

May 23, 1981: At its annual convention, in New Orleans, **PATCO set a Jun 21 deadline for reaching agreement on a new contract** with FAA. PATCO President Robert Poli said if agreement was not reached by that date the union would poll its members for a strike vote. Newspapers quoted Poli as vowing that the "the skies will be silent" if FAA's negotiators did not "come to their senses." (See Apr 28, 1981, and Jun 18, 1981.)

May 26, 1981: **FAA banned any new long-haul airline flights to or from Washington National Airport** pending issuance by the Department of Transportation of a new Metropolitan Washington Airports Policy. The ban preserved a policy, begun in 1966 and continued voluntarily, under which nonstop flights to and from National were limited to a perimeter with a 650-mile radius, with certain exceptions. FAA acted to preserve National's traditional role as a short-haul airport in the face of a decision by three carriers--American, Pan Am, and Braniff--to inaugurate nonstop flights into National from Houston and Dallas, each of which would have exceeded 1,000 miles. (See Sep 1, 1966, and Dec 6, 1981.)

May 28, 1981: At a meeting on this date, Administrator Helms directed a **change in policy on acquisition of space for the planned Automated Flight Service Stations, known as AFSSs** (see Apr 2, 1980). In addition to building and owning the facilities, FAA would also lease space at airports from municipalities, airport operators, private parties, or government agencies at the state or Federal level. FAA would seek competitive bids to obtain the most favorable rates. (See Oct 2, 1981, and Nov 1982.)

Jun 12, 1981: FAA announced a **planned regional consolidation**, to be effective Jul 1, that would reduce the number of regional headquarters from eleven to six (see Apr 2, 1971). The headquarters at New York, Chicago, Denver, Los Angeles, and Honolulu would be phased out, and their functions merged with the remaining sites. Boston would take over the functions of New York, and Kansas City would assume those of Chicago. Seattle would take over the functions of Denver, Los Angeles, and Honolulu. The regional offices at Anchorage, Atlanta, and Fort Worth would remain essentially unchanged. The plan aroused political opposition, and FAA agreed to review the decision. (See Sep 4, 1981.)

Jun 17, 1981: **PATCO rejected a Reagan Administration contract proposal** as inadequate and broke off informal talks with representatives of FAA. The informal talks, conducted irregularly since the break in formal talks on Apr 28, were held under the aegis of the Federal Mediation and Conciliation Service. (See Jun 18, 1981, and Jun 22, 1981.)

Jun 18, 1981: The **U.S. District Court rejected a PATCO motion to vacate the injunction** restraining the union from engaging in illegal job actions or strikes (see Jun 21, 1978). PATCO moved to have the injunction lifted on the grounds that it had been superceded by the Civil Service Reform Act of 1978, which gave the Federal Labor Relations Authority original jurisdiction in Federal labor-management disputes. (See May 23, 1981, and Jun 17, 1981.)

Jun 22, 1981: **Department of Transportation and PATCO representatives reached agreement on a tentative new contract** after a marathon bargaining session, thus averting a threatened nationwide strike by PATCO-affiliated controllers that had been scheduled to begin at 7 a.m., Monday, Jun 22.

Secretary of Transportation Drew Lewis and PATCO President Robert Poli had gone back to the bargaining table Friday evening, Jun 19, at the behest of Representative James J. Howard (D-N.J.), chairman of the House Public Works Committee. The resumption of talks may also have been prompted by a letter to Poli from 36 U.S. Senators, stating that a strike by PATCO "will do nothing to further your goals of increased pay and changes in working conditions." The bargaining sessions, which took place at the offices of the Federal Mediation and Conciliation Service and were joined in by Federal mediator Kenneth Moffett, lasted more than 25 hours, with the last session running past 3 a.m., Monday.

The agreement contained four key provisions, which the Reagan Administration agreed to recommend to Congress:

- \* A "responsibility" differential that would give controllers 42 hours pay for each normal 40-hour week worked.
- \* An increase in the night differential from 10 to 15 percent of base pay.
- \* The exclusion of overtime, night differential, and Sunday and holiday pay from the limitations of the Federal pay cap.
- \* A retraining allowance equivalent to 14 weeks of base pay for controllers who became medically disqualified after five consecutive years of service at the journeyman level or above and who were ineligible for retirement or disability compensation.

