

ALASKA STATE LEGISLATURE
JOINT MEETING
ADMINISTRATIVE REGULATION REVIEW
August 7, 2001
10:00 a.m.

HOUSE MEMBERS PRESENT

Representative Lesil McGuire, Chair

HOUSE MEMBERS ABSENT

Representative Jeannette James
Representative Joe Hayes

SENATE MEMBERS PRESENT

Senator Robin Taylor, Vice Chair

SENATE MEMBERS ABSENT

Senator Lyda Green
Senator Georgianna Lincoln

OTHER LEGISLATORS PRESENT

Representative Con Bunde
Senator John Cowdery

COMMITTEE CALENDAR

THE EFFECTS OF TITLE 17 ON FLOATPLANE OPERATORS AT LAKE HOOD

PREVIOUS ACTION

No previous action to record

WITNESS REGISTER

MORT PLUMB, Director
Ted Stevens Anchorage International Airport
Department of Transportation & Public Facilities
PO Box 196960
Anchorage, Alaska 99519

POSITION STATEMENT: Discussed the audit and the new draft regulations.

ANDY HUTZEL, Leasing Officer
Ted Stevens Anchorage International Airport
Department of Transportation & Public Facilities
PO Box 196960
Anchorage, Alaska 99519

POSITION STATEMENT: Provided information regarding the regulations.

FELIX MAGUIRE, Director
Alaska Airmen's Association
3801 Patricia Lane
Anchorage, Alaska 99504

POSITION STATEMENT: Expressed concerns with the regulations.

ANDY ANDERSON
2527 Arlington Drive
Anchorage, Alaska 99507

POSITION STATEMENT: Expressed concerns with the regulations.

HOWARD HUNT
6924 E 6th Avenue
Anchorage, Alaska 99504

POSITION STATEMENT: Expressed concerns with the regulations.

VINCENT HUEBSCH
5207 Red Ricks Drive
Anchorage, Alaska 99504

POSITION STATEMENT: Expressed concerns with the regulations.

JOHN PRATT, Field Director
Seaplane Pilots Association
1557 Sunrise Drive
Anchorage, Alaska 99508

POSITION STATEMENT: Expressed concerns with the regulations.

DENNIS GEARY
9248 Campbell Park Terrace
Anchorage, Alaska 99515

POSITION STATEMENT: Discussed why the regulations came about.

STEVE HULSEY
Lake Hood Pilots Association
4821 E. 104th
Anchorage, Alaska 99507

POSITION STATEMENT: Discussed the regulations.

KARL JOHNSTONE

2015 Merrill Field
Anchorage, Alaska 99501

POSITION STATEMENT: Expressed concerns with the regulations in regard to the usage requirements.

TOM GEORGE, Alaska Regional Representative
Aircraft Owners and Pilots Association
(No address provided)

Fairbanks, Alaska

POSITION STATEMENT: Expressed AOPA's concerns with the regulations.

TED DARBY

PO Box 190628
Anchorage, Alaska 99519

POSITION STATEMENT: Expressed concerns with the regulations.

MARKO RUSTY HAYES

910 Southampton Drive
Anchorage, Alaska 99501

POSITION STATEMENT: Expressed concerns with the regulations.

CORKY CALDWELL, Operations Manager
Ted Stevens Anchorage International Airport
Department of Transportation & Public Facilities
PO Box 190629

Anchorage, Alaska 99519

POSITION STATEMENT: Provided information regarding the regulations.

ROGER CONNOLLY

2803 McRae Road
Anchorage, Alaska 99517

POSITION STATEMENT: Testified on the regulations.

ACTION NARRATIVE

TAPE 01-14, SIDE A
Number 0001

CHAIR LESIL McGUIRE called the Joint Committee on Administrative Regulation Review to order at 10:00 a.m. Representative McGuire was present at the call to order. Senator Taylor arrived as the meeting was in progress. Representative Bunde and Senator Cowdery were also in attendance.

THE EFFECTS OF TITLE 17 ON FLOATPLANE OPERATORS AT LAKE HOOD

CHAIR MCGUIRE announced that the committee would be discussing the effects of Title 17 on floatplane operators at Lake Hood. She explained that the meeting is taking place because concerns have been expressed regarding the Title 17 regulations. These regulations began the drafting process back in 1995, and have been the source of much controversy over the last six years.

Number 0027

MORT PLUMB, Director, Ted Stevens Anchorage International Airport, Department of Transportation & Public Facilities DOT&PF), informed the committee that this process began back in 1995 [due to an audit by] the Joint Committee on Legislative Budget & Audit. The purpose of the audit was to determine what types of services are provided at Lake Hood. "The audit found substantial abuse of the floatplane tiedown permit system and an apparent policy of non enforcement of tiedown regulations by airport management," he said.

MR. PLUMB read the following testimony into the record as follows:

DOT has taken a number of steps over the past six years to overcome numerous historical problems, improve Lake Hood operations and ensure [that the] Lake Hood tiedown program provided fair, equitable, and maximum use of facilities.... Substantial abuse, noncompliance, and circumvention of the old floatplane tiedown system were documented by the Legislative Audit Report of March 17, 1995:

For example:

- Tiedown Sublease: Numerous permittees did not use their assigned slip anymore, or only used the wheel tiedown portion of the area and illegally rented out the floatsliip.
- Aircraft Sale: The permittee sold his or her airplane and the nontransferable floatsliip together.
- Aircraft Leases: Numerous permittees would purport to "lease" an aircraft but actually let the lessor owner operate it from the floatsliip as a means to give beneficial use to the owner in exchange for some financial or other benefit to the permittee.
- Misrepresentation of Facts: Many permittees would camouflage aircraft ownership by stating that the

permittee is the aircraft owner while another owner/aircraft used the nontransferable floatslip. The permittee would normally receive financial or other benefits. Numerous permittees would falsely sign the annual "I will comply" statement to certify [that] they had a pilot or current medical certificate. A review of the FAA records documented [that] 47 people out of the 100 permittees surveyed did not have a current medical certificate. Additional reviews documented that some floatplane permittees had only a student pilot certificate (for a number of years) and no float rating.

A number of airport actions were taken in direct response to the Legislative Audit Report of March 17, 1995, which called for a number of changes, including the adoption of new policies, regulations, and greater enforcement action. This Legislative Audit Report noted: "the Airport can anticipate significant resistance in beginning an enforcement program."

In accordance with the Legislative Audit's general and specific recommendations, DOT [&PF] drafted new regulations with considerable public input. A public notice was issued on February 28, 1997, which made these new draft regulations available to the public. After receiving considerable additional public input, a second draft was made available to the public on May 2, 1997, and then again on March 19, 1999. Each time the department provided another opportunity for further public comment. Supplemental public notices were then made available to the public on April 29 and October 29, 1999, again seeking public comment each time. In addition to the public notices and copies of the regulations, on April 2, 1999, the airport also made available to the public and posted a fact sheet on the Internet that described the major differences between the former and proposed regulations. The proposed regulations also provided transition procedures to allow the airport users a fair, reasonable, and safe opportunity to transfer from the former system to the new system.

In addition to regulatory changes, a new Lake Hood office was established to improve the management of Lake Hood and [be] more responsive to general aviation permittees and applicants. The airport also concluded

numerous meetings with Lake Hood aviation community and aviation groups such as the Airmen's Association and the Lake Hood [Seaplane] Pilot's Association to improve communications, "partnering," and [to] solicit recommendations.

It should also be noted that numerous facility improvements have been completed at the Lake Hood Complex such as:

- a new parallel taxiway by the Lake Hood Strip
- new water/sewer installation
- lighting upgrades for the main takeoff channel
- stabilization of the main takeoff channel banks

We've also taken steps to add additional parking for floatplanes by dredging three previously unusable floatsliips at Lake Spenard, and this year we will shortly open a new "Delta" area which will provide 11 additional parking positions with electrical power and close and convenient [access] to Lake Hood.

We have also expanded the number of transient parking [areas]. For example, six years ago, there were only two transient parking spots for floatplanes and today we have ten, with the ability to assign transients to the permitted floatsliips that are temporarily vacant through our "Lake Hood Management program." It should also be noted that we have reduced the wait list time by approximately 30 percent from approximately 18 years to a little less than 12 years.

