
14 CFR Part 159**[Docket No. 20200; Amendment 159-21]****Solicitation and Leafletting Procedures at Washington National and Dulles International Airports****AGENCY:** Federal Aviation Administration, DOT.**ACTION:** Final rule.

SUMMARY: This rule amends the regulations pertaining to charitable, religious, and political leafletting and soliciting at National and Dulles Airports. These amendments are editorial in nature or remove restrictions and are intended to clarify the requirements imposed on applicants for leafletting or soliciting permits.**DATE:** This Amendment becomes effective on October 26, 1980. Comments may be submitted by November 24, 1980.**ADDRESS:** Comments may be submitted to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591.**FOR FURTHER INFORMATION CONTACT:** Edward Faggen, Legal Counsel, AMA-7, Metropolitan Washington Airports, Washington National Airport, Washington, D.C. 20001, telephone: (703) 557-8123.**SUPPLEMENTARY INFORMATION:****Background Information**

On May 20, 1980, FAA issued a final rule amending 14 CFR Part 159 (45 FR 35306, 5/27/80), National Capital Airports, to provide for regulation of solicitation and leafletting by noncommercial organizations at National and Dulles Airports. This final rule was issued in accordance with Title V of Public Law 96-193 enacted February 18, 1980. Subsequent to publication of the final rule, the original effective date of July 28, 1980, was deferred 90 days to October 26, 1980, to permit completion of various administrative requirements associated with implementation of rule. (45 FR 49917, July 28, 1980).

Since the final rule was issued, FAA has received petitions for

reconsideration of the rule from the following organizations:

Aviation Consumer Action Project;
Alliance for Preservation of Religious Liberty;
American Civil Liberties Union Fund of the National Capital Area.

These petitions were considered as petitions for rulemaking under Part 11 of the Federal Aviation Regulations (14 CFR Part 11). The petitions were published in full in the **Federal Register**, 45 FR 59897, September 11, 1980. Comments on them were requested by November 10.

Consideration will be given to amending the final rule based on the petitions and the comments received. In the meantime, the rule as clarified in this amendment will become effective October 26, 1980.

The amendments remove restrictions on noncommercial activity at the airports and clarify possibly ambiguous language.

The restrictions that permit the sale of written or printed matter only by persons doing so for the sole benefit of religious beliefs, §§ 159.93(a)(3) and 159.93(c)(2)(v)(A) and (B) are removed.¹

The regulations will not distinguish between sales by religious solicitors on the one hand and sales of written or printed matter by political or tax exempt organizations on the other. This regulation will allow sale of written or printed matter for noncommercial purposes primarily because it is difficult to distinguish between the act of selling written or printed matter and the exchange of such material for a solicited contribution. The airport's interest in preventing congestion, in regulating commercial activity and protecting the public from fraud are equally affected by a sale or exchange of material.

Also, in § 159.93(c)(2) which establishes the permit application procedure, the reference to distribution of written or printed matter is modified to further clarify that the person who seeks only to distribute written or printed matter on the airport without soliciting funds or selling the printed matter is not subject to the procedure of § 159.93(c)(2). Section 159.93(c)(2) applies to those persons seeking to solicit contributions or sell written or printed matter on the airport. Those who seek only to distribute will be given a permit, if available, upon request under § 159.93(c)(1). Language is being added to that section to make clear those persons to whom it applies.

¹Sections 159.91(a), which prohibits persons from engaging in any business or commercial activity at the airport without approval, is not affected by this amendment.

Sections 159.93(c)(2) and (c)(2)(ii) are being modified to further clarify that each person who seeks to solicit contributions or sell printed matter may do so only as a representative of a non-commercial organization or in connection with religious expression. With the exception of those soliciting for religious purposes, solicitors must represent an organization although membership in the organization is not required.

Section 159.93(c)(2)(v)(B) was intended to allow a person to solicit funds on the airports on behalf of a political organization. The definition of a political organization was not intended to be restrictive. For this reason the requirement that the organization have as its "primary" function the influence of the nomination, election, or appointment of one or more individuals to Federal, state, or local public office; to influence legislation or to advocate issues or causes to the public is not appropriate. The word "primary" is deleted. Therefore, noncommercial organizations that engage in some political activity are not excluded by this definition from soliciting.

