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Before the

U.S. DEPARTMENT OF TRANSPORTATION

Petition for Rulemaking to implement)
§ 128, Aviation and Transportation)
Security Act, Pub. L. No. 107-71,)
115 Stat. 597 (2001))

TO: The Honorable Norman Y. Mineta Secretary of Transportation c/o Docket Clerk Office of the General Counsel 400 Seventh Street SW Washington, DC 20590

Re: Arming Flight Crewmembers

Dear Mr. Secretary:

INTRODUCTION

This is a petition by the Air Line Pilots Association, International for rulemaking to authorize flight crewmembers employed by United States certificated air carriers to possess firearms for defense of the cockpit. This rulemaking would implement Section 128 of the Aviation and Transportation Security Act, Pub. L. No. 107-71, 115 Stat. 597 (2001).

ARMING FLIGHT CREWMEMBERS IS PRUDENT AND NECESSARY

The Aviation and Transportation Security Act contains numerous provisions for strengthening airline security. Congress recognized that no single measure can provide all necessary security. Therefore, the law enacted provides for multiple, integrated and overlapping layers of security that begin when the passenger checks in at the ticket counter until the flight is completed. These measures include among others, Computer-Assisted Passenger R-e-Screening System ("CAPPS"), positive passenger-bag match and random screening at the gate area. However, recent events have made it clear that in spite of these enhanced security measures, there still have been attempts to forcibly enter the cockpit during flight with the intent to take control of the aircraft. To prevent a future hijacking, the cockpit must be secure. The congressionally mandated secure door is one layer of security to prevent unlawful entry. However, installation of these secure doors is as much as 14 months away. It must be recognized that even with the replacement of the cockpit door, the terrorist threat is so sophisticated that terrorists will devise other ways to breach the secure door. In such a circumstance, an armed flight crewmember would be the last line of defense and would be able to protect his/her crew, the passengers and, ultimately, people and property on the ground. Moreover, armed flight crewmembers would be a deterrent to hijacking because hijackers would have to not only consider how to defeat the multiple security layers but also how they would overcome armed flight crewmembers after breaking into the cockpit. In short, arming flight

crewmembers will be in accord with congressional intent and significantly decrease the likelihood of a future hijacking.

PRECEDENT

There is precedent for arming flight crewmembers in the cockpit. In the 1960's, in response to a rash of hijackings to Cuba, the FAA authorized the arming of flight crewmembers. That program was proven to be effective and there were no adverse incidents. In fact, this petition for rulemaking would not be necessary if the FAA had not rescinded the long-standing regulatory provisions in 14 C.F.R. § 108 last summer that provided a mechanism for pilots to be armed during flight. A recent poll conducted by ALPA's 67,000 members disclosed that 73% support arming flight crewmembers on the flight deck as the last defense.

THE REOUESTED RULE

This petition does not set forth the text of the proposed rule. Rather, it suggests a proposed rule be developed which would contain the following elements:

- The Transportation Security Administration ("TSA") would authorize U.S. certificated air carriers, upon request, to arm their flight crewmembers in the cockpit based upon TSA's approval of the carrier's plan for arming flight crewmembers.
- An air carrier's plan to arm flight crewmembers would contain, at a minimum, the following elements:

only flight crewmembers who volunteer to be armed would be allowed to be armed:

the flight crewmember who would be armed would undergo a background check and screening;

require a training program that would meet or exceed federal law enforcement officer's firearm training requirements;

require pilots to be deputized as federal officers with jurisdiction restricted to the cockpit;

- require recurrent firearm training;
- specify the type of firearm and ammunition;
- specify the method of firearm carriage;
- specify the rules of engagement for use of lethal force.

It is recognized that because of the differing operations among passenger and cargo operators that each carrier may have different issues regarding the arming of flight crewmembers. Therefore, it is appropriate to permit some flexibility in the plans rather than having a single standard for all air carrier operations.

INDUSTRY ADVISORY COMMITTEE

It is recommended that TSA establish an advisory committee to develop an advisory circular to assist air carriers in formulating and submitting their plan to arm flight crewmembers.

COST

ALPA believes that a program to arm flight crewmembers would not be cost prohibitive and that preventing one hijacking attempt would be a benefit far outweighing any cost. It is suggested that the cost could be recovered from the newly mandated security fee.

AUTHORITY OF THE SECRETARY

The Secretary or his delegee has the authority to grant this petition and issue the regulation requested pursuant to Public Law 107-71, 5 U.S.C. § 553(e) and 49 C.F.R. 5.1 et *seq.*

Respectfully submitted,

Papt. Duane E. Woerth, President Air Line Pilots Association, Int'l

February 28, 2002