

Testimony of the 26th Alaska State Legislature

to the

Transportation Security Administration

In regards to

Proposed Large Aircraft Security Program

Docket No. TSA-2008-0021

ALASKA STATE LEGISLATURE



February 25, 2009

Secretary Janet Napolitano
Department of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Re: Docket No. TSA-2008-0021 Large Aircraft Security Program, Other Aircraft Operator Security Program, and Airport Operator Security Program

Dear Madame Secretary:

As members of the 26th Alaska State Legislature duly elected and charged with representing the needs and interests of all Alaskans, we would like to take this opportunity to provide formal comment on the Transportation Security Administration's (TSA) proposal to amend current aviation security regulations through the adoption of the "Large Aircraft Security Program" (LASP).

Since the September 11, 2001 terrorist attacks, aviation security has undergone substantial administrative and operational transformation. As the primary agency tasked with ensuring safe air travel over the United States, TSA is proposing to apply existing commercial air carrier security measures to all general aviation aircraft (regardless of the type of operation) with a maximum certified take-off weight above 12,500 pounds.¹ Aircraft under the new directive will be required to adopt the following six security requirements:

- 1) A "security threat assessment" for aircrew that includes a fingerprint-based criminal history records check and screening against federal terrorist watch lists.²

¹ Aircraft meeting the 12,500 lb benchmark are defined by the Federal Aviation Administration as "large aircraft."

² Department of Homeland Security, Transportation Safety Administration, "Large Aircraft Security Program, Other Aircraft Operator Security Program, and Airport Operator Security Program," *Federal Register* 73, no. 211 (October 2008): 64796, 64815. <<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=TSA-2008-0021>> (20 February 2009).

- 2) Passengers must be screened against and clear terrorist watch lists such as the No Fly List and Terrorist Screening Database.³
- 3) Carry federal air marshals if required by TSA authorities.⁴
- 4) Require “reliever airports” and airports serving large aircraft with scheduled and public charter services to adopt a security program that includes trained TSA officers and pre-flight passenger and cargo screening equipment.⁵
- 5) Require large aircraft operators to contract with TSA-approved third-party auditors and conduct biennial audits showing compliance with the new security program.⁶
- 6) Comply with TSA’s “prohibited items list” when screening passengers and cargo prior to flight departure. The list includes items such as firearms, sharp tools, and pocket knives.⁷

While it is unlikely many of the 9/11 air travel security measures will be repealed for the foreseeable future, expanding current security regulations to encompass general aviation aircraft with a gross take off weight as low as 12,500 lbs does little to enhance protection against terrorism and instead will cripple Alaska’s air industry and the communities that rely upon air carriers for their social and economic survival.

Our opposition is based on economic and geo-cultural concerns and also a failure by the TSA to conduct a thorough cost-benefit analysis. Implementation of the Large Aircraft Security Program is expected to cost approximately \$1.9 billion over the next ten years--translating into an estimated additional \$44 per flight. Aircraft operators will be required to absorb approximately 85% of the security program’s costs, thus representing an estimated \$100 million unfunded mandate.⁸

Alaska’s aviation industry and economy will be severely impacted by the LASP security regulations. With approximately 10,425 pilots, 10,755 aircraft, and 271 state-certified air carriers, Alaska has the highest per-capita aircraft ownership and use in the United States. Furthermore, Alaska aviation is a \$4 billion per year enterprise, making it the 5th largest industry in the state.⁹ In 2008, Alaska experienced some of the highest gas prices in the nation, with

³ Ibid., 64796.

⁴ Ibid., 64812.

⁵ Ibid., 64792, 64803.

⁶ Ibid., 64800.

⁷ Ibid., 64800.

⁸ Ibid., 64822, 64824.

⁹ Rob Stapleton, “TSA Security Proposal Worries Alaska Aircraft Owners,” *Alaska Journal of Commerce* 33, no.7 (February 15, 2009): 15.

aviation fuel reaching an average price of \$3.75/gallon in Anchorage, \$4.50 in Fairbanks, \$6.44 in Nome, and \$8.29 in Galena.¹⁰ In an industry already struggling to cope with volatile fuel markets and narrow profit margins, the additional expense of complying with the proposed security regulations will force many air carriers to severely curtail flight operations or go out of business.

