



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

Issued by the Department of Transportation
On the Sixteenth day of May, 2011

**Icelandair Group, a/k/a Flugleidir, h.f.,
d/b/a Icelandair**

**Violations of 49 U.S.C. § 41705
and 14 CFR Part 382**

Served May 16, 2011

Docket OST-2011-0003

CONSENT ORDER

This order concerns violations by Icelandair Group, a/k/a Flugleidir, h.f., d/b/a Icelandair (Icelandair) of the requirements of 14 CFR Part 382 (Part 382), with respect to the filing of annual reports detailing disability-related complaints that Icelandair received from passengers in calendar years 2008, 2009, and 2010. Part 382 implements the Air Carrier Access Act (ACAA), 49 U.S.C. § 41705, and violations of Part 382 also violate the ACAA. This order directs Icelandair to cease and desist from future similar violations of Part 382 and the ACAA and assesses the carrier \$30,000 in civil penalties.

Under section 382.157, covered carriers (i.e. U.S. and foreign air carriers operating passenger service to, from, or within the United States with at least one aircraft having a design capacity of more than 60 passenger seats) must, among other things, submit an annual report to the U.S. Department of Transportation (Department) summarizing the disability-related complaints that they received the prior calendar year.¹ The annual report to the Department is due each year on the last Monday in January. The annual

¹ In addition, the rule requires a carrier to record complaints that it receives alleging discrimination or inadequate accessibility on the basis of a disability. The complaints are to be categorized according to the passenger's type of disability and the nature of the complaint. The rule also requires that covered carriers retain a copy of each disability-related complaint that the carrier receives and a record of the action taken on the complaint for three years.

report covering calendar year 2008 was due on January 26, 2009; the report covering calendar year 2009 was due on January 25, 2010; and the report covering calendar year 2010 was due on January 24, 2011.

To comply with 49 U.S.C. § 41705, which requires, among other things, that the Secretary of Transportation “regularly review all complaints received by air carriers alleging discrimination on the basis of disability and report annually to Congress on the results of such review,” and to ensure that consumers can compare the overall disability complaints filed against particular carriers, the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office) is committed to ensuring that carriers file disability-related reports as required. To this end, the Enforcement Office has made efforts to ensure compliance with section 382.157, including providing carriers and carrier associations information about the disability reporting requirements and posting a copy of the disability reporting rule on its Aviation Consumer Protection Division’s website.

Icelandair is a foreign air carrier based in Reykjavik, Iceland that operates scheduled service to and from the United States using at least one aircraft having a design seating capacity of more than 60 passenger seats. Icelandair’s operations into the United States clearly fall within the scope of the reporting rule. Therefore, Icelandair violated section 382.157(d) and the ACAA when it submitted to the Department the report for calendar year 2008 on February 24, 2009, over four weeks late, the report for calendar year 2009 on April 8, 2010, more than two months late, and the report for 2010 on February 11, 2011, over two weeks late. During the period in question, Icelandair was warned regarding its delinquencies, which nonetheless continued.

In mitigation, Icelandair argues that the Department’s notifications of the carrier’s previous reporting delinquencies should not operate as an aggravating factor in the current case because they were not sent to, or received by, the only Icelandair designated agent under 49 U.S.C. § 46103 to receive process, orders, decisions, requirements and notice of the delinquencies at issue here. Icelandair also argues that any penalty over \$30,000 would be excessive and have a detrimental impact on its ability to continue to operate due to its operational and financial hardships over the preceding 12 months, as a direct result of the Icelandic volcano eruption in 2010, and the overall financial instability and uncertainty of the Republic of Iceland since the global economic crisis of 2008/2009 and, therefore, a penalty of more than \$30,000 in this case would be contrary to the public interest.

The Enforcement Office notes that multiple emails were sent and acknowledged by the management staff of Icelandair concerning Icelandair’s numerous filing delinquencies. We view seriously Icelandair’s failure to submit the reports on time as required by section 382.157(d). Accordingly, after carefully considering all the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted. By this order, the Department finds that Icelandair failed to submit timely its annual reports detailing the disability-related complaints it received in calendar years 2008, 2009, and 2010 in violation of 14 CFR Part 382 and 49 U.S.C. § 41705.

In order to avoid litigation, Icelandair and the Enforcement Office have agreed to settle this matter and enter into this consent order directing Icelandair to cease and desist from future similar violations of Part 382 and 49 U.S.C. § 41705, and assessing \$30,000 in compromise of potential civil penalties otherwise due and payable. We believe that this assessment is appropriate and serves the public interest. It represents an adequate deterrent to future noncompliance with the Department's reporting requirements by Icelandair, as well as by other domestic 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 Icelandair Group, a/k/a Flugleidir, h.f., d/b/a Icelandair has violated 14 CFR 382.157 by failing to submit timely its annual reports detailing the disability-related complaints it received in calendar years 2008, 2009, and 2010 to the Department of Transportation summarizing the disability-related complaints that it received in those calendar years;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2 above, Icelandair Group, a/k/a Flugleidir, h.f., d/b/a Icelandair also violated 49 U.S.C. § 41705;
4. Icelandair Group and all other entities owned or controlled by Icelandair Group, its successors and assignees are ordered to cease and desist from further violations of section 382.157 and 49 U.S.C. § 41705;
5. Icelandair Group is assessed \$30,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3 above. Of this total penalty amount, \$15,000 shall be due and payable within 30 days after the service date of this order. The remaining \$15,000 will become due and payable if Icelandair Group violates 14 CFR 382.157 within one year following the date of issuance of this order, or fails to comply with the payment provisions of this order, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately, and Icelandair Group may be subject to additional enforcement action for failure to comply with this order; and
6. Payment 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 in accordance with the attached instructions. Failure to pay the penalty as ordered will subject Icelandair Group 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.

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

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://regulations.gov>*