

**14 CFR Part 71**

[Airspace Docket No. 93-ASW-60]

**Proposed Establishment of Class E Airspace; Alta Vista Ranch Airport, Marfa, TX**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

**SUMMARY:** This action withdraws a Notice of Proposed Rulemaking (NPRM) that was published in the **Federal Register** on July 21, 1994. That proposal duplicated an earlier NPRM that was published on March 31, 1994. Both actions proposed to establish Class E airspace extending upward from 700 feet above ground level (AGL) at Alta Vista Ranch Airport, Marfa, Texas. Except for the comment period, the March 31, 1994, proposal is identical to the July 21, 1994, proposal. Accordingly, the duplicate proposal published July 21, 1994, is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Alvin E. DeVane, System Management Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: (817) 222-5595.

**SUPPLEMENTARY INFORMATION:****The Proposed Rule**

On March 31, 1994, an NPRM was published in the **Federal Register** to establish Class E airspace extending upward from 700 feet above ground level (AGL) at Alta Vista Ranch Airport, Marfa, TX (59 FR 15137). That proposal was prompted by the development of a new standard instrument approach procedure (SIAP) to the Alta Vista Ranch Airport, Marfa, TX. A duplicate NPRM for Class E airspace at Marfa, TX, was also published in the **Federal Register** on July 21, 1994 (59 FR 37187). The March 31, 1994 proposal was identical to the July 21, 1994 proposal except for the comment period. No comments objecting to either proposal have been received. Therefore, in order to eliminate duplicate proposals for Class E airspace at Marfa, TX, the duplicate NPRM published on July 21, 1994 is being withdrawn.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore, is not covered under

Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Withdrawal**

Accordingly, pursuant to the authority delegated to me, the NPRM, Airspace Docket No. 92-ASW-60, as published in the **Federal Register** on July 21, 1994 (59 FR 37187), is hereby withdrawn.

**Authority:** 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

Issued in Fort Worth, TX on January 4, 1995.

**James R. Nausley,**

*Manager, Air Traffic Division, Southwest Region.*

[FR Doc. 95-1142 Filed 1-17-95; 8:45 am]

BILLING CODE 4910-13-M

**Office of the Secretary****14 CFR Part 259**

[Docket No. 50031; Notice 95-2]

RIN 2105-AC14

**Aircraft Disinsection**

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Department of Transportation proposes to issue a rule that would require U.S. airlines, foreign airlines and their agents at time of booking transportation, to notify individuals purchasing tickets on flight segments originating in the United States if the aircraft will be sprayed with insecticide while passengers are on board and to provide immediately upon request the name of the insecticide used. This action is taken at the initiative of the Department.

**DATES:** The Department requests comments by March 20, 1995. The Department will consider late comments only to the extent practicable.

**ADDRESSES:** Comments should be sent to the Docket Clerk, Docket No. 50031, U.S. Department of Transportation, 400 7th Street, SW., Room 4107, Washington, DC 20590. To facilitate consideration of the comments, we ask commenters to file 5 copies of each set of comments. The docket will be available for inspection at this address from 9:00 a.m. to 5:00 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:**

Arnold G. Konheim, U.S. Department of Transportation (P-13), 400 7th Street, SW., Washington, DC 20590 (202) 366-4849.

**SUPPLEMENTARY INFORMATION:****Background**

The treatment of aircraft to kill insects (aircraft disinsection) has been an established practice throughout the world for a number of years. In fact, since the 1940's, nations have had the right to require the disinsection of inbound international aircraft flights under Annex 9 (Facilitation) of the Chicago Convention. The treatment of aircraft to kill insects (aircraft disinsection) has been an Convention for reasons of public health and agriculture. Recently, concerns have arisen about the harmful effects of certain disinsection treatments. However as a signatory of the Chicago Convention, the U.S. cannot forbid any other country from requiring the disinsection of flights landing in that country's territory.

**U.S. Experience**

During the late 1930's, the United States Public Health Service instituted insecticide spraying requirements covering all aircraft arriving at any U.S. port from an area infected with any insect-borne communicable disease. However, in 1979, the Centers for Disease Control and Prevention (CDC) amended the Foreign Quarantine Regulations (42 CFR Part 71) to discontinue requiring routine spraying because of concern for the health of passengers and crew, and the lack of evidence that aircraft spraying played a significant role in disease control, and the belief that discontinuation of spraying would not present a significant public health threat. Conversely, the spraying caused undue discomfort to many passengers, and had the potential for creating acute allergic reactions, asthmatic attacks, and other allergic or respiratory problems in certain passengers. Furthermore, yellow fever vaccine was readily available and very effective in providing long-term immunity for travelers going abroad, and routine mosquito surveillance and abatement procedures around U.S. international airports were utilized to prevent the introduction and spread of insect vectors.

Since routine spraying of aircraft was discontinued in the United States in 1979, there have been no outbreaks of vector-borne disease in the United States that can be attributed to imported vectors.