Finally, § 159.94 is modified to more clearly prohibit the solicitation of funds or the selling of written or printed matter without displaying a solicitation permit.

Since these amendments are clarifying and editorial in nature and implement changes required to carry out the intent of Amendment 159-18 which becomes effective on October 26, 1980, I find that notice and public procedure are impractical and that good cause exists for making them effective in less than 30 days. However, the FAA invites interested persons to submit such written data, views, or arguments as they may desire regarding these amendments. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before Nov. 24, 1980 will be considered by the Administrator and these amendments may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Adoption of the Amendment

Accordingly, Part 159 of the Federal Aviation Regulations (14 CFR Part 159)

[As published in the Federal Register (45 FR 70237) on October 23, 1980]

AMA

is amended effective October 26, 1980, as follows:

1. By amending paragraphs (a)(3) and (c) of § 159.93 to read as follows:

§ 159.93 Certain noncommercial activities.

(a) * * *

(3) The sale of written or printed matter. All other sales of any material, items, or services will be treated as a "commercial activity" under this Part.

(c) *Procedure:* Unless by prior application all available permits have been granted, applications will be processed as follows:

(1) Each person who seeks to distribute written or printed matter without soliciting funds or selling such matter shall immediately be given a single permit for leafletting for noncommercial purposes upon his request.

(2) Each person who seeks to solicit contributions or sell written or printed matter may do so only in connection with religious expression or as a representative of a noncommercial organization. Each such person shall immediately be given a single permit upon submission of an application, signed by the applicant, containing the following:

(i) The applicant's name, address, and telephone number.

(ii) The name, address, and telephone number of the organization that the applicant purports to represent, and a letter or other documentation that the applicant has authority to represent that organization. (This submission is not required of an individual who would be soliciting in connection with religious expression and who is not representing an organization.)

(iii) The name and title of the person in the organization who will have supervision of an responsibility for the activity at the airport, if applicable.

(iv) A statement that the sale of printed matter and/or the solicitation of funds is for noncommercial purposes.

(v) One of the following:

(A) A statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of, a religion or religious group.

(B) A statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of, a political organization a function of which is to influence the nomination, election, or appointment of one or more individuals to Federal, state, or local public office; to influence Federal, state, or local legislation; or to advocate issues or causes to the public.

(C) A statement signed by the applicant that the applicant's organization has received an official Internal Revenue Service (IRS) ruling or letter of determination stating that the organization or its parent organization qualifies for tax-exempt status under 26 U.S.C. 501(c)(3), (c)(4), or (c)(5).

(D) A statement signed by the applicant that the applicant's organization has applied to the IRS for a determination of tax-exempt status under 26 U.S.C. 501(c)(3), (c)(4), or (c)(5), and that the IRS has not yet issued a final administrative ruling or determination on such status.

(E) A statement signed by the applicant that the applicant's organization has on file with the Virginia Administrator of Consumer Affairs a current registration statement in accordance with the Virginia Annotated Code, Section 57-49 (1978 Cumulative Supplement), "Registration of Charitable Organizations."

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2. By amending paragraph (e) of § 159.94 to read as follows:

§ 159.94 Prohibited conduct relating to noncommercial activity.

* * * * *

(e) If that person is selling written or printed matter or soliciting funds, without wearing or displaying, in a conspicuous manner, a solicitation permit and the name of the organization that the person represents.

* * * * *

(Secs. 2 and 4 of the Act for the Administration of Washington National Airport, 54 Stat. 686 as amended by 61 Stat. 94; Secs. 4 and 10 of the Second Washington Airport Act, 64 Stat. 770; sec. 313 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1359); sec. 6, Department of Transportation Act (29 U.S.C. 1655); sec. 501 of Pub. L. 96-193, February 18, 1980)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, since these amendments are editorial and clarifying in nature, or are relaxatory, and impose no additional burden on any person, the Federal Aviation Administration has determined that the anticipated impact is so minimal that an evaluation is not required.

Issued in Washington, D.C., on October 17, 1980.

Langhorne Bond,
Administrator.

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