

STATEMENT OF SECRETARY FEDERICO PEÑA  
SUBCOMMITTEE ON AVIATION  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
HOUSE OF REPRESENTATIVES  
FEBRUARY 14, 1995

Good morning, Mr. Chairman. I appreciate the opportunity to appear here today. With me to help respond to the Subcommittee's questions are:

FAA Administrator David Hinson, who brought to the FAA the perspective of a corporate CEO;

FAA Associate Administrator Monte Belger, who has spent his distinguished career in the FAA, and now has the responsibility for managing the air traffic control system. He has played a key role in developing our proposal; and

Dr. George Donohue, who came to the FAA last August to take over management of the modernization program, and who has brought a needed new outlook and perspective to this effort.

#### REINVENTING GOVERNMENT

Throughout government, we are examining how we can best serve the American people. This is especially true of services that affect our economy, safety, and quality of life. The American people want a better, more efficient government and understand that change is necessary to reach this goal.

By calling today's hearing, it is clear that you understand the public's call for change. I hope that together we can seize this opportunity to dramatically improve the way that we serve the more than 500 million Americans who fly every year with a more efficient and safer air traffic control system that can meet the growing demands of the 21st century.

#### FOCUS ON SAFETY

At DOT, we are working to focus more sharply on our core missions: safety and infrastructure investment. As you know, we are proposing a major restructuring of the Department to provide this focus. Our air traffic control proposal is a major part of this effort.

We recognize just how unique the operation of the air traffic control system is within government. We are proposing to treat it differently because it is so fundamentally different from the safety regulatory functions of the FAA or other government agencies.

ATC is the only 24-hour-a-day, 365-days-a-year government operation upon which an \$80 billion industry is dependent for literally its every move. The inefficiencies of the government's system become the inefficiencies of an entire industry. Today, it's estimated that those inefficiencies cost the airlines and their passengers \$3 billion a year -- ~~at a time when the~~

~~industry is struggling to regain its financial footing. These kinds of losses can mean the difference between an industry that can't make ends meet and one that can.~~

We need to do all we can to ensure that the traveling public will be provided with the level of safety it expects and deserves of our aviation system. But the question we must ask is, "is the air traffic structure that served us well in the past the one that can meet the demands of the future?" The answer is "no."

As we look at projected growth of 300 million passengers a year in the next decade, I am not assured that we will be able to provide the level of service that we know today, unless we make major changes in how we run today's system. Our system is already near capacity, and, unless we can bring on new technology in a timely manner, we will have to make major compromises in efficiency to ensure that safety is not compromised. That shouldn't have to be the case. Safety and efficiency go hand in hand, and we must work constantly to improve both.

How can we enhance safety and efficiency in our air traffic system? We can do so by having the ability:

- ▶ 1: to take advantage of new technologies;
- ▶ 2: to place and retain people where we need them;
- ▶ 3: to respond to change in a business-like fashion with a nimble organization;
- ▶ 4: to finance major capital programs; and
- ▶ 5: to plan for the future, and be able to implement that strategy in a timely manner.

#### WHAT'S WRONG WITH TODAY'S ATC STRUCTURE

Unfortunately, the FAA doesn't have these tools. First, we have a procurement system that makes it virtually impossible to keep pace with new technology. The evidence is found throughout the system.

- ▶ Right here at National Airport, the computer that supplies critical information to controllers is a 1960's Univac.
- ▶ Every one of the 2300 radar displays in our en route centers are over 23 years old.
- ▶ We have more than 500 landing systems that are between 15 and 30 years old.
- ▶ We have close to 400 radars that are between 15 and 30 years old.
- ▶ All of the largest communications switches in our en route centers are over 29 years old.
- ▶ And, in an age where generations of computer technology are measured in months, the FAA spends almost \$9 million a year on vacuum tubes, a technology invented at the time of the Wright Brothers' first flight.

For many of these components, the original manufacturer no longer exists. Spare parts aren't available. In order to avoid shut-downs, FAA technicians cannibalize other equipment, or go to machine shops to custom-build old technology.

This old equipment is gradually -- and I emphasize gradually -- being replaced. But, should we be proud that there may be no more vacuum tubes shortly after the turn of the century -- forty years after the private sector got rid of them? Should we be proud of the fact that the FAA's newest surface radar system has hardware that is already ten years out of date? The answer is "No." When it comes to the safety and efficiency of the nation's air traffic control system, we simply should not settle for "better late than never."

Second, the personnel system is, in a word, inflexible. In a field of increasing and changing demands, it's a system that largely prevents us from providing incentives to reward good work or to staff high-cost, busy facilities.