### International Actions

The International Civil Aviation Organization (ICAO) has approved two methods of disinsection. In the aerosolized method, an insecticide is sprayed while passengers and crew are on board. ICAO specifies that an insecticide approved by the World Health Organization be used for this method of disinsection.

The U.S. Environmental Protection Agency (EPA) had required that the product (d-phenothrin) used by U.S. carriers for the aerosolized method of disinsecting aircraft be labeled to show that it can be sprayed in airliner cabins to disinsect the aircraft but also warned that it is hazardous to humans. This inconsistency caused considerable public concern over aircraft spraying. In September 1994, the registrant of this insecticide submitted a labelling change indicating that the product is to be used only when passengers and crew are not on board. EPA accepted this change but has permitted the continued use of the product while passengers and crew are on board until the current inventory is exhausted.

For the residual method, the insecticide permethrin is applied to the interior surfaces of the airplane cabin periodically (typically once every six to eight weeks) when passengers and crew are not on board. Having received no applications for the use of permethrin to disinsect aircraft, EPA has not approved the use of permethrin for this purpose. Accordingly, U.S. carriers electing this option must apply the permethrin abroad.

### U.S. Actions

On April 14, 1994, the Department requested that the Department of State forward a letter, through its diplomatic and consular posts, from the Secretary of Transportation to the ministers of transportation of every nation recognized by the United States. The letter requested information on each of these nation's disinsection requirements and also urged nations that require spraying while passengers and crew are on board to consider terminating that requirement.

Based upon the response to these letters and from information provided by the airlines, the following nations\* require spraying of insecticide while passengers and crew are on board for all aircraft landing in their territory:

- a. Argentina
- b. Antigua and Barbuda
- c. Barbados
- d. Congo

- e. Costa Rica
- f. Dominican Republic
- g. Grenada
- h. India
- i. Kenya
- j. Kiribati
- k. Madagascar
- l. Mauritius
- m. Mexico
- n. Mozambique
- o. New Caledonia
- p. Nicaragua
- q. Seychelles
- r. Trinidad and Tobago
- s. Yemen

Five other countries, Australia, Fiji, Jamaica, New Zealand and Panama indicated that they require disinsection but leave the method—direct or residual—up to the airline. Some other countries require spraying only on flights coming from countries affected by malaria, yellow fever, dengue fever or encephalitis.

The Department has adopted a four-fold approach to addressing this issue. First, the Department has urged countries that require spraying while passengers and crew are on board to reconsider their practice and spray only when passengers and crew are not on board.

Secondly, the Department provided immediate notice of countries that require spraying. On July 21, 1994, the Secretary conducted a press conference in which he distributed the names of countries that require the disinsection of inbound aircraft. Through letters to six medical associations, the Department notified the medical community of the practice and the names of the insecticides used for both the aerosolized and residual methods of disinsection. A number of interviews with the press and the travel community were conducted.

Thirdly, the Department initiated this rulemaking to require that consumers be given notice of spraying at the time of booking of transportation.

Finally, the Department requested that ICAO include disinsection on the agenda for the next meeting of the Facilitation Division, which is scheduled for April 1995. The Department is also providing funding to the World Health Organization (WHO) to sponsor a technical symposium in October 1995 on aircraft disinsection, in order that the practice be reviewed in light of current medical knowledge.

### Proposal

The Department proposes to issue a rule that would require U.S. airlines, foreign airlines and their agents to provide oral notice to individuals purchasing tickets to destinations for which the spraying of aircraft while

passengers are on board is required, that the aircraft will be sprayed with insecticide while passengers are on board. The specific wording of the notice would be as follows:

Federal regulations require that we warn you that during Flight number [identify flight number], the airplane cabin will be sprayed with insecticide while passengers are on board. This is a requirement of the Government of [identify name of country].

The Department also proposes that upon request, the airlines and their agents shall immediately provide the name of the insecticide used.

The rule would apply only to the initial outbound flight segment of flights from the United States.

The Department of Transportation proposes to be responsible for maintaining the list of countries that require spraying. The Department would publish the list in the **Federal Register** and update it as necessary.

The proposal may benefit travelers with severe allergies or multiple chemical sensitivities, as well as those travelers who find exposure to insecticides to be discomforting.

### Additional Options

Although public comment is invited on all aspects of the proposal, the Department, in particular, seeks comments to the following questions: Because of the difficulty of maintaining an accurate data base of the disinsection requirements of all nations that receive air service, particularly given that in some cases a country's disinsection requirements are a function of the country of origin of the flight, the proposed rule would not require the giving of notice of the spraying requirements of countries that are included in a passenger's itinerary beyond the initial out bound flight segment from the United States. Should notice be required for all flights on a traveler's itinerary?

Practical considerations would make it difficult and of limited effectiveness to apply the proposal to foreign air carrier flights that are booked outside of the United States. Therefore, the proposed rule would not require notice for flights booked abroad. Should notice be required for flights booked abroad?