Lake Hood Seaplane Base is different from other airports, with issues unique to Lake Hood. Among other things, because the lake's perimeter defines the limited number of float tiedowns available, and because there is a huge demand for those limited tiedown spaces.

The new [Title 17] regulations are the result of an extensive public process and corrective action taken in response to the '95 legislative audit. Due to the high demand for Lake Hood permits - and a wait list today of nearly 200 applicants - the new regulations specifically regulate the issuance of aircraft tiedown permits in a manner that provides for a fair, pilot-focused program that reasonably limits tiedowns to airmen who, by training, are fully qualified,

according to FAA regulations, as solo pilots of their own leased aircraft. It is reasonable and prudent to grant a permit only to a pilot who owns or leases a one-third interest in an airworthy aircraft and holds a private pilot certificate and current float rating. In fact, it is very important that such rules exist and be enforced. The department has a responsibility to make sure public-asset float spaces are not tied up for many years in the hands of those not using the floatslips or rarely fly from them, while active solo float pilots wait those many years on a list, and miss the chance to have a permit during their most active flying years.

Some have suggested [that] we should only require float slip permittees to have a student pilot certificate. On the surface this may seem reasonable. However, upon closer review, historically, this has been an area of abuse. The student pilot certificate can be obtained easily by just getting a third class medical certificate and submitting an application to the FAA. The FAA in turn provides this "beginner's" certificate for the express purpose of gaining a pilot's certificate in a reasonable amount of time. Yet, we have documented permittees with student pilot certificates who do not have or have not flown in years, and instead used the student pilot certificate as a "loophole" to stay qualified as a Lake Hood permittee for other purposes. As such, these individuals previously circumvented the regulations and waitlist, and subleased their floatslip. The new regulations address this problem by requiring a pilot certificate, which we believe are reasonable and fair.

There is also a safety issue here. It is assumed by the FAA that student pilots are just that and are under frequent instruction. Even pilots today are required to have a flight review by a certified instructor every two years for proficiency and safety training. This is not the case for student pilots. In fact, student pilots are not even required to attend ground school or take a written exam as [is] the case for pilots. Thus, if we were to allow student pilots to have floatslips, we are in effect not only facilitating continued Lake Hood abuses, but if they are flying, we are sanctioning student pilots to continue aviation activities without any "checks"

in Alaska's most congested airspace and overpopulated areas.

The issue of having a medical certificate requirement has also been raised recently. While some have suggested this is a direct FAA responsibility, which it is, we would liken it to the rental car business, which checks your license before allowing you to drive the car. By ensuring that all our permittees remain current with their medical, not only are we able to identify those who are no longer active at Lake Hood, but this enables us to identify ... a potential area of abuse. As previously mentioned, during the 1995 legislative audit, a review of 100 permittees revealed that only 47 had current medicals. To not check for these minimum qualification standards, facilitates abuse by people who historically have attempted to circumvent the "wait list" or [scheme to] allow the misuse of their assigned floats. It should also be noted that the medical certificate was a requirement of both the old and the new [Title 17] regulations. The FAA requires a medical certificate for nearly all flight activity except for gliders and hot air balloons. According to FAR 61.23, without a pilot [certificate] and current medical certificate, one can only be a passenger and not legally fly the aircraft.

Some concerns have been raised that the transition time to gain compliance - six months - was not sufficient to safely transition from "student pilot" to a "private pilot" with a seaplane rating. As safety is always a prime concern, the transition time was actually "pushed" from June 14 until August 14 for the permittees upon request. This is considered by most to be more than adequate for safe compliance for these flight requirements. It should also be noted that there are only a small number of floatplane permittees who only have a student pilot certificate - - and one presumes that they have been flying and not just a "placeholder" for someone else's unauthorized use of Lake Hood.

Other specific highlights of the new [Title 17] regulations that have corrected past deficiencies and improved the "equal availability" of assets for all Alaskans. These include:

- It ensures greater use of floatslips by qualified aviators
- Less restrictive on flight requirements
- Permit period extended from one to five years
- Greater extension period for aircraft and medical problems
- Improved "stewardship" of the valuable resource

We believe that Title 17 regulations best serve the public interests and the State of Alaska. To begin to change the new rules would probably not be in the public's best interest and counter to the recommendations of the 1995 legislative audit. Further, any change or suspension of these regulations would require a new public process consistent with the Alaska constitution and the Administrative Procedures Act.

Although we continue to consider comments and ideas for improving the program, at this time, we believe Title 17's tiedown program best carries out the 1995 legislative audit's guidance and best serves [the] interest of the people of Alaska in allocating their chance to use an extremely limited asset in a fair and reasonable way. It is clearly a challenge of "striking balance" between those with floatslip permittees who want to remain forever and those ... on the wait list who would like the list to move quickly. We recognize the problems, we attempt to be responsible, and we attempt to act in accordance with the regulations, address all concerns and treat our customers fairly. We believe, ... despite some minor issues that need to be refined in the new regulations, that when viewed in terms of the greater public interests and the extremely small number of potential complaints from the some 320 floatslips, 400 wheeled tiedown positions, and 200 waitlist individuals, that this suggests that the program is working as directed by the legislature.

CHAIR MCGUIRE inquired as to whether Mr. Plumb had received any legal opinions. [The committee] has received opinions of the regulations from various proponents and opponents of the regulations in regard to the equal protection and due process clauses of the constitution, as well as the American's with Disabilities Act.

MR. PLUMB answered that the airport has had extensive legal opinions. Furthermore, John Steiner, Assistant Attorney General, Transportation Section, Department of Law, is present if there are specific questions.

Number 0172

SENATOR COWDERY inquired as to whom the current regulations are directed.

MR. PLUMB noted that the Title 17 regulations were developed some time ago for the Administrative Procedures [Act] for administering the permits at Lake Hood as well as the tiedowns. The process for the new regulations began after the 1995 legislative audit. The new regulations were merely a refinement of the old regulations.

SENATOR COWDERY remarked that he didn't see anything wrong with an owner of a plane hiring a leaseholder that is a licensed pilot.

MR. PLUMB said that he didn't see anything wrong with that either. In fact, lease holds exist. However, [the issue here] is not a lease but rather permits. There are many places around [Lake Hood] where one can lease a spot. However, he understood that the legislature viewed [Lake Hood permits] as a valuable asset and in order to obtain the highest and best use some standards and qualifications were established. In further response to Senator Cowdery, Mr. Plumb explained that commercial slips have a different qualification.

Number 0220

ANDY HUTZEL, Leasing Officer, Ted Stevens Anchorage International Airport, Department of Transportation & Public Facilities, informed the committee that he administers the tiedown program. The current commercial rate is \$105 per month, while a private individual rate is \$95 [per month].

SENATOR COWDERY asked if only commercial operators can fly out of a commercial lease, or can pilots be hired.

MR. HUTZEL answered that pilots can be hired. In further response to Senator Cowdery, Mr. Hutzel noted that [the permittees] do have to a medical [certificate].

MR. PLUMB explained that the medical requirement is a FAA requirement.

SENATOR COWDERY remarked that he couldn't see how the medical requirement had anything to do with leasing the ground.

MR. PLUMB said that it doesn't. The medical [certificate] isn't required to lease the ground. However, having a plane in a commercial slip requires FAA certification.

MR. HUTZEL clarified that commercial or private floatslip tiedowns are registered in a person's name, not a company's name, and thus requires a pilot's license and a medical [certificate]. Mr. Hutzel pointed out that leases are different.

SENATOR COWDERY inquired as to the difference between slips and leases. He also inquired as to why slips can't be made leases.

MR. HUTZEL explained that leases require a permitted improvement on the property in order to obtain a term of lease. The permits are for a specific time, five years in this case. Under the old regulations, the term of the permits was one year.

Number 0249

CHAIR McGUIRE recalled that the FAA has a 14-month grace period for the medical [certificate] if it is failed. She asked if there was any discussions regarding making the regulations comply with that FAA standard as opposed to setting out a different medical standard.

MR. PLUMB remarked that he didn't believe that [the regulations] are more onerous than the FAA requirements. If someone has a problem with a medical issue, then that has been worked through. Mr. Plumb felt that [the airport] has been fairly liberal in that area.

CHAIR McGUIRE related her understanding then that if someone with a permit for a floatplane slip fails his/her medical [evaluation], then the [airport] would allow that individual the time period allotted under FAA regulations in order to get a new medical evaluation prior to revocation of their permit.

