FEDERAL AVIATION AGENCY
FLIGHT STANDARDS SERVICE
Washington 25, D. C.

August 4, 1961

CIVIL AIR REGULATIONS DRAFT RELEASE NO. 61- 16

SUBJECT: Boarding of Air Carrier Aircraft by Persons Appearing Intoxicated

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The Flight Standards Service of the Federal Aviation Agency has under consideration amendments to Parts 40, 41, and 42 of the Civil Air Regulations concerning the boarding of Air Carrier Aircraft by persons appearing to be intoxicated. The reasons therefor are set forth in the explanatory statement of the attached proposal which is being published in the Federal Register as a notice of proposed rule making.

The Flight Standards Service desires that all persons who will be affected by the requirements of this proposal be fully informed as to its effect upon them and is therefore circulating copies in order to afford interested persons ample opportunity to submit comments as they may desire.

Because of the large number of comments which we anticipate receiving in response to this draft release, we will be unable to acknowledge receipt of each reply. However, you may be assured that all comment will be given careful consideration.

It should be noted that comments must be submitted in duplicate to the Docket Section of the Federal Aviation Agency, and in order to insure consideration must be received on or before September 11, 1961.

George C. Pratt

Director,
Flight Standards Service

FEDERAL AVIATION AGENCY
FLIGHT STANDARDS SERVICE

[14 CFR Parts 40, 41, 42] August 4, 1961
[Regulatory Docket No. 839; Draft Release No. 61-16]

NOTICE OF PROPOSED RULE MAKING

Boarding of Air Carrier Aircraft by Persons Appearing Intoxicated

Pursuant to the authority delegated to me by the Administrator (14 CFR 405.27), notice is hereby given that there is under consideration a proposal to amend Parts 40, 41, and 42 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B-316, 1711 New York Avenue, N.W., Washington 25, D.C. All communications received on or before September 11, 1961, will be considered by the Administrator before taking action on the proposed rules. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons when the prescribed date for return of comments has expired.

There have been several incidents recently where intoxicated persons have been permitted to board air carrier aircraft. Due to their condition, they subsequently have created disturbances and even threatened to do bodily harm to crewmembers and to other persons aboard the aircraft. The Federal Aviation Agency adopted regulations in March 1960, which control the consumption and serving of alcoholic beverages to persons aboard air carrier aircraft. This regulation has served its purpose well, but it does not deal adequately with the problem that these recent occurrences have revealed.

Section 43.45 of the Civil Air Regulations currently provides that a pilot shall not permit any person to be carried in the aircraft who is obviously under the influence of intoxicating liquor. This provision has also served its purpose well. However, when applied to air carrier operations, this regulation has not been entirely effective to prevent incidents such as those which recently have taken place. Placing the responsibility on the pilot is not satisfactory in the case of air carrier operations since, under most conditions, the pilot is not present to observe the appearance and conduct of passengers as they board the aircraft, but is engaged elsewhere in essential duties regarding the flight.

The primary responsibility for preventing intoxicated persons from boarding air carrier aircraft must be placed on those who have an adequate opportunity to prevent the occurrence. The air carrier has both ground personnel and cabin attendants who are in a position to detect those persons who appear to be intoxicated and to refuse such persons permission to board the aircraft. Therefore, it is proposed to amend Parts 40, 41, and 42 of the Civil Air Regulations to place on the carrier the responsibility of not permitting any person to board its aircraft if such person appears to be intoxicated. Some air carriers have developed their own procedures and instructions to appropriate personnel in recognition of a responsibility in this area. This regulation will underline that responsibility and require all carriers to take steps more appropriate to existing conditions. In particular it will prevent exclusive reliance on the pilot as the carrier's sole agent for this purpose. It is not proposed to amend § 43.45 because it is always the responsibility of the pilot in command to refuse permission for the carriage of any person who is under the influence of intoxicating liquor regardless of the action taken by other airline employees if presence of such person is known to him.

This proposal also includes a requirement for each air carrier to notify the Administrator of incidents involving violations of this section, or any disturbance caused by intoxicated persons while boarding or aboard its aircraft. These reports will be monitored by the Agency to determine whether future changes in the rules are required to control the conduct of such passengers.

In consideration of the foregoing, it is proposed to amend Parts 40, 41, and 42 of the Civil Air Regulations by adding new paragraphs (c) and (d) to §§ 40.371, 41.135, and 42.65, respectively, to read as follows:

Drinking and serving of alcoholic beverages.

* * * * *

(c) No air carrier shall permit any person to board an air carrier aircraft if such person appears to be intoxicated.

(d) An air carrier shall report to the Administrator within 24 hours any violation of paragraph (a) of this section by a person carried aboard its aircraft, or any disturbance caused by a person under the influence of alcoholic beverages while boarding or aboard its aircraft.

These amendments are proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (72 Stat. 752, 775; 49 U.S.C. 1354(a), 1421).



Director, Flight Standards Service

Issued in Washington, D.C., on August 4, 1961.