To illustrate these facts, a large portion of the projected \$1.9 billion in security upgrades will be an immediate up-front cost to air carriers and airports. TSA's suggestion that security costs can be spread out over the next ten years by assessing an additional \$44 per flight is unreasonable. System setup costs must be recovered in weeks or months, not years: the actual cost per flight is likely to be much higher than TSA predicts and may make commercial and general aviation air travel in rural Alaska unaffordable.

Many of the communities served by general aviation aircraft suffer from low employment, high energy prices, and can only be reached by air due to Alaska's geographic size and limited road system. In the villages of Emmonak and Kotlik, heating fuel is \$9.50/gallon and a carton of milk costs \$10.00. This year alone, a massive effort by local charities provided food and clothing to several villages struggling with high energy cost. Alaskans living in our three largest cities, Anchorage, Fairbanks, and Juneau, are already bearing the burden of high fuel prices and an uncertain job market. They will likely find themselves unable to afford the rise in ticket prices implemented by air carriers struggling to meet the additional security expenditures.

State and local governments will also be impacted by LASP. Alaska has approximately 258 airports scattered across a wide geographic region. It will cost approximately \$400,000 per qualifying airfield to station TSA officials, law enforcement personnel, and install and maintain passenger and cargo screening equipment.¹¹ Due to high logistical costs, Alaska cannot provide formal law enforcement services to many rural communities. Approximately 85% of the State treasury is generated from oil tax revenue. With Alaska North Slope oil currently trading at \$42/barrel, implementing the proposed security regulations is cost prohibitive.

The economic impact of the broadened air security regulations will also negatively affect Alaska's geo-cultural heritage. Because of a dynamic wilderness landscape preventing road and water access to many communities, aviation is deeply rooted in Alaska's cultural heritage. The daily flights made by commuter and cargo aircraft are often the sole lifeline these communities have in obtaining needed services and timely medical attention. Imposing costly federal security restrictions will seriously jeopardize rural residents' quality of life and link to urban areas.

The Large Aircraft Security Program's "prohibited items list" also conflicts with Alaska state law requiring pilots to carry certain survival gear items should their aircraft crash or make an emergency landing. Under Alaska Statute AS 02.35.110(a)(1),(B),(E),(F), and (H), "Emergency rations and equipment," the following but not limited to emergency items must be carried aboard

¹⁰ "Aviation Fuel, Current US Fuel Prices," <<http://www.globalair.com/airport/fuelpricetable.aspx?reg=aal>> (23 February 2009).

¹¹ Stapleton, 15.

aircraft flying within Alaska: an axe or hatchet, a knife, a fire starter, and signaling devices such as colored smoke bombs, railroad fuses, or Very pistol shells.

Pilots that fly over Alaska's remote and hostile landscape must carry survival gear not normally associated with Lower 48 air travel. While not required by state law, firearms are often carried aboard to provide protection against wild animals. By forbidding many of the above survival items, incorporating the TSA's "prohibited items list" into LASP constitutes reckless endangerment of an aircrew lives.

One final reason for opposing the Large Aircraft Security Program is that the perceived threat of individuals using smaller general aviation aircraft for terrorist acts is not a sufficient justification for imposing the proposed security regulations on Alaska. It is questionable whether the aircraft impacted by the proposed regulation can be used to inflict the same level of destruction as the 9/11 attacks. In addition, general aviation pilots and business actively participate in the Aircraft Owners and Pilot Association's Airport Watch program. Similar to the local Neighborhood Watch, pilots assume the responsibility for ensuring a safe flight operations environment and report suspicious activities to the proper airport security authorities.

In light of this fact, a simple cost benefit analysis shows that given the historical evidence, the \$1.9 billion price tag cannot be justified. Furthermore, assuming that an aircraft's maximum takeoff weight makes it a significant terrorist threat is poor counter-terrorism policy. Any aircraft, regardless of size or propulsion system, will inflict casualties if commandeered by a skilled and knowledgeable individual.

Federal mandates function as a "one size fits all" policy and historically have proved unable to harmoniously function and integrate with Alaska's state's social, political, and economic institutions. The Large Aircraft Security Program is inflexible and economically costly.