MR. PLUMB noted his belief that the regulations are silent on this matter.

CHAIR McGUIRE agreed, and commented that the aforementioned situation could potentially be in conflict with FAA regulations.

MR. PLUMB said that he would have to research the records. Without doing so, Mr. Plumb reiterated that [the airport] has been fairly liberal in allowing people to work through various medical issues.

CHAIR McGUIRE asked if the airport would feel comfortable exploring codifying this matter in order to be clear.

MR. PLUMB remarked, "The airport and the airport director is very sympathetic to medical issues." However, he acknowledged that the regulations bring the department into the picture, and therefore many more people would contribute. Again, he, personally, didn't see any problem. He noted that much of the airport director's discretion was removed from the regulations.

Number 0311

REPRESENTATIVE BUNDE informed the committee that he has been on the waiting list and currently has a tiedown, which [could be construed as a conflict]. Furthermore, he noted that he was involved with the original legislative audit that has been referenced. In that vein, Representative Bunde said that there are things in this audit that he would encourage [the airport] to ignore. In particular, Representative Bunde encouraged ignoring the audit's recommendation to increase the price of tiedowns until the demand is diminished.

SENATOR TAYLOR interjected that such methodology is how the marine highway system is being run and why it is going broke [due to low] ridership.

REPRESENTATIVE BUNDE complimented the airport in regard to its attempts to encourage communication and dialogue. He then turned to the possibility of the FAA's recreational license and inquired as to its impact on these regulations.

MR. PLUMB answered that if the FAA says that someone is certified to fly, then he/she can fly.

Number 0364

SENATOR COWDERY posed a situation in which a pilot is hurt [and loses his/her medical certificate]. He inquired as to how such a situation would be handled.

MR. PLUMB responded that [the airport] would review the situation. If it appears that the medical situation is something that the individual is recovering from, then [the airport] would recommend being lenient and work through the situation. However, he said that he hesitated to discuss anything that would deal with the role of precedent. Each case would require careful and compassionate review. He mentioned that when he became involved with the Lake Hood operation six years ago, there wasn't a pilot on the staff. Today, there are many throughout the system. Mr. Plumb acknowledged that there could always be improvements and refinements. However, he recommended that the regulations be left for a full year before any refinements are made.

SENATOR COWDERY posed a situation in which the pilot is hurt in an airplane accident in which the plane is lost. In such a situation, what timeframe would the pilot be given, realizing that he would have to obtain a new airplane as well as recover.

MR. HUTZEL answered that the pilot would have approximately nine months, 270 days. In further response to Senator Cowdery, Mr. Hutzel explained that the rationale in such a situation would be that the [pilot] could either replace the aircraft, repair the aircraft, or enter into another lease agreement for another aircraft within nine months.

SENATOR COWDERY expressed his concern with the wait list. He felt that priority should be given to those that have been waiting.

MR. PLUMB recalled that there was much discussion surrounding what would be reasonable and fair [in the aforementioned situation]. He commented that the airport merely enforces the [regulations].

SENATOR COWDERY noted that he waited nine years for a boatslip. The former owner of the slip had merely been paying for the slip for four years without actually using it and the harbor had been subleasing it to transients.

MR. PLUMB said that if that were the sense of the public, then [the airport] wouldn't have a problem with it. However, striking a balance with the permitting process is more problematic than dealing with a lease of 10-15 years. Mr. Plumb pointed out that those who made the regulations determined that [Lake Hood floatslips and tiedowns] are a valuable public asset,

and therefore there should be high qualifications in order to ensure the highest and best use. Mr. Plumb remarked that there are a lot of ways that people can have floatplanes, not just through the floatslip.

Number 0477

SENATOR TAYLOR noted his assumption that DOT[&PF] drafted the regulations and chose the nine months.

MR. PLUMB echoed his earlier response that the airport has tried to accommodate people in these situations. He noted that the 270-day deadline did have public comment from people who are in the aviation business, but not in DOT[&PF]. Mr. Plumb pointed out that the airport didn't have a "dog in that fight." Mr. Plumb agreed with Senator Taylor that the 270-day deadline was an arbitrary number because a deadline had to be chosen at some point.

SENATOR TAYLOR remarked that the same need for "a line in the sand" was utilized with the medical [certificate].

MR. PLUMB related his belief that the medical [certificate deadline] has possibly been mischaracterized. He explained that the medical certificate is an FAA requirement that the airport uses as a driver's license. Therefore, [the airport] assumes that a pilot with a current medical certificate would be in compliance with FAA regulations. Mr. Plumb reiterated that the airport is not more [stringent] than the FAA requirements. The medical certificate merely functions as a way to check the FAA requirements.

SENATOR TAYLOR pointed out that other areas in the state don't use a medical certificate as a requirement to obtain a state DOT[&PF] floatplane permit.

MR. PLUMB related his belief that in those locations the individuals would have medical certificate, although it isn't checked. Because of the high demand at Lake Hood, [the medical certificate] serves as a way to check qualifications. Anyone flying in the air should be qualified.

SENATOR TAYLOR agreed, but pointed out that a third class student pilot can take off in his/her own airplane and fly around without violating many laws.

MR. PLUMB agreed. Furthermore, it appears that an individual can apply for a student pilot's license and never fly an airplane. Therefore, if an individual had a student pilot's license and was floatplane certified, which means that the flight instructor signed off on a certain number of hours, that student could fly alone. However, Mr. Plumb believes that the student pilot's license is a stepping stone to a certificated license from the FAA.

Number 0580

SENATOR TAYLOR turned to the required use provision of the regulations. He referred to page 6, subsection (o) of the regulations, which reads as follows: "Each permittee on a permit must fly the permittee's aircraft listed on the permit at least once from the permit space in each of any three months during each calendar year" He said that the language goes on to say that the only flights that count are float flights. "Do we have that any place else in the state," he asked.

MR. PLUMB said that he could answer the question regarding whether that requirement is found elsewhere in the state. The original regulations had a six-month requirement, which was difficult. Mr. Plumb related his belief that even the six-month requirement would be difficult to achieve because an area may be lucky to have six months during which the floatplane could be flown. However, because [Lake Hood] is a valuable asset, the thought was that if one ties up a floatslip, then that individual should be using it. Therefore, it was determined that flying once every month in the float season would be reasonable use. He noted that there was much input on this [provision].

TAPE 01-14, SIDE B

SENATOR TAYLOR related his understanding that under these regulations if an individual has wrecked his/her airplane or does not have a medical [certificate], the individual still has to fly the airplane once a month. He asked if one thing [a wrecked plane or no medical certificate] would excuse a requirement that is found elsewhere.

MR. PLUMB commented that someone could probably craft a scenario that would make these regulations look somewhat onerous. Mr. Plumb pointed out that these regulations were developed in order to serve the greatest benefit of the citizens of Alaska.

SENATOR TAYLOR pointed out that most of the airport director's discretion has been taken away and replaced with hard and fast rules. In Senator Taylor's opinion, [these regulations] are stacked on one side. He presumed that the [Lake Hood] area would be patrolled in order to determine who is flying and who isn't. Furthermore, he assumed that some of that patrolling was already occurring, otherwise the [airport] wouldn't know about the abuses.

MR. PLUMB pointed out that the legislative audit suggested that enforcement had been lax, and therefore the audit suggested increased enforcement.

SENATOR TAYLOR remarked that in the process of dealing with the abuse [at Lake Hood], some of the rules are now so hard and fast that the airport director no longer has the discretion to make compassionate, reasonable, or necessary decisions. Furthermore, the regulations include five or six [requirements] that are unique and different to this particular airport and facility. Senator Taylor related his belief that someone needs the authority and discretion to handle the 5-10 percent of the total number of permits that would need to be worked with on an annual basis.

MR. PLUMB agreed with Senator Taylor's observations. He noted that there is an appeal process. Mr. Plumb said that he didn't know where the enforcement of these new regulations has been onerous and where the approach has been to merely kick someone out. He reiterated, "We work very hard in trying, again, to be compassionate and not totally legalistic with these things. So, while in the regulations the discretion has been taken away, you can't take the discretion out of the person and I believe that we have, as a team, worked very, very well with people that have unique situations." He acknowledged that there are some that will exploit that. There is no desire to remove people that are flying their airplanes.