The first-year cost of the total package, which included a cost-of-living raise of 4.8 percent due Federal civil service employees in October, came to approximately \$40 million or, on the average, \$4,000 per controller per year. PATCO had been seeking a package that would have cost the government, initially, in excess of \$700 million per year. (See Jun 17, 1981, and Jul 2, 1981.)

Jun 23, 1981: Administrator Helms announced FAA's decision to adopt the Threat Alert and Collision Avoidance System, soon renamed the **Traffic Alert and Collision Avoidance System (TCAS)**. The TCAS system was an evolutionary improvement of the Beacon Collision Avoidance System (BCAS) that the agency had been developing (see Mar 1976). Like BCAS, TCAS would work in conjunction with the Air Traffic Control Radar Beacon System (ATCRBS) transponder already in wide use. It would also be **compatible with the next-generation transponder, originally designated the Discrete Address Beacon System (DABS) and later known as Mode S** (see Dec 27, 1978, and Oct 5, 1984).

Two types of the new collision avoidance system were planned. TCAS I, intended for general aviation use, would in its basic form simply alert the pilot to the proximity of another aircraft carrying TCAS I or a conventional ATCRBS transponder. More expensive TCAS I versions would have some ability to provide certain data on the altitude and/or "o'clock" position of threat aircraft. TCAS II would provide more sophisticated advisories, including data on range and bearing of transponder-equipped aircraft. When the transponder aboard the threat aircraft had altitude-reporting capability, TCAS II's advisories would also include altitude data. In the case of two aircraft equipped with TCAS II, coordinated advisories would be provided. TCAS II would suggest vertical escape maneuvers. If feasible, the system might be enhanced to include both vertical and horizontal escape maneuvers, a version later designated TCAS III. TCAS was expected to overcome a fundamental limitation of BCAS by its ability to operate effectively even in the highest air traffic densities. This modified the need for a new ground-based collision avoidance system, and led to **discontinuance of the Automatic Traffic Advisory and Resolution System (ATARS) project, originally known as Intermittent Positive Control** (see Mar 4, 1976).

On Nov 13, 1981, FAA announced a contract with Bendix Corporation to provide two TCAS II engineering models to be tested and then enhanced to advise pilots of horizontal escape maneuvers. (See Mar 18, 1987.)

Jul 2, 1981: **PATCO's nine-member executive board recommended unanimously that the union's members reject the tentative contract** agreed to on Jun 22 by PATCO President Robert Poli and Secretary of Transportation Drew Lewis. Poli also voted to reject the contract, although he had stated that he was pleased with the settlement at the time of its negotiation. On Jul 29, PATCO announced that its **members rejected the tentative contract** by a vote of 13,495 to 616. Two days later, on Jul 31, PATCO President Robert Poli announced at a press conference in Washington that his **union would go on a nationwide strike** beginning on Monday, Aug 3, unless the government met PATCO's demands. (See Jun 22, 1981, and Aug 3, 1981.)

Jul 30, 1981: In **San Diego Unified Port District v. Gianturco**, the U.S. Court of Appeals for the Ninth Circuit struck down an attempt by the State of California to impose more stringent noise rules at Lindbergh Field than those imposed by Lindbergh's proprietor. The court's decision included a rationale for the **"Burbank exception"** (see May 14, 1973). Noting that the U.S. Supreme Court had held in **Griggs v. Allegheny** that airport proprietors can be held liable for the noise produced by aircraft using their facilities (see Mar 5, 1962), the Court observed that "fairness dictates that they must also have power to insulate themselves from that liability." At the same time, the Court set forth criteria that determine airport proprietorship, including "ownership, operation, promotion, and the ability to acquire necessary approach easements." If a local or state entity possessed these characteristics, then it also possessed power to regulate noise. In the case of Lindbergh Field, however, the State of California did not possess these characteristics, having entrusted them to the San Diego Unified Port District.

On Sep 23, 1981, in **Santa Monica Airport Association v. City of Santa Monica**, the same Court reaffirmed the "Burbank exception" by upholding aircraft-noise abatement ordinances and a night curfew on takeoffs and landings imposed by the City of Santa Monica, which owned and operated the local airport. In reaching this decision, the Court again emphasized that "municipal airport owners needed some means of limiting their liability under **Griggs**." The Court did strike down, however, a categorical ban on all jet aircraft as violating the Commerce and Equal Protection clauses of the Constitution. (See Aug 24, 1983.)

