Daeleen Chesley, Senior Trial Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590, (202) 366-6792, daeleen.chesley@dot.gov.

You may also contact Blane Workie, Deputy Assistant General Counsel at the same address, (202) 366-9342, blane.workie@dot.gov. Arrangements to receive this notice in an alternative format may be made by contacting the above named individuals.

SUPPLEMENTARY INFORMATION:

Pilot Project on Open Government and the Rulemaking Process: Pursuant to the notice of proposed rulemaking (NPRM) published June 8, 2010, persons who desire may provide input on this rulemaking using the social networking pilot project, Regulation Room, established by DOT in partnership with the Cornell eRulemaking Initiative (CeRI). You may visit the Regulation Room website, www.regulationroom.org, to learn about the NPRM and that process. For questions about this project, please contact Brett Jortland in the DOT Office of General Counsel at 202.421.9216 or brett.jortland@dot.gov.

Clarification of Notice of Proposed Rulemaking

On June 8, 2010, the Department published an NPRM on Enhancing Airline Passenger Protections (75 Fed. Reg. 32318), which, among other things, solicits comment, without proposing any specific rule text, on three options that would provide greater access to air travel for persons with peanut allergies. The NPRM also sought comment on whether it would be preferable to maintain the current practice of not prescribing carrier practices concerning the serving of peanuts. (75 Fed. Reg. 32318, 32332)

We wish to clarify that, as alluded to in the NPRM, we recognize that Section 346 of the Department of Transportation and Related Agencies Appropriations Act of 2000, Public Law 106-69—Oct. 9, 1999 states:

Hereafter, none of the funds made available under this Act or any other Act, may be used to implement, carry out, or enforce any regulation issued under section 41705 of title 49, United States Code, including any regulation contained in part 382 of title 14, Code of Federal Regulations, or any other provision of law (including any Act of Congress, regulation, or Executive order or any official guidance or correspondence thereto), that requires or encourages an air carrier (as that term is defined in section 40102 of title 49, United States Code) to, on intrastate or interstate air transportation (as those terms are defined in section 40102 of title 49, United States Code)—(1) provide a peanut-free buffer zone or any other related peanut-restricted area; or (2) restrict the distribution of peanuts, until 90 days after submission to the Congress and the Secretary of a peer-reviewed scientific study that determines that there are severe reactions by passengers to peanuts as a result of contact with very small airborne peanut particles of the kind that passengers might encounter in an aircraft.

We will comply with this requirement.

ISSUED THIS 22 DAY OF June, 2010, AT WASHINGTON D.C.


Ray LaHood

Secretary of Transportation