Number 0059

SENATOR COWDERY turned to the issue of monitoring who flies [and how often]. He inquired as to how often [the airport] monitors [how often people are flying].

MR. PLUMB explained that monitoring is part of the normal [responsibilities] of being the stewards of the Lake Hood area. He noted that operations officers are on duty 24 hours a day. In further response to Senator Cowdery, Mr. Plumb clarified that

not every plane [and slip] is checked on every shift. He mentioned that people around the lake provide help, information, in this matter. Mr. Plumb felt that "we" have improved the operation at Lake Hood a great deal.

Number 0075

REPRESENTATIVE BUNDE agreed with Mr. Plumb that [the airport] has tried to be flexible and work with people. However, if the regulations are tight and Mr. Plumb and Mr. Hutzel are no longer in their current positions, then others [might] follow the regulations to the letter. Therefore, he encouraged [Mr. Plumb and Mr. Hutzel] to recognize that possibility and the need to maintain some discretion.

MR. PLUMB said that the regulations are being administered fairly. He acknowledged that in the past there have been people in positions of authority in the department who have [used their position to do what they want], and there will always be the possibility for such. However, close monitoring will continue.

Number 0105

FELIX MAGUIRE, Director, Alaska Airmen's Association, informed the committee that the association has over 1,500 members. The association's mission is to enhance general aviation in Alaska. The association was involved in the review of these regulations over the years. Mr. Maguire noted the association's strong objection to any reference to a medical certificate in the regulations. The association submitted a letter in December 1999 objecting to the medical certificate reference. Furthermore, a letter was sent from AOPA [Aircraft Owners and Pilots Association] in July 1999 in objection to medical certification. In response to Mr. Plumb's earlier comment that a person would have to have a medical certificate in order to fly, that is not the case. A student pilot doesn't have to have a medical certificate until he/she goes solo. Furthermore, the new recreational float pilot will be sub-certified and thus won't be required to have a medical certificate. Moreover, an individual that loses his/her medical certificate can still manipulate the controls of the airplane provided that there is a qualified pilot, acting as the pilot in command, who would have a medical certificate and license.

MR. MAGUIRE remarked that comparing [pilots] to a rental car situation isn't quite accurate because a rental car doesn't require producing a medical certificate. Mr. Maguire felt that

a pilot must produce a license in order to fly. Therefore, once an individual qualifies for a lease, then the individual should be left to enjoy the lease unless something is done wrong. He didn't feel that losing one's medical certificate was doing something wrong. Furthermore, it's an intrusion into someone's life to [require] a medical certificate. He pointed out that a person has 60 days to produce a license. If one's license is revoked or taken away, the regulations state a person has 120 days to obtain a new medical. However, one has 270 days to fix their airplane. "It doesn't make sense at all," he said. In conclusion, Mr. Maguire emphasized that the association's recommendation is to eliminate all references to medical certification in these regulations. The elimination of [the airport director's] discretion in these regulations has removed some of the abuse, he felt. Mr. Maguire said that the regulations need to be tweaked in order to [accommodate] the needs of the users of the floatslips. Mr. Maguire noted that he had submitted a letter to the committee.

MR. MAGUIRE informed the committee that there were two pilots who went out of state due to family sickness and death. Upon their return, they found that they had lost their floatslip because they hadn't used them three times over the summer. One case was settled by a lawyer, and the pilot obtained his slip again. Mr. Maguire felt that regulations should allow for unusual absences without [requiring] the cost of lawyers and the hassle of court proceedings. Mr. Maguire remarked that part of the reason behind these regulations was [fill] the unused spaces so that people would be able to enjoy Lake Hood. However, there is one floatslip that hasn't been used for 17 years. Such slips are ones that "we need to go after." Mr. Maguire concluded by saying, "Because of the few who abuse the system at Lake Hood, we shouldn't take the right away from those who are trying to do their honest best to comply with what is required." However, the current regulations don't provide staff with the flexibility to use discretion and common sense. Rather than providing the airport director with blanket discretion, [the aforementioned] regulations should be changed. He offered to be part of a committee that would review the regulations, if that were what the committee decides to do.

Number 0202

SENATOR TAYLOR inquired as to whether Mr. Maguire felt that the medical requirement is an inherent form of age discrimination. He questioned why a medical [certificate] was one of the arbitrary determinants for who could or could not hold a permit.

He remarked that a medical [certificate] isn't a big problem for a [younger] person, but it becomes problematic for [older] individuals.

MR. MAGUIRE questioned why an individual, who has lost his medical certificate, couldn't fly out of a floatslip when he/she could have another qualified individual fly with him/her. He didn't believe such made sense.

SENATOR TAYLOR questioned why a barrier that seems to target people of some mature age was chosen.

MR. MAGUIRE commented that [the medical certificate] is being used as a tool to weed out people and move the [wait] list along. He felt that it's an intrusion into a person's private life.

SENATOR TAYLOR pointed out that not only is the medical certificate required, one must recover from the loss of a medical certificate in a brief time. Senator Taylor expressed concern that the [medical certificate provision] of the regulations would seem to be drafted for the sole purpose of a discriminatory factor on the basis of age. If that is the case, the state is in violation of equal protection and probably in violation of the Americans with Disabilities [Act].

Number 0247

ANDY ANDERSON provided the following testimony:

I represent a lot of pilots on the Ted Stevens International Airport complex, the petitions in your packet will verify this. I still have several petitions out in the field that haven't come in yet....

For those of you [who] are not familiar with this airport, we have the international part, Lake Hood gravel strip [and] Lake Hood-Lake Spenard Seaplane Base. The international part is no different from any other airport: Fairbanks, SeaTac, LA, et cetera. The gravel strip is no different from any other runway other than it is not paved -- then we have Lake Hood-Lake Spenard for wheels, skis, and floats.

The DOT[&PF] commissioner has imposed unreasonable rules and regulations on this airport complex that no

other airport in Alaska or the other 49 states have, to our knowledge. He said this is due to supply and demand.

To have a tiedown on this airport, the commissioner requires you to have a private license and a medical [certificate], on Lake Hood and Lake Spenard you also need a float rating. No other airport has these rules. Fairbanks International Airport and their floatplane lake tiedowns do not require a license, medical [certificate], [or] float rating. They also have a wait list with 60 people waiting for a float tiedown. You should be able to own an airplane, rent a slip from the state, and hire a pilot to fly you around if you so wish. This our right, but the DOT[&PF] commissioner says it is not our right due to supply and demand. Hogwash, every operation in this state is supply and demand.

If I lose my medical [certificate] I have four months to get it back, [however] serious problems take a year or more, or I lose my tiedown. I can still fly my plane legally with a licensed pilot on board. By them taking my tiedown away they are denying me that right and discriminating against me. They are also in violation of the [Americans with Disabilities Act].

Boat slips in Homer, Seward, and Whittier have a wait list of several years You need a boat to get your slip but once you have it they don't care what you do.... Your boatslip will be used. You don't need any Coast Guard licenses, medical [certificate], or nothing. This is [a] supply and demand [issue] also. And those can be considered unique, which the DOT[&PF] says Lake Hood and Lake Spenard [are]; they are just as unique as Lake Hood and Lake Spenard

A person flies off Lake Hood and Lake Spenard on wheels and skis for seven months and floats four to five months, yet ... the priority is put on floats A person flying on wheels and skis off that lake for seven months has just as much priority as somebody flying off of floats.... Mr. and Mrs. Hunt fly off of Lake Hood, Mrs. Hunt flies seven to eight months off of the lake on wheels and skis, her husband has a float rating and he flies four months on floats. If Mr. Hunt should lose his medical, she could not

continue to park because she [doesn't] have a float rating [although she] flies more on skis and wheels than he does. There's something wrong there; this is not right.

Federal air regulations state the only people we have to show licenses and medical to are the FAA, NTSB, and local and state law enforcement officers. The DOT[&PF] commissioner requires you to show your license and medical to get a tiedown. He says this is voluntary in order to give the privilege of a tiedown. This is not voluntary, he is requiring you to do this ... if you want a tiedown.... We pay rent for the tiedown, \$95 a month, so this takes the privilege out of it. Privilege is not defined as paying \$95 a month. The FAA makes pilot qualifications, not the state. The state's making pilot qualifications are to be on the lake, having a license, having a medical [certificate], having a floatplane. They're in the business of making rules and regulations, not demanding qualifications.

