



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the **25th day of March, 2003**

**Flight Alaska, Inc.
Violations of 49 U.S.C. § 41708,
14 CFR Part 241, and
Order 2002-1-4**

Docket OST 2003-14194

Served: March 25, 2003

CONSENT ORDER

This consent order concerns reporting delinquencies by Flight Alaska, Inc., a/k/a Yute Air ("Flight Alaska") that constitute violations of 49 U.S.C. § 41708 and the reporting requirements specified in 14 CFR Part 241 and made applicable to the carrier by Department Order 2002-1-4. This order directs Flight Alaska to cease and desist from future violations and to pay a compromise civil penalty.

The Department is collecting data from certificated bush carriers transporting mail within Alaska in connection with a potential rate adjustment to mail rates for intra-Alaska and mainline mail service. In this regard, under Order 2002-1-4, Flight Alaska is required to submit monthly T-100 reports as specified in 14 CFR Part 241. In addition, the Department uses carriers' reports to analyze the effects of air transportation industry policy initiatives, to allocate airport development funds, to forecast traffic, and to develop airport and airway traffic policy. A carrier's failure to file its reports prevents the Department from making fully informed decisions. Failure to file reports when they are due also constitutes a violation of both 49 U.S.C. § 41708 and the applicable Department regulations.

Beginning January 2002, and continuing through September 2002, Flight Alaska failed to file the required reports, or failed to file accurate reports. During this period, the Department's staff first attempted to contact Flight Alaska informally regarding the delinquencies, then sent the carrier written warnings. Specifically, the Department's Office of Airline Information (OAI) sent Flight Alaska a warning letter about its delinquent T-100 reports on June 3, 2002. After Flight Alaska's delinquency continued, the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) sent Flight Alaska a warning letter regarding the same issue on September 3, 2002.

The Enforcement Office's letter offered Flight Alaska one last opportunity to file the delinquent reports promptly and to ensure that in the future all of its required reports are

filed in a timely manner. Despite these warnings, Flight Alaska failed to file accurate reports promptly¹.

In mitigation, Flight Alaska states that it did not intentionally neglect the Department's filing requirements. The initial delinquency resulted when, after being notified that OAI had not received the reports in a readable format, an internal miscommunication led the Flight Alaska staff to believe that the reports were merely misfiled and that the problem had been corrected. Subsequently, Flight Alaska prepared and filed multiple reports; however, the reports were still in a format unreadable by OAI. Flight Alaska then purchased a \$9,000 software program designed specifically for preparing reports such as the T-100 and installed it on the company's new computer system. In addition, to ensure that the reporting requirements would be met in an accurate and timely manner in the future, Flight Alaska centralized manifest and flight time accounting functions, implemented monthly audits, and hired a full time employee with appropriate training to prepare reports.

The Enforcement Office has carefully considered the information provided by Flight Alaska but continues to believe that enforcement action is warranted. The Enforcement Office and Flight Alaska have reached a settlement of this matter in order to avoid litigation. Flight Alaska consents to the issuance of an order to cease and desist from future violations of 49 U.S.C. § 41708, Part 241 of the Department's regulations, and Order 2002-1-4, and to the assessment of \$20,000 in compromise of potential civil penalties, half of which will be forgiven if the carrier complies with this order and its reporting obligations over the next year.

We believe that this compromise assessment is appropriate and serves the public interest. It represents an adequate deterrence to future noncompliance with the Department's reporting requirements by Flight Alaska, as well as by other air carriers and foreign air carriers.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that Flight Alaska, Inc., has violated Order 2002-1-4 and 14 CFR Part 241 by failing to file required reports in a timely manner;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2 above, Flight Alaska, Inc., has also violated 49 U.S.C. §41708;
4. Flight Alaska Inc., and all other entities owned or controlled by or under common ownership with Flight Alaska, Inc., and their successors and assignees, are

¹ Flight Alaska did not file the required reports until November 1, 2002.

ordered to cease and desist from violations of 49 U.S.C. §41708, 14 CFR Part 241, and Order 2002-1-4;

5. Flight Alaska, Inc., is assessed \$20,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3 above. Of that penalty amount \$2,500 shall become due and payable within 15 days of the service date of this order, \$2,500 shall be due and payable on April 30, 2003, \$2,500 shall be due and payable on July 31, 2003, and \$2,500 shall be due and payable on October 31, 2003. The remaining \$10,000 shall be suspended for one year following issuance of this order, and then forgiven, unless Flight Alaska, Inc. violates this order's cease and desist provision within that one-year period, or fails to comply with the order's payment provisions, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately, and the carrier may be subject to further enforcement action. Failure to pay the compromise assessment as ordered will subject Flight Alaska, Inc., to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and possible enforcement action for failure to comply with this order; and
6. Payments shall be made by wire transfer through the Federal Reserve Communications System, commonly known as "Fed Wire," to the account of the U.S. Treasury. The wire transfer shall be executed in accordance with the instructions contained in the Attachment to this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

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