By the TSA's own admission, there is much uncertainty over how much the program will cost, the actual economic impact of a possible terrorist attack using the listed aircraft, and how great an unfunded mandate state governments and air carriers will be burdened with.¹² With this in mind, we are particularly disturbed TSA held no public meetings in Alaska to gain a better understanding of our unique aviation industry and needs.¹³

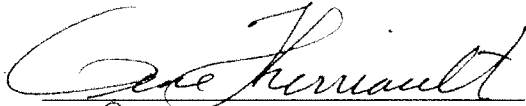
We thank the Transportation Security Administration for the opportunity to comment on the proposed Large Aircraft Security Program. The "lack" of security measures for general aviation aircraft in Alaska and Lower 48 has not weakened national security. We strongly believe the lack of a comprehensive cost-benefit analysis is reason enough to delay implementation to allow

¹² Ibid., 64822-26.

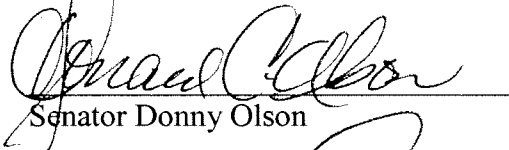
¹³ Department of Homeland Security, Transportation Safety Administration, "Public Meetings on Large Aircraft Security Program, Other Aircraft Operator Security Program, and Airport Operator Security Program," *Federal Register* 73, no. 244 (December 2008): 77405. <<http://frwebgate6.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=43279779460+1+2+0&WAIAction=retrieve>> (23 February 2009).

for further study. Should TSA move forward on implementing new security measures, we strongly request multiple public hearings be held in Alaska before a final ruling is made.