A student pilot cannot have a tiedown on this airport. A student pilot license is a license to learn just like other licenses. I started flying on this lake many, many years ago and I started on floats as a student pilot. And I finished up getting a commercial license on floats. There's nothing wrong with this, a student pilot should have the same privileges on this lake as a private pilot.

Now, if they come out with a recreation license here in the near future, there's no license required. And a lot of aircraft on this complex [are] going to fall under ... [those] regs. So, that kind of wipes out license, medical [certificate], and all requirements. All you're going to need is a driver's license. ...it's going to affect a lot of the smaller aircraft....

We need to have a uniform policy [and] rules that apply to all airports and conforms to state and federal guidelines. Fairbanks is an example, they have a wait list but the only requirement is that you own or lease an airplane. They're doing it the correct way, like other airports....

I attended most of the meetings the airport had on rules pertaining to "Rule 17." The pilots that are on the lake did not get much input into these rules, it seems like it's slanted more for the people wanting to get on than giving credit to people that are on the lake. The audit committee made recommendations and John Barsalou here in Anchorage wrote all the rules. As far as I'm concerned, they were shoved down our throats. And according to the president of the Airmen's Association, he told me, as far as he was concerned, they were shoved down their throats. That's a lot of pilots involved here. We need to get rid of these rules and operate like a normal airport.... The rules do not benefit any pilot on the lake.... Please put a moratorium on these rules, effective immediately, and the legislature come up with new and reasonable rules like the other airports in Alaska and the airports in the other 49 states; they operate in a more reasonable manner.

MR. ANDERSON informed the committee that he spoke with the President of the Aircraft Owners and Pilots Association (AOPA). The AOPA president agreed that Mr. Anderson could hire him to fly him around if Mr. Anderson didn't have a medical [certificate]. Mr. Anderson mentioned that he took exception to many of the comments of Mr. Plumb. He also mentioned that many pilots have left the lake. Mr. Anderson informed the committee that [the airport staff] looks at every tiedown twice a day, seven days a week. Mr. Anderson related situations in which pilots had family emergencies during which their slip was taken. He related other situations in which pilots lost their slip or left their slip due to the intimidating letters of [the airport]. Mr. Anderson pointed out that there is a difference between a lease and a tiedown.

Number 0410

CHAIR MCGUIRE noted that the committee packet contains the petition and the letter written by Mr. Anderson. She asked if Mr. Anderson could be more specific in regard to the intimidating and threatening letters.

MR. ANDERSON said that he could provide the committee with these letters. The letters would often state that if the individual didn't comply, he/she could lose his/her tiedown. He pointed out that although there is good communication, the friendly atmosphere is missing. In further response to Chair McGuire,

Mr. Anderson remarked that there are some pilots present who have received letters regarding their medical [certificate]. He related a situation in which a pilot on the lake flew under a student license for 30 some years and met all requirements. If that gentleman was still flying today, Mr. Anderson guessed his slip would have been taken.

CHAIR McGUIRE inquired as to how Mr. Anderson would combat some of the problems raised by the airport director [and the legislative audit].

MR. ANDERSON acknowledged that many of the noted problems are valid. However, [the airport] should be able to regulate things such as subleasing without requiring a pilot license, a medical [certificate], a float rating, et cetera. He discussed the difficulty in obtaining a medical [certificate] in only four months. The notion that extensions can be given should be written in the regulations.

Number 0477

REPRESENTATIVE BUNDE returned to the issue of student pilots, and asked if Mr. Anderson felt there should be some time limit on how long a student pilot can hold a student pilot's license.

MR. ANDERSON said that he felt it would be reasonable to place some limit. However, the FAA has no such limit. Mr. Anderson said, "I think the state has crossed the line from rules and regulations to qualifications."

REPRESENTATIVE BUNDE cautioned Mr. Anderson in regard to his suggestion to have the legislature pen the regulations.

MR. ANDERSON emphasized that someone has to do something. Personally, Mr. Anderson said that he would like to see all the regulations thrown out. The policy should be uniform with all other airports in Alaska as well as the Lower 48. Furthermore, there is no uniform policy for rent.

CHAIR McGUIRE remarked that the fees that are being charged probably don't cover the cost. Therefore, the challenge is in regard to the area being a public asset while ensuring that access is fair.

Number 0536

SENATOR TAYLOR commented that he didn't find the same standards being applied to those on the wait list versus those who have qualified. For example, those on the wait list aren't required to have flown a float-rated aircraft at least three times each summer. Senator Taylor said that it appears that [the regulations] only apply to those that have received a permit.

MR. ANDERSON related his understanding that on the wait list [the individual] has to have a private license or a student. However, once the student obtains a parking place [license], "he is out because he don't have a private pilot's license and a floatplane rating." He commented on conversations he has heard regarding increasing the fee charged to be on the wait list in order to lower the number of people on the wait list.

Number 0597

HOWARD HUNT informed the committee that he and his wife, a licensed pilot, entered into a lease at the airport in 1983. They operated at the airport until today. His wife recently received notice that she is no longer qualified to use their slip [because] she no longer has a float rating. She can still fly legally on wheels, but her name has been taken off the lease, and thus she can't even fly on wheels. Mr. Hunt felt that the regulations should grandfather in his wife.

TAPE 01-15, SIDE A

SENATOR TAYLOR said, "...not appearing on the permit. It would seem that, upon your passing, your estate would have 180 days to clean up the area and get out." Prior to the implementation of these regulations, had [Mr. Hunt] passed, his wife would've been on the permit and able to utilize that space.

MR. HUNT agreed. Mr. Hunt noted that his son, who had waited eight years, was on the lease now. Mr. and Mrs. Hunt waited 12 years to get their current slip, and he wanted to keep it in the family.

Number 0011

VINCENT HUEBSCH stated that he agreed with Mr. Anderson's letter. He informed the committee that he [had a slip] for 42 years, but was removed due to the loss of his medical [certificate]. At that time, he requested a spot on the land, but he was told that he couldn't have an airplane on the airport without a medical [certificate].

SENATOR TAYLOR asked if one has to have a medical [certificate] to be any place else on the airport.

MR. HUEBSCH answered, "That's what he said. You can't be on the land of the airport."

Number 0030

JOHN PRATT, Field Director, Seaplane Pilots Association, noted his appreciation of the improved communications with the management and staff of Lake Hood and Anchorage International Airport. However, [the Seaplane Pilots Association] disagrees with DOT&PF's position and the airport's position after the promulgation [of the regulations]. The [Seaplane Pilots Association] believes that certain aspects of Title 17 are onerous and inimical to floatplane owners and operators. Furthermore, the number of slips at Lake Hood is inadequate to serve the needs of the public, which has long been recognized in every master plan for Anchorage International Airport. He pointed out that every master plan for Anchorage International Airport has recommended lake expansion and alternatives to the north and south have been addressed. He said, "The airport or DOT&PF leadership has apparently opposed these plans, and we find ourselves in our current situation."

MR. PRATT informed the committee that many in his constituency have expressed the belief that Title 17 has micromanaged the demand for the slips rather than [taking] other actions to increase the supply of slips. The [association] believes that action is necessary in a number of areas. He remarked that the failure to resolve certain problems violates grant assurances, agreements, and could jeopardize future federal airport funding. Furthermore, the [association] believes that pilot certificate requirements are improper; requiring a pilot license excludes student pilots a legitimate and federally recognized certificate authorizing flight. Mr. Pratt pointed out that student pilots are the most closely controlled of all pilots. Requiring a float rating excludes individuals who want to place their aircraft on floats at the lake and obtain the license with their own aircraft or use their aircraft with a hired pilot.

MR. PRATT turned to the medical [certificate] requirement, which the [association] believes to be improper and discriminatory. The only action that a current medical [certificate] enables is the signature in the log book documenting the pilot in command. He echoed earlier testimony regarding the ability of a person

without a medical [certificate] to have someone else in the airplane as the pilot in command and fly the airplane. Mr. Pratt said, "[A person without a medical certificate] can do everything that is involved with the airplane. They can own it, they can fly it, they can manipulate the controls, they can have the annuals done, they can make the payments, get the insurance, all that. None of it depends on having a medical." Mr. Pratt informed the committee that a new [federal] certificate will soon be released and it won't require a medical, although it will require other limitations on privileges. Such certificate holders won't be eligible for a slip at the lake. However, aircraft that are currently in this category are in the water.