Aug 1, 1981: **Michael J. Fenello became FAA's Deputy Administrator**, succeeding Quentin S. Taylor (see May 4, 1977). A native of Rochester, N.Y., Fenello was a graduate of Buffalo State Teachers College

and held a Master's degree in Administration and Supervision from New York University. He was a junior high school teacher before starting a 38-year career with Eastern Air Lines in Jan 1943. Fenello began as a copilot, rose to captain, and later served as a flight instructor and supervisor of flying before being promoted in 1963 to Assistant Operations Manager in New York. The following year, he was named Director of Administration for Flight Operations, with headquarters in Miami. In 1968, Fenello became Assistant to the Vice President, Operations Group, and in 1972 was promoted to Vice President, Operations Control. From 1976 until his retirement from Eastern in Feb 1981, he served as Vice President for System Operations and Safety. Fenello was FAA's Deputy Administrator for two years and 9 months, resigning effective May 1, 1984. (See Dec 23, 1983, and Dec 13, 1984.)

Aug 3, 1981: Nearly 12,300 members of the 15,000-member **Professional Air Traffic Controllers Organization (PATCO)** went on strike, beginning at 7 a.m., EST, grounding approximately 35 percent of the nation's 14,200 daily commercial flights. The controllers struck after the failure of eleventh hour negotiations, which began 2 p.m. Sunday, Aug 2, and continued, with one break, past 2 a.m. Monday, Aug 3. Shortly before 11 a.m. on Aug 3, at an impromptu news conference, **President Reagan issued the strikers a firm ultimatum:** return to work within 48 hours or face permanent dismissal. The government moved swiftly on three fronts -- civil, criminal, and administrative -- to bring the full force of the law to bear on the strikers. In a series of legal steps, Federal officials:

- \* Asked the Federal Labor Relations Authority (FLRA) to decertify PATCO as the bargaining agent for the 17,200 controllers and controller staff members.
- \* Moved to impound the union's \$3.5 million strike fund.
- \* Filed criminal complaints in Federal courts in eleven cities against twenty-two PATCO officials.
- \* Sought restraining orders against the strikers in thirty-three courts.

Even before the 7 a.m. walkout, a U.S. District Court for the District of Columbia signed an order directing the controllers to return to work. Late in the evening on Aug 3, another judge of the same court found the union in contempt for failing to obey the first order and imposed an accelerating schedule of fines totaling \$4.7 million if the controllers failed to report to work (\$250,000 for Tuesday, August 4; \$500,000 for Wednesday; \$1 million a day for the next four days). That judge also fined PATCO President Robert Poli \$1,000 a day for each day the strike continued, through Sunday, Aug 9. Approximately 875 controllers returned to work during the 48 hour grace period granted. After expiration of the grace period, about 11,400 controllers were dismissed. Most of those fired appealed the action, and 440 were eventually reinstated as a result of their appeals.

The strike and dismissals drastically curtailed FAA's controller workforce. According to DOT's FY1982 annual report, the firings reduced the number of controllers at the full performance or developmental level from about 16,375 to about 4,200. To keep the airways open, approximately 3,000 ATC supervisory personnel worked at controlling traffic. FAA assigned assistants to support the controllers, and accelerated the hiring and training of new air traffic personnel. Military controllers arrived at FAA facilities soon after the strike began, and about 800 were ultimately assigned to the agency. The combined force was sufficiently large to handle traffic without activating the National Air Traffic Control Contingency Plan, which called for FAA itself to establish rigid, severely curtailed airline schedules and to prescribe routes and altitudes.

The day the strike began, FAA adopted Special Federal Aviation Regulation (SFAR) 44, establishing provisions for implementing an **interim air traffic control operations plan** (see Feb 18, 1982). That plan allowed FAA, among others things, to limit the number of aircraft in the national airspace system. Hence, on Aug 5, the agency implemented a plan dubbed "Flow Control 50," whereby air carriers were required to cancel approximately 50 percent of their scheduled peak-hour flights at 22 major airports. FAA maintained an en route horizontal spacing between aircraft under instrument flight rules of up to 30 miles. Aircraft were kept on the ground, as necessary, to maintain this spacing. FAA gave priority to medical emergency flights, Presidential flights, flights transporting critical FAA employees, and flights dictated by military necessity. General aviation flights operated under the severest restrictions. Aircraft with a gross takeoff weight of 12,500 pounds or less were prohibited from flying under instrument flight rules; moreover, aircraft flying under visual flight rules were prohibited from entering terminal control areas. Other general aviation aircraft were served, as conditions permitted, on a first-come-first-served basis. (See Jul 2, 1981, and Sep 4, 1981.)