Third, the budget system is one that simply doesn't allow for long-term planning or timely acquisition. It doesn't give the passengers who pay for this system a reasonable return on their investment. Through the appropriations process, investment is based not on needs, but on what's available under government-wide spending caps. It's a system that requires the FAA to set aside, in cash, all of the funds needed for a contract, even if the money won't actually spend out for several years. It's an environment in which the FAA gets its budget in over 160 specific line items, with almost no ability to make changes. It forces the FAA to try to plan for the future without knowing how much money will actually be provided, or what strings will be attached. And, the continued reliance on Congressional authorization and appropriation means that decisions are routinely undone through specific directives and earmarks.

Together, these three problem areas -- procurement, personnel, and budget -- have created a "culture" that accepts these limitations as "normal;" a culture in which people are relieved when equipment is "only" 18 months late; a culture that discourages innovation by program managers who know that they'll probably face a protest from losing bidders for trying something new; a culture that invites and allows delays and overruns in the major modernization programs.

Some have criticized the FAA leaders and employees for not solving these problems. But, the problems have persisted for years, throughout Democratic and Republican Administrations. I know the Administrator. I know the people. They're not the problem. The system is the problem.

#### CHANGE IS NEEDED

This must be changed. The only question should be "how?" Over the years, both the Congress and the FAA have tried to work within the existing structure to bring change. Just in the last decade, the FAA has reorganized itself over two dozen times to try to address these problems. But, clearly, those attempts have not made significant improvements. What's needed is a fundamental change in how the air traffic control system is operated.

## ASSESSMENT OF ALTERNATIVES

In order to address these problems, we should look at a range of options. We now have several concepts on the table, and I'd like to take a few minutes to discuss them.

Some have proposed an independent FAA. We see major shortcomings with this proposal.

First, making the FAA independent without freeing it from the personnel, procurement and budgetary restrictions does not correct the problems, it simply shifts them to a new box on the governmental organizational chart. Second, there is no sound basis for removing the FAA's traditional regulatory functions, which are by their nature similar to those of NHTSA, the Coast Guard, and others in DOT, from the rest of the Department. Third, from a transportation policy perspective, insulating aviation from the other modes is inconsistent with our efforts to create a truly intermodal, unified transportation system that Congress mandated through ISTEA. Fourth, it would greatly lessen our ability to look at cross-cutting safety issues.

Others have called for privatizing the air traffic control system. While a federal corporation achieves many of the operating advantages of a private corporation, we have serious concerns about a truly privatized system. First, private sector employees have the right to strike. That could undermine the integrity of the national aviation system, and is, in fact, opposed by the FAA employees. Second, establishing a private monopoly could raise anti-competitive concerns, and could require the establishment of a new rate-setting structure. Third, there is the fundamental question about sovereignty of the U.S. airspace. Our skies are a national asset, and should remain in the hands of the American people.

## ADMINISTRATION PROPOSAL

Our proposal specifically and clearly addresses the problems facing the air traffic control system. It is based on the recommendations of the National Commission to Ensure a Strong Competitive Airline Industry, the Vice President's National Performance Review, and a number of other major studies conducted over the last 15 years. Frankly, it is also based on the experience of more than two-dozen internal reorganizations in the last decade, none of which have been able to bring about the fundamental change necessary.

Our proposal would establish a wholly-owned, not-for-profit government corporation, freed from the federal budget, personnel, and procurement systems. It would be financed by users, and have the ability to finance capital programs, as would any corporation. There would be no General Fund contribution to the ATC system, which would save the General Taxpayer about \$1.5 billion annually.

Importantly, the critical safety regulatory functions remain in the FAA, an agency that is fully accountable to the Congress, the Executive, and the American people.

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Let me take a few moments to talk about some of the details of our proposal that the Subcommittee indicated were of particular interest.

**Safety oversight.** The FAA would retain safety regulatory oversight of the Corporation in a manner consistent with its regulation of the airline and aircraft manufacturing industries today. Accordingly, the FAA would establish safety standards in areas such as equipment, operating procedures, and training, and the Corporation would operate within those parameters. For example, just as the FAA sets training standards for pilots and flight attendants, it could do so for the Corporation. Proposed changes to aircraft separation standards or equipment requirements would be subject to FAA safety review. Statutory limitations on operations would not be affected by our proposal.