MR. PRATT noted that with the increase of aircraft costs, fractional ownership is becoming a more fiscally manageable method of aircraft ownership. However, Title 17 places unreasonable burdens and limitations on these individuals. Therefore, he expressed the need to address joint and sole ownership requirements for single and multiple aircraft slips. He also expressed the need for location trades to be easy to accomplish, although it currently appears difficult. Mr. Pratt said, "Authorized slip holders and specific individuals have not changed, you and I could exchange slips. The numbers of people on the lake haven't changed, only where the tiedown ropes are tied to the dirt or the water." In closing, Mr. Pratt emphasized that he is willing to continue to work with the legislature, DOT&PF, the airport, and others in a meaningful way in order to help resolve the issues in the best way for all concerned.

REPRESENTATIVE BUNDE mentioned that he had a conversation with Congressman Don Young earlier this year, during which Congressman Young expressed interest in developing Clunie Lake. Therefore, he believes that the Seaplane Association and the Alaska Pilots Association should be in conversation with Congressman Young. He felt that Congressman Young could move forward with such development with some encouragement.

MR. PRATT noted that [the Seaplane Association] has actively worked to ensure that such development comes to fruition. Furthermore, there is a North Anchorage land agreement that addresses that. Should Fort Richardson face closure, the aforementioned development would be a high probability.

Number 0087

MR. PRATT, in response to Senator Cowdery, explained that the pilot in command has to hold a private pilot's license and be float rated. In further response to Senator Cowdery, Mr. Pratt said that these [pilot in command] requirements aren't the same as those land fields. In fact, an unlicensed individual could purchase an airplane and have it flown to Merrill Field, Anchorage International Airport, and let it sit forever. Furthermore, an unlicensed individual could have a licensed pilot fly him/her without any problem. In further response to Senator Cowdery, Mr. Pratt explained that Six Mile Lake on Elmendorf Air Force Base only requires that an individual be a green ID cardholder or retired and have an airplane to put there with insurance for that location. [Six Mile Lake] has a private association.

Number 0110

DENNIS GEARY informed the committee that he is on the wait list. He explained that he came down to [the Lake Hood area] after flying in Fairbanks for ten years, only to face an 18-year wait list to get onto Lake Hood. The 18-year wait list was ridiculous, and even worse was that half the spots were empty, or at least they seemed to be empty. Almost any spot that was vacant could be rented for about \$1,500 for the season. At the time the rental was about \$480, and therefore the owners of the leases were making a tidy profit. That was the situation that was to be cleaned up. In regard to the medical requirement, Mr. Geary pointed out that one must have a medical [certificate] in order to be a licensed pilot. However, he acknowledged that someone without a medical [certificate] can own a plane and have someone [with a medical certificate] fly the plane. At the time, and even now, the issue is usage. To allow a spot to sit vacant is wrong. However, he agreed that having some way to address unique, catastrophic events [would be appropriate] in order to allow the temporary use of a spot.

MR. GEARY emphasized that Lake Hood is a floatplane base. In the winter there is a separate system for parking ski planes on the ice. That [system] doesn't necessarily have a relationship with a floatplane spot, although it can. Therefore, he felt that comparing floatplanes to [land planes] is like comparing apples and oranges. The real challenge before DOT[&PF] is in regard to vacant parking places, which he felt the airport has dealt with very well [through these regulations]. Mr. Geary explained that they were trying to avoid someone having a spot that they lease to whomever they want, on an influence basis.

SENATOR TAYLOR expressed the need to [ensure] that attempts to achieve more utilization doesn't result in violations of other laws [or discrimination]. Senator Taylor expressed his surprise that the legislature hasn't heard requests from DOT[&PF] for an expansion of this facility.

MR. GEARY informed the committee that he has spots in both Anchorage and Fairbanks. Each of the airports face different problems. The discussion to be more restrictive in Anchorage was to address past abuses. Mr. Geary acknowledged that it isn't a perfect system. However, he pointed out that the prior system wasn't perfect either.

REPRESENTATIVE BUNDE, in addressing Senator Taylor's earlier comments, said that the [Lake Hood area] airport has already reached capacity. He agreed that more tiedowns are necessary, but they are needed in another location.

Number 0212

STEVE HULSEY, Lake Hood Pilots Association, acknowledged the exceptional job that Mr. Plumb and his staff did in trying to straighten out these rules. There were many public meetings regarding these issues. However, he recognized that there would never be a happy medium on this issue. He recalled a meeting from five years ago in which 300 people attended. At that meeting there was discussion about taking away all the spots and putting them out to a lottery for management by a fixed-base operator. No one wanted that situation. At that meeting Mr. Hulsey suggested forming a committee to work with the airport on this issue. [From that] a very good working relationship has been established with the airport.

MR. HULSEY identified the main issue as the medical certificate requirement. Although he sympathized with those who have lost their medical [certificate], he saw circumvention of the medical [certificate] as a [beginning] to all the illegal activity that was removed with [these regulations].

CHAIR McGUIRE asked if Mr. Hulsey saw any room for improvement with the regulations.

MR. HULSEY said that there is always room for improvement for any regulations. However, he pointed out that [the committee] requested stricter rules than the airport developed, but those weren't approved by the commissioner. He pointed to the fact that this country is governed by rules and regulations, top to

bottom. Although he agreed with the need to stay away from any discrimination issues, he emphasized the need for people to realize when it's time, due to one's age, to stop [flying]. However, he disagreed with the notion of trying to keep a slip in the family.

MR. HULSEY, in response to Chair McGuire's interest in his opinion on the topic of student pilots, echoed earlier testimony that student pilot's license is a stepping stone to a private pilot's license. Why someone would want to have a student pilot's license forever, he didn't know. Mr. Hulsey felt that having a student pilot's license for an extended time or having the earlier mentioned recreational license were attempts to circumnavigate rules and regulations. He said, "A true aviation enthusiast has no problem ... getting his pilot's license and going out there and enjoying the skies."

SENATOR TAYLOR expressed concern with his understanding that one space has been vacant for 17 years. He inquired as to how that happens.

MR. HULSEY said he didn't know about that situation.

Number 0360

KARL JOHNSTONE noted that he was present on he and his wife's behalf. He understood the need to address the wait list, and reviewed the past attempts to address the vacant spots. He recalled that the first attempt was an affidavit that a person signed indicating the usage of the space, that the person had a medical [certificate], and that the person owned a certain percentage of an airplane. He felt that this affidavit went far in addressing whether an individual owned an airplane and whether he/she was float-rated.

MR. JOHNSTONE said that he didn't believe that there was a great deal of tension between those on the wait list and those who are legitimately using their floatplane spaces. If an individual doesn't intend to fly a floatplane and is intended to lease it out, perhaps those people need to [be removed]. However, those people who intend to use their [space] for floats, although it may not be as much as the airport manager would like, those people should be allowed to keep their spaces. Mr. Johnstone noted his concern with the issue of usage. He pointed out that the regulations specify that the plane must be on floats for 90 days between the months of May and September. If one happens to

only fly all of May and part of October, then that person would lose his/her spot. Furthermore, if one doesn't put his/her plane on floats until July but leaves them on until October, then that person would lose his/her spot because that wouldn't amount to 90 days total. He mentioned a recent letter that went out forewarning people who may not have put their plane on floats by July 3rd and thus would be in jeopardy of losing their space. In regard to possible tension, Mr. Johnstone felt there might be tension between the airport manager's office, the leasing department, and the people already on the lake.

MR. JOHNSTONE turned to the issue of how often inspections to check the usage of floatplanes and such occur. Mr. Plumb's earlier answer seemed to indicate that there isn't a regular inspection. However, Mr. Hutzel, Leasing Officer, has shown him the graph he uses [to track] the checks that are done. Mr. Johnstone said that checking occurs all day long. Mr. Hutzel told Mr. Johnstone that two full-time employees patrol the lake checking whether a plane is on the water, whether it has flown that day, and whether it is on floats.

MR. JOHNSTONE pointed out that there is a lack of transient spaces. Therefore, he indicated that one could notify the airport manager that he wasn't going to use his floatplane tiedown for say May, June, and half of July and allow it to be used for other purposes. "Not everyone wants to fly floats all summer, and it's probably not necessary," he said.