Aug 6, 1981: The Civil Aeronautics Board approved **acquisition of Continental Airlines by Texas International**, a subsidiary of Frank Lorenzo's holding company, Texas Air. The transaction was consummated in Oct 1981. **A year later, Lorenzo merged Texas International's operations into those of the much larger Continental.** (See Sep 24, 1983)

Aug 13, 1981: President Reagan signed the Fiscal Year 1981 Airport Development Authorization Act (Title XI of P.L. 97-35) which **briefly renewed the Airport Development Aid Program**. The law authorized \$450 million in grants from the Airport and Airway Trust Fund for airport development, planning, and noise compatibility projects during fiscal 1981. It also specified that at least \$25 million be used for noise compatibility grants, and forbade future authorization in excess of \$600 million for fiscal 1982.

FAA had only until the end of Sep 30, 1981, to allocate the \$450 million, plus another \$9 million resulting from adjustments to prior year's grants. The agency approved 622 new grants and 181 amendments to previous grants, for a total of \$450.4 million. FAA was unable to allocate the whole amount because one airport sponsor did not use all the money specifically set aside for it in the legislation. (See Sep 3, 1982).

Sep 4, 1981: FAA announced a **revised regional consolidation plan** under which the number of regions would be reduced from eleven to nine. The original plan would have resulted in only six regions (see Jun 12, 1981), but FAA stated that this had been modified due to the more pressing need to rebuild the air traffic control system in the wake of the PATCO controllers strike (see Aug 3, 1981). The consolidation was detailed in a notice issued on Sep 29. Under the new plan, FAA combined the existing Pacific-Asia and Western Regions into a new Western-Pacific Region with headquarters in Los Angeles, and closed the Honolulu regional office. The agency also combined the existing Rocky Mountain and Northwest Regions into a new Northwest Mountain Region with headquarters in Seattle, and closed the Denver regional office. It also reassigned the states of North and South Dakota from the Rocky Mountain to the Great Lakes Region. Operations under the new concept began on Oct 1, and all physical relocation was scheduled for completion by the end of Aug 1982.

Sep 4, 1981: FAA announced it would hire approximately **1,500 temporary employees, including furloughed airline pilots, to assist in replacing air traffic controllers** fired for striking. The temporary employees would not control traffic, but would perform duties related to flight strip distribution and other controller support functions. (See Aug 3, 1981, and Oct 2, 1981.)

Sep 11, 1981: Federal Aviation Regulation Part 108, a **new rule on airline security**, went into effect. The regulation levied airline security requirements according to the perceived threat facing different types of operations and sizes of aircraft, and established security safeguards appropriate to the various types of commercial passenger operations. Also on this date, FAA approved a new concept allowing airport operators to position law enforcement officers farther from passenger screening checkpoints provided certain conditions were fulfilled (see Mar 29, 1979).

Sep 26, 1981: The twin-engine **Boeing 767 made its first flight**. On Jul 30, 1982, FAA certificated the aircraft, the first entirely new U.S. commercial transport design in more than a decade. The 767 began its first revenue service on Sep 8 of that year with United Air Lines. On Jul 14, 1978, United Airlines had placed the largest order to date for a single commercial airplane, when it made a \$1.2 billion order for the airliner.

Sep 30, 1981: During fiscal year 1981, which ended on this date, FAA added two major **new capabilities to the en route air traffic control system: minimum safe altitude warning (MSAW)**, already a feature of the ARTS III terminal system (see Oct 28, 1977); **and arrival metering**, a function that provided the controller with computer advisories to help in managing the flow of traffic into congested terminal areas.

Oct 2, 1981: FAA announced the award of two contracts to E-Systems for **computer systems for 61 automated flight service stations (AFSS)**. The agency planned that the existing network of over 300 stations would eventually be consolidated into the 61 automated facilities. The equipment to be produced by E-Systems would provide flight service specialists with rapid retrieval of data needed to brief pilots, presenting the information on television-like displays. Production was to be in two stages. Model 1, with capability of displaying weather and aeronautical alphanumeric data, would be implemented at 41 sites. Later, all 61 sites would get Model 2, which would add a second display for weather radar, charts, and other graphics. Model 2 would also include the capability for demonstrating direct access by pilots to the computer data base from remote computer terminals. The computers for both models were to be installed at air route traffic control centers and connected by leased telephone lines to the flight service stations. (See May 28, 1981, and Nov 1982.)