The rule as proposed would require notice of only those flights in which an insecticide is sprayed while passengers and crew are on board. Should notice also be required for flights that are disinsected while passengers are not on board?

The rule as proposed provides only for oral notice. Should the rule be expanded to require notice in schedules,

\*This list is complete as of December 22, 1994.

in advertisements or in writing at time of sale?

### Regulatory Analysis and Notices

The Department has determined that this action is not a significant regulatory action under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. The Department has placed a regulatory evaluation that examines the estimated costs and impacts of the proposal in the docket.

The Department certifies that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Although many ticket agents and some air carriers are small entities, the Department believes that the costs of notification will be minimal. The Department seeks comment on whether there are unidentified small entity impacts that should be considered. If comments provide information that there are significant small entity impacts, the Department will prepare a regulatory flexibility analysis at the final rule stage.

The Department does not believe that there would be sufficient federalism implications to warrant the preparation of a federalism assessment.

### Paperwork Reduction Act

The proposed rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 2507 *et seq.*).

### List of Subjects in 14 CFR Part 259

Air carriers, Foreign air carriers.

For the reasons set forth in the preamble, the Department proposes to amend Title 14, Chapter II, Subchapter A by adding a new part 259 to read as follows:

### PART 259—DISINSECTION OF AIRCRAFT

- Sec.  
259.1 Purpose.  
259.2 Applicability.  
259.3 Definitions.  
259.4 Notice requirement.

**Authority:** 49 U.S.C. 40113(a) and 41712.

#### § 259.1 Purpose.

The purpose of this part is to ensure that ticket agents in the United States, air carriers and foreign air carriers tell consumers when the air transportation they are proposing to buy requires that the aircraft cabin will be sprayed with insecticide while passengers and crew are on board.

#### § 259.2 Applicability.

This rule applies to:

(a) Direct air carriers and foreign direct air carriers operating aircraft in which the initial flight segment of flights outbound from the United States is disinfected by spraying the aircraft cabin with insecticide while passengers and crew are on board.

(b) Ticket agents doing business in the United States that sell passenger air transportation services on flights described above.

#### § 259.3 Definitions.

(a) Carrier means any direct air carrier or foreign air carrier as defined in 49 U.S.C. 40102(2) or 49 U.S.C. 40102(21), respectively, that is engaged in passenger air transportation, including by wet lease.

(b) Ticket agent has the meaning ascribed to it in 49 U.S.C. 40102(40).

#### § 259.4 Notice requirement.

In any direct oral communication with a prospective customer concerning a flight that will be required to be sprayed with insecticide while passengers are on board, a ticket agent in the United States or a carrier shall verbally deliver the following warning:

Federal regulations require that we warn you that during Flight Number [identify flight number], the airplane cabin will be sprayed with insecticide while passengers are on board. This is a requirement of the Government of [identify name of country].

Further, upon request, the ticket agent in the United States or the carrier shall immediately provide the name of the insecticide used on that flight.

Issued in Washington, DC on December 12, 1994.

#### Patrick V. Murphy,

*Acting Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 95-1260 Filed 1-17-95; 8:45 am]

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### DEPARTMENT OF THE TREASURY

#### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Part 24

[Notice No. 805; Notice No. 800]

RIN 1512-AB26

#### Materials and Processes Authorized for the Production of Wine and for the Treatment of Juice, Wine and Distilling Material; Reopening of Comment Period and Correction (93F-059P)

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Proposed rule; reopening of comment period and correction.

**SUMMARY:** In Notice No. 800 (59 FR 49870), published in the **Federal Register** on September 30, 1994, the Bureau of Alcohol, Tobacco and Firearms (ATF) solicited comments from winemakers, consumers and other interested parties as to whether the use of certain materials and processes is acceptable in "good commercial practice" in the production, cellar treatment and finishing of wine. ATF is reopening the comment period in order to allow all interested persons more time to prepare and submit comments. This notice also makes editorial correction to the text of the proposed regulations as described in the supplementary information below:

**DATES:** Written comments must be received by March 20, 1995.

**ADDRESSES:** Send written comments to: Chief, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221; Notice No. 800.

**FOR FURTHER INFORMATION CONTACT:** Robert White, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone (202) 927-8230.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 30, 1994, ATF published a notice of proposed rulemaking, Notice No. 800 (59 FR 49870), in the **Federal Register**. In the notice, ATF proposed the use of three wine treating processes and one wine treating material in the production, cellar treatment, and/or finishing of wine. The processes included the spinning cone column, reverse osmosis and ion exchange used in combination within a closed system, and ultrafiltration at transmembrane pressures below 200 pounds per square inch (psi).

The new wine treating material proposed was urease enzyme, derived from *Lactobacillus fermentum*. This new material was proposed to be used to reduce levels of naturally occurring urea in wine to help prevent the formation of ethyl carbamate during storage.

##### Reopening of Comment Period

ATF has received a request from the Delegation of the European Commission (EC) to extend the comment period for 60 days. The EC stated that this additional time was necessary due to