MR. JOHNSTONE related his own experience at Lake Hood where he has had a spot since 1968. In 2000 he received a letter from the airport saying that he hadn't used his floatplane enough that summer and needed to present log books showing exactly how much he used it. Although he was in Arizona at the time, he gathered as much information as he could. After providing that information, he received a letter saying that he had satisfied the requirements. He spoke with Mr. Hutzel regarding the checking and how someone could fly in between checks and not be cited as flying when they did. Mr. Hutzel suggested that Mr. Johnstone call him each time before he flies, which Mr. Johnstone viewed as an unreasonable burden. Mr. Johnstone viewed the usage requirements as subtly targeting those older pilots that may not be able to maintain their medical [certificate] or just don't [fly] as often as they did in the past. Mr. Johnstone concluded by saying that he didn't want to be restricted on how much he flies, and when the time comes when he doesn't want to fly floats anymore, [the airport] can have the space back.

SENATOR COWDERY returned to the issue of the checks. He pointed out the possibility of people flying in the evenings after the normal working hours [when the checking occurs]. Senator Cowdery recalled Mr. Johnstone's situation in which he presented his log books to illustrate how often he flew. Senator Cowdery inquired as to whether entries in log books are mandatory.

MR. JOHNSTONE replied no, and commented that he may be negligent in not maintaining his log book as much as he should.

Number 0499

CHAIR MCGUIRE inquired as to whether Mr. Johnstone had any suggestions for the regulations. She recalled one of Mr. Johnstone's earlier suggestions to provide others the opportunity to use a spot while that [owner] is off floats.

MR. JOHNSTONE said that his aforementioned suggestion would be his primary suggestion. He related his understanding that two to three individuals devote their time to patrolling, according to Mr. Hutzel. That resource could be used to do the same in a manner to open spots to others that want to use them. He discussed the possibility of having a transient list to be coordinated with those who don't want to use their space during certain times. In regard to Representative Bunde's comment that the lake is full and can't handle more floatplane spaces, Mr. Johnstone related his belief that there is less usage now than there has been historically. Furthermore, he felt more floatplane areas could be opened.

MR. PLUMB clarified that [the airport] doesn't have anyone that is specifically employed to go around the lake and check 24 hours a day seven days a week. However, there are two individuals who do so, as available, during their regular work week.

CHAIR MCGUIRE turned to the aforementioned possibility of expansion to accommodate more floatslips and asked whether Mr. Plumb cared to comment.

MR. PLUMB noted the complexity of expansion in that one can make more floatslips, but there is no ability to expand the airspace. However, there has been a significant increase in aircraft at the Ted Stevens Anchorage International Airport. He mentioned that the FAA is doing a study [on the use of the airspace]. He also mentioned the concerns that continued development [of the

Lake Hood area] could result in the area draining. Under the wetlands permit, he believes there is a prohibition against putting more total slots in the area. Therefore, if more floatslips were developed, then some would have to be taken away from the tiedown area. Moreover, there are no general funds for the specific use of the Ted Stevens Anchorage International Airport, and therefore improvements to the airport would have to be done with the funding from a federal grant or from the airport revenue. He noted that there is a master plan that will take a look at this. Mr. Plumb related his agreement with Representative Bunde that the real solution is to look towards areas outside [Lake Hood] for more floatplane activity.

TAPE 01-15, SIDE B

SENATOR COWDERY asked if expansion of the float base would be a bondable situation.

MR. PLUMB said, "Certainly." Currently, Lake Hood is a separate airport under the FAA, and receives \$1 million worth of entitlements. Although environmental issues alone are expensive, he felt that could be bonded and the rates raised.

CHAIR MCGUIRE interjected the possibility of bonding as separate areas.

MR. PLUMB related his belief that the best value would be to build a floatplane base in another location rather than expanding [at Lake Hood]. Mr. Plumb agreed with Senator Cowdery in not wanting to lose the distinction of being the largest floatplane base, which [attracts] tourists. However, he expressed the need to strike a balance between the public and the need for safety.

Number 0031

TOM GEORGE, Alaska Regional Representative, Aircraft Owners and Pilots Association (AOPA), testified via teleconference. He informed the committee that AOPA has about 370,000 members nationwide, with about 4,000 being from Alaska. The association is concerned about some of the provisions of Title 17. He said that AOPA would support continued work between the local aviation groups and airport management. Mr. George turned to the medical [certificate] requirement. He related the association's understanding that it's the intent to ensure pilots that have spaces fly regularly and don't contribute to the vacant space problem. However, it appears that the medical

certificate is being used in an excessive fashion, not to mention the paperwork that it generates. Furthermore, there seems to be some disparity in that one who loses a medical [certificate] is only allowed 120 days to replace it while someone is allowed 270 days to fix an aircraft that might be damaged. Moreover, the expected new regulations in the sport pilot area will even further change the situation. In conclusion, Mr. George related AOPA's desire to revise the medical certificate requirement in order to take a step towards making this more of a pilot-focused and fair [set of regulations] and encourage efforts, as part of a long-term solution, to increase capacity in the area or elsewhere.

Number 0059

TED DARBY pointed out that before [the regulations] people on the wait list could make a selection. However, now people are told that they have to take [what] comes up, which could mean more years of waiting. He said that he was concerned with this change "because we were not given input on it." Mr. Darby related his view that Mr. Hutzel is in a tough spot because although he has authority to administer the rules, he works under a higher authority and thus has no choice in regard to which rules come to him to be enforced. He found Mr. Hutzel to be cooperative, helpful, and flexible in administering the rules. For example, one can't be gone from the lake too much due to the requirement to fly a certain amount in the summer. However, one mustn't fly too little either or one would be in violation of another rule. Therefore, Mr. Hutzel has tried to make adjustments by asking those who are going to be gone for an extended period to allow their floatplane spot to be used as a transient spot during the absence. The problem is that the transients may steal things.

MR. DARBY addressed occupancy of the lake. He pointed out that [pilots] have full-operational ability during the day, and aren't supposed to stay overnight. This fact is well known by every vandal and crook. Furthermore, the lack of funds for the police don't allow for adequate patrolling of the area. Mr. Darby noted that he spoke with Corky Caldwell, Operations Manager, Ted Stevens International Airport, and the [DOT&PF] commissioner. During his conversation with Mr. Caldwell, Mr. Caldwell said that he didn't see anything wrong with someone staying overnight. However, in a letter dated July 18, 2000, Mr. Caldwell said, "The commissioner's policy is very clear on this issue and any temporary or permanent habitation is strictly prohibited." Mr. Darby informed the committee that a few years

ago, the airport police averaged one plane a day falling victim to thievery or vandalism. He felt people [being around during the evening and night hours] would do a great deal of good to make the tiedowns more secure. Furthermore, there are problems with the general public walking on the fingers, which are supposed to only be for plane owners. There is no enforcement of this.

MR. DARBY related his belief that there is the following political, legislative problem. He explained that almost every year the funds that Anchorage collects on the airport runs a surplus of about \$3-\$8 million, which is largely from the commercial [portion of the airport]. At the end of the year, Anchorage gives that money to Fairbanks. He estimated that over the years Anchorage has given Fairbanks somewhere between \$50-\$100 million, which he resented. Therefore, he requested that be addressed. Mr. Darby informed the committee that "we have never known where our lots are." Consequently, the overlaps and under laps are problematic. He asked if the efforts to survey are progressing. Mr. Darby then expressed concern with the volume of public traffic that comes out on his finger and travels up and down the road. In conversations with Mr. Caldwell, Mr. Caldwell indicated that a gate would be the answer. Mr. Darby explained that this gate would be permanent. In conclusion, Mr. Darby remarked that those making the rules should be participants in what the rules address.

REPRESENTATIVE BUNDE agreed that those making the rules should have some practical experience with being a floatplane pilot.

CHAIR McGUIRE reminded everyone of the legislation passed regarding negotiated rule making, which allows user groups to come together with the commissioner and staff in order to arrive at a decision.