Oct 2, 1981: FAA announced a \$10 million contract with the University of Oklahoma to help **train new air traffic controllers** to replace those fired for participating in the illegal strike. The University would provide FAA-certificated instructors as supplemental staffing for the FAA Academy. The agreement proved to be the first in a series of controller training contracts with the University. (See Sep 4, 1981, and Oct 22, 1981.)

Oct 6, 1981: **Blanche W. Noyes died**. One of the nation's early female pilots, she was probably the **first woman pilot to have a career in the U.S. government**. Noyes was known for her work in the air marking program during 35 years with FAA and its predecessors. She participated in many aviation events and races, winning the 1936 Bendix Air Race, was a founder of the Ninety-Nines, Inc., an organization established to encourage women in aviation. Her many awards included the Department of Commerce's gold medal for exceptional service in 1956, and induction into the Aviation Hall of Fame in 1970.

Oct 19, 1981: FAA placed a **General Aviation Reservation (GAR) plan** in effect, because the number of private aircraft flying in the system increased substantially after the controllers' strike. General aviation pilots who wished to fly under air traffic control were required to make reservations under a quota based on the percentage of flights that aircraft in their category had flown prior to the PATCO strike of Aug 3, 1981 (see that date). The restriction became necessary as non-airline pilots, some of whom had refrained from using the air traffic control system at the strike's beginning, began to increase operations. After two weeks under the GAR plan, FAA announced that the number of private aircraft flying in the system had been reduced to approximately the pre-strike level, and that the plan had helped to cut delays for both airline and private flights. (See Dec 31, 1983.)

Oct 22, 1981: The Federal Labor Relations Authority **decertified the Professional Air Traffic Controllers Association**, depriving the union of the right to represent its members. Following a temporary stay by a Federal Appeals Court, the decertification became effective on Oct 27. (See Oct 2, 1981, and Dec 31, 1981.)

Nov 1, 1981: Effective this date, Administrator Helms designated **four aircraft certification directorates**. The directorates assumed the certification responsibilities previously assigned to the lead and certificating regions under the lead region concept (see Jan 1, 1980). They also received additional responsibilities to strengthen and streamline the certification process. The directorates were managed by the directors of the following regions: Central (for aircraft under 12,500 lbs.); Northwest Mountain (for transport aircraft); Southwest (for rotorcraft); and New England (for engines and propellers). The authority of the directorates extended beyond regional boundaries. For example, aircraft certification offices in the Central, Southern, and Great Lakes regions reported directly to the Small Airplane Certification Directorate at the Central Region headquarters. FAA formally established the directorates by an order dated Feb 1, 1982, and on Mar 9 issued a news release stating that the directorate system had become operational.

Nov 2, 1981: Effective this date, **FAA reestablished 12 inches as the required height for registration marks (N-numbers)** on fixed-wing aircraft. This size requirement had originally been established by a rule published on Jan 6, 1961. In 1977, however, the size of the N-numbers was reduced to 3 inches for small airplanes with speeds not greater than 180 knots. The agency permitted this reduction in response to the Experimental Aircraft Association's concern to improve the aesthetic appearance of small aircraft. FAA reestablished the 12 inch height after complaints from citizens, law enforcement agencies, and the Defense Department demonstrated that timely and positive visual identification was compromised by the smaller markings. To avoid undue cost, however, FAA allowed owners of existing and certain newly-manufactured aircraft to display the smaller N-numbers until the aircraft was repainted or its marks were restored, repainted, or changed. The new requirement for 12 inch numbers did not affect existing rules on special marking procedures for certain aircraft that were amateur-built, unusually configured, over 30 years old, or operated for exhibition.

Nov 9-12, 1981: Ben L. Abruzzo, Larry Newman, Ron Clark, and Rocky Aoki made the **first balloon crossing of the Pacific**, a trip from Nagashima, Japan, to near Covelo, Calif., in Double Eagle V.

Nov 20, 1981: Effective this date, FAA **permitted blind airline passengers to use certain approved methods of storing their canes at their seats**. The agency had declined to permit this in an earlier rule (see May 16, 1977), deciding instead that the long utility canes should be handed over to flight attendants to be secured during takeoff and landing. This policy aroused considerable opposition, particularly from the National Federation of the Blind (NFB). The NFB petitioned FAA on the issue, and filed suit when the



# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.