**Fee structure.** Our proposal would set the fee structure for the first two years of the Corporation's existence, in order to provide stability during the transition period. After that time, the Corporation would set its fees according to its capital and operating needs, but with several important restrictions. First, public use aircraft, including the military, would be exempt from any new fees, as would general aviation. In all cases, fees could not harm competition by restricting new entrants or discriminating against any class of user. The fee structure would be subject to review by the government for this specific purpose, and would be subject to disapproval if found to be anti-competitive. We have been very careful to restrict the ability of the government to review fees to avoid having the government involved in regular oversight or second-guessing of the Corporation's financial decisions, while at the same time protecting against anti-competitive practices.

**Use of Trust Fund.** Our proposal calls for funds already appropriated, but not yet expended, from the Trust Fund to continue to be used for their intended purposes. This would mean that projects now underway with appropriated Trust Fund monies would continue under the Corporation. Any commitments made by the Corporation would come from its revenue stream or financing, not from the Trust Fund.

**Employee rights.** Employees transferring to the Corporation would retain their existing retirement, health and other employee benefits for three years. After that time, transferring employees would retain their retirement benefits, but other benefits would be determined through the collective bargaining process. New employees would be covered by the personnel system developed by the Corporation.

**Pension liability.** Consistent with our objective of financial independence for the Corporation and ending subsidies, we propose that the Corporation would cover its pension costs incurred after the date of incorporation. (Although it would mean less money for capital improvements, it does not fundamentally alter the benefits of transition to a corporation.)

## SAFETY MODEL

Our proposal recognizes that ATC is fundamentally different than the regulatory functions of the FAA. It is modeled on the successful regulatory structure now in place in which thousands of corporate entities are overseen by the FAA.

The safety record of U.S. aviation is the product of a partnership that recognizes the roles of government and the private sector. The reality is that government just isn't set up to run a business.

Building an airplane well is a critical safety issue. But, the FAA doesn't build aircraft; it sets standards and regulates corporations that can build them more cost-effectively and quickly.

Training airline pilots and flight attendants properly is absolutely critical to safety. But, the FAA doesn't hire them, or train them. It regulates corporations that do.

Maintaining aircraft in tip-top condition is essential for safety. But, the FAA doesn't hire and train mechanics. It regulates corporations that do.

The FAA doesn't run commercial airline service that is responsible for safely transporting half a billion people a year; it regulates corporations that do.

And, the FAA doesn't operate airports. This Committee led efforts to get the FAA out of that business almost ten years ago, and that was the right decision.

It is the partnership between government and industry that has created this system, and that has compiled the safety record of U.S. aviation. And, **that** was the model we followed in preparing a federal corporation for ATC.

In the area of safety regulation, the FAA is a model for the world. But, that's not the case for the air traffic control system. At the same time that the world looks to the FAA as the standard for regulatory matters, it is turning away from how we run air traffic control. Other countries are taking their ATC systems out of governmental straightjackets, and putting them into more flexible corporations. They're enhancing safety, improving efficiency, and bringing down costs. I recently met with Sir Christopher Chattaway, Chairman of the UK Civil Aviation Authority, which has run ATC in a government corporation since 1972. When I asked him about safety, his answer was immediate and unequivocal: safety is higher in the corporate model.

I note that Mr. Dieter Kaden, the CEO of Germany's ATC corporation, will testify today. I met with Mr. Kaden yesterday, and was reminded of an ATC museum that they maintain in Frankfurt, which I saw last year. In that museum, they have technology that is actually more modern than some of what we're using in the U.S. today.

There's another point about these other corporations. With their flexibility they're buying U.S. technology that our controllers and technicians can't acquire themselves.

To be sure, our ATC system works today. We have the busiest, most complex airspace in the world. Some look at this and say, "if it ain't broke, don't fix it." Frankly, statements like that miss the point. They ignore the enormous costs imposed on the airlines and the traveling public. They ignore the drag that these inefficiencies are imposing on the economy. The reality is that the ATC system works in spite of itself. It's held together by people who just won't let it fall apart. But, we should not add further stress to or penalize the dedicated men and women who keep this system running by refusing to change the structure and conditions that limit them.

The FAA has been accused of reacting to problems instead of anticipating them. That's precisely what we're trying to avoid; we see a problem -- a real problem, and are trying to address it before it becomes critical.

As you consider this issue and weigh the options, I urge you to do something before making **any** decisions. When you leave to go home to your districts, stop and take some time to visit the ATC facilities at National Airport; talk to the controllers and technicians. Then, do the same at your home airport.

Because, ultimately, the best case for change is made not by inside-the-beltway arguments, but by the system itself.

Thank you, Mr. Chairman. We would be pleased to respond to any questions you and the Subcommittee may have.