Number 0250

MARKO RUSTY HAYES informed the committee that he has had a floatplane space at Lake Hood for over 30 years. Last fall he received a letter [from the airport] requesting his log books in order to determine how much he flew. He called [the airport] and mentioned that the state wasn't really interested in how much he flew, and furthermore he had met the other requirements. Mr. Hayes received a letter from the airport, which included the following paragraph: "As I explained during my phone message on our phone conversation, at this time we request you send in copies of your pilot's log book or a statement indicating the

time and date(s) you used your aircraft tiedown space to fly the aircraft registered to that space. Please send in the requested information no later than October 31, 2000." Mr. Hayes didn't receive this letter until October 24, 2000. He noted that he did call the airport and respond [by sending a letter], which read as follows: "My aircraft was placed in the water sometime in May. It was used on a regular basis until the last week in September when it was removed from the water for maintenance."

MR. HAYES continued. On December 6, 2000, Mr. Hayes received a letter stating that his tiedown space at Lake Hood wouldn't be renewed. He also referred to a letter from the airport dated February 1, 1999, which stated that a second aircraft, unregistered, was being parked on Mr. Hayes' spot and didn't meet the usage requirements. Mr. Hayes hired an attorney, and after some time the airport accepted his payment for the tiedown space. "This is ... an example of the kind of compassion that the airport staff has out here, that [Mr. Plumb] referred to a while ago," he said.

MR. HAYES stressed his belief that Title 17 needs a major overhaul. Furthermore, the people supporting [Title 17] shouldn't be involved in the major overhaul. Although Mr. Hayes acknowledged that he is getting older, he noted that he has always paid his bills and complied with what has been asked of him. He reiterated his belief that the airport has no business reviewing his aircraft records, log books, et cetera. Mr. Hayes expressed his desire to know who instructed whom to revoke his lease. When he spoke with Mr. Caldwell, Mr. Caldwell said that the [decision] came from the board. In conclusion, Mr. Hayes said [Title 17] needs to be fixed.

REPRESENTATIVE BUNDE related his understanding that one only has to maintain a log book if a rating is being sought. Representative Bunde recalled a meeting in which there was discussion about the complexity of trying to keep track of how often people flew. He thought that idea was dropped.

MR. PLUMB clarified that under the new regulations there is the requirement to fly three months a year, which was six months under the old regulations. Mr. Plumb suggested that having [pilots] sign under penalty of perjury would be an economical way to deal with this. That information could be selectively audited. Mr. Plumb remarked that when issues are lifted out of context, there is usually another side to the story. He noted that he has heard some things today that will prompt him to perform additional review. With regard to the [signed

affidavit] under penalty of perjury he felt that would place everyone on a level playing field.

MR. PLUMB turned to the issue of the checking of how often people fly. He reiterated that there are no people paid to only do checking. However, there are two people that perform checks along with their other duties. Those two people are only present [checking] 28 percent of the time, and therefore 72 percent of the time no one is checking.

CORKY CALDWELL, Operations Manager, Ted Stevens Anchorage International Airport, Department of Transportation & Public Facilities, explained that the inspections are done [in conjunction] with the normal day-to-day inspections of the condition of the lake. However, during those normal inspections, they do check to see whether the aircraft is present. If a floatslip stays empty for 30 days straight, it's an indicator that the individual hasn't flown. Or, if an aircraft that isn't registered to that floatslip, then it would also be an indicator. In such situations, attempts are made to contact the person. Mr. Caldwell echoed Mr. Plumb's remarks that there are no people covering the lake 24 hours a day seven days a week. Therefore, good records are taken during the inspections [in order] to help identify problems.

REPRESENTATIVE BUNDE related his understanding then that the [regulation] is not in regard to a minimum number of [flying] hours but rather whether the airplane is available to be flown for the majority of the float season. He asked if that is the intent of the regulation.

MR. PLUMB said he believes the intent of the regulation is to [ensure] the use of a valuable asset. Therefore, the plane should be there and [can] fly out. The minimum requirement is to fly out once a month.

Number 0566

CHAIR McGUIRE inquired as to whether Mr. Caldwell would consider the series of facts and events presented by Mr. Hayes as abnormal or unusual. She recalled Mr. Caldwell's remarks saying that they are looking for indicators after which further inquiry would be made, which is very different from Mr. Hayes' story.

MR. CALDWELL echoed earlier statements regarding the fact that there is always another side to the story.

CHAIR McGUIRE inquired as to the due process in place for the permit holders who have an entitlement to the property.

MR. CALDWELL explained that normally, it would move through the tiedown office where the individual could explain his/her situation. He indicated that this contact could occur in person or via the telephone. After that initial [explanation] if other information is received from other [permit holders], then the process may be moved to another level in which the log book entries would be requested. Mr. Caldwell remarked that a reasonable and compassionate approach is taken in resolving issues.

CHAIR McGUIRE asked whether any of these procedures are outlined in a manual that is given to new pilots when they assume their permit.

MR. CALDWELL answered that there have been extensive briefings in regard to the procedures and requirements. In further response to Chair McGuire, he said that he could provide something in writing.

CHAIR McGUIRE expressed concern with her perception of [the enforcement of the regulations] being loose. If she were a permit holder, she felt that she wouldn't really know her rights and responsibilities. She expressed her desire for the regulations to lay out [the procedures and requirements] a bit more clearly.

MR. CALDWELL interjected that a letter is sent as a last resort, after there have been attempts to personally contact the individual. In response to Chair McGuire, Mr. Caldwell confirmed that a file [of contacts and interactions] is kept.

MR. PLUMB informed the committee that when individuals receive the permit, they receive the full set of instructions that discuss everything. Administratively, Mr. Plumb felt that [the permit holders] have been provided the necessary information. Mr. Plumb pointed out that [the process] is fairly informal all the way; "none of us like to start the formal process." Furthermore, [the formal process] goes through Mr. Plumb who said that he questions whether the individual has been spoken to, and whether the individual understands the situation before the [formal process] begins. In regard to whether [Mr. Hayes' case] is an anomaly, Mr. Plumb felt it was.

CHAIR MCGUIRE expressed concern with having a compassionate airport director who reviews each case individually when the regulations appear clear, with no discretion or due process included. Therefore, there is concern as to whether another airport director besides Mr. Plumb would go to the lengths to use or not use his/her discretion.

MR. PLUMB acknowledged Chair McGuire's concerns as valid. Mr. Plumb pointed out that most of the information being discussed today was included in the old regulations. However, the difference is that it's being enforced. In regard to the medical [certificate] requirement, Mr. Plumb indicated that [an individual] has 16 months [to get his/her medical certificate]. Furthermore, the airport director does have the authority to waive that portion. He felt that, in most cases, the [airport] has been fairly lenient on the medical certificate issue. In regard to the switch list, it is now done on a priority basis.

Number 0611

SENATOR COWDERY returned to the requirement of flying every 30 days, and asked if the individual has to fly off of Lake Hood or could it be other parts of the state.

MR. CALDWELL clarified that the flying would need to be from Lake Hood.

AN UNIDENTIFIED SPEAKER further clarified that the minimum requirement for usage is one flight, one time [each month] during three months of the float season.

TAPE 01-16, SIDE A

MR. HAYES pointed out that [the airport's testimony] has said that it's not checking. However, no one can tell him who revoked his lease, although the reason cited was nonuse. He highlighted the contradictory nature of it all.

SENATOR COWDERY returned to the medical certificate requirement and asked whether this has ever been challenged legally.

MR. PLUMB recalled that there had been a challenge to these regulations in regard to the Americans with Disabilities Act, and the state prevailed. However, he deferred further detail to be provided by someone else.

SENATOR COWDERY, in regard to the notion of using [an affidavit] under penalty of perjury, said he didn't feel that was a good idea. He felt that such language would raise some hackles.

MR. PLUMB agreed that the language did raise some hackles.

REPRESENTATIVE BUNDE pointed out that when an application is filled out it has to be notarized, and he understood that perjury would be involved if one swears to a false affidavit. Therefore, it seems that path is already being taken.

Number 0670

ROGER CONNOLLY noted that he was in a similar situation because he had some unfortunate circumstances. He asked if the legislature could negotiate some usage with the military. He pointed out that Green Lake is underutilized, as are others. Use of other lakes would help with the noise complaints.

REPRESENTATIVE BUNDE informed everyone that [the legislators], on an individual basis, has been in conversation with the military and the Congressional delegation. He reiterated his earlier mention that Congressman Young has expressed interest in [expanding] to Clunie Lake. He felt that another floatplane tiedown would help with the [congested airspace].

ADJOURNMENT

There being no further business before the committee, the Joint Committee on Administrative Regulation Review meeting was adjourned at 1:16 p.m.