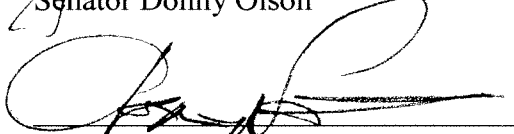
Sincerely,



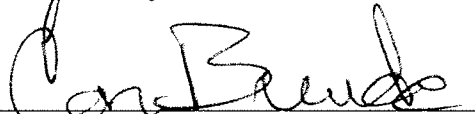
Senator Gene Therriault



Senator Donny Olson



Senator Gary Stevens



Senator Con Bunde



Senator Tom Wagoner



Senator Fred Dyson




Senator Bert Stedman



Senator Albert Kookesh



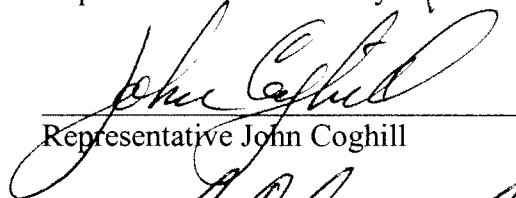
Senator Johnny Ellis




Senator Linda Menard



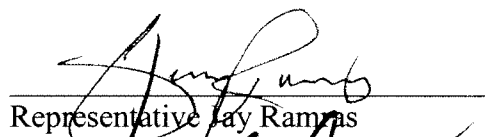
Representative Mike Kelly



Representative John Coghill



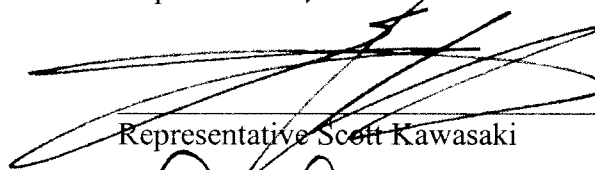
Representative Mike Chenault



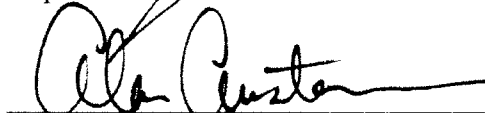
Representative Jay Ramras



Representative Wes Keller



Representative Scott Kawasaki



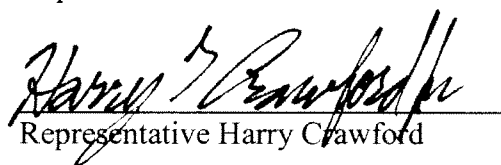
Representative Alan Austerman



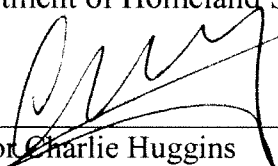
Representative Bob Buch



Representative Sharon Cissna



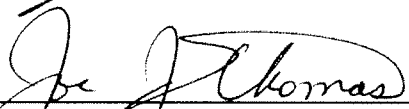
Representative Harry Crawford



Senator Charlie Huggins




Senator Lesil McGuire



Senator Joe Thomas



Representative Nancy Dahlstrom



Senator Kim Elton



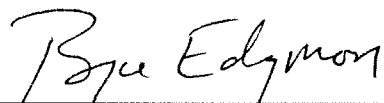
Representative Mike Doogan



Senator Hollis French




Representative Beth Kerttula



Representative Bryce Edgmon



Representative Anna Fairclough



Representative Richard Foster



Representative Les Gara



Representative Berta Gardner

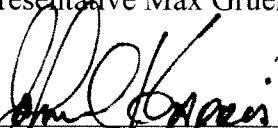


Representative Carl Gatto



Representative Max Gruenberg


Representative David Guttenberg



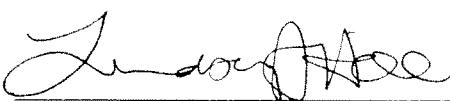
Representative John Harris



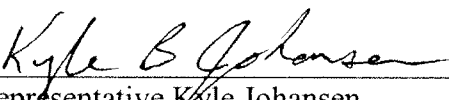
Representative Mike Hawker



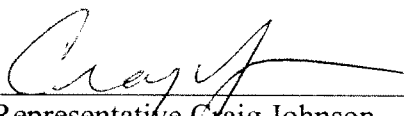
Representative Bob Herron



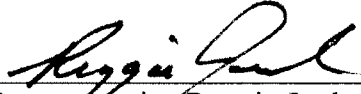
Representative Lindsey Holmes



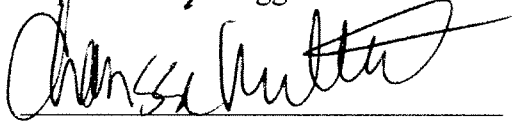
Representative Kyle Johansen



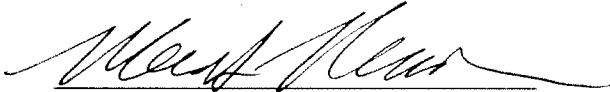
Representative Craig Johnson



Representative Reggie Joule



Representative Charisse Millett



Representative Mark Neuman



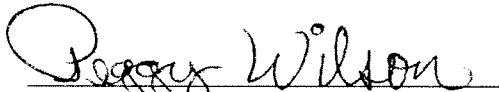
Representative Pete Peterson



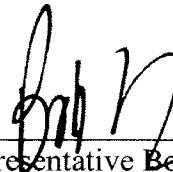
Representative Paul Seaton



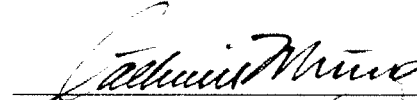
Representative Bill Thomas, Jr.



Representative Peggy Wilson



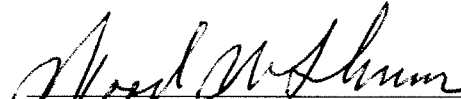
Representative Bob Lynn



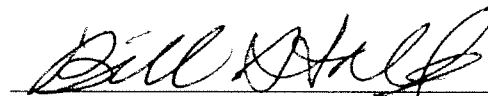
Representative Cathy Muñoz



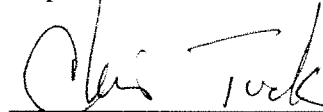
Representative Kurt Olson



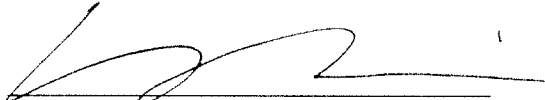
Representative Woodie Salmon



Representative Bill Stoltze



Representative Chris Tuck



Senator Bill Wielechowski

Cc: The Honorable President Barak Obama
The Honorable Senator Lisa Murkowski
The Honorable Senator Mark Begich
The Honorable Congressman Don Young
The Honorable Gale D. Rossides, Acting Administrator, Transportation Security
Administration