



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

Issued by the Department of Transportation
on the 7th day of August, 2006

SkyWest Airlines, Inc.

**Violations of 14 CFR Part 234 and
49 U.S.C. § 41708**

**Docket OST-2006-23528
Served: August 07, 2006**

CONSENT ORDER

This consent order concerns reporting inaccuracies that constitute violations of 49 U.S.C. § 41708 and the flight delay causation requirements in Part 234 of the Department's regulations (14 CFR Part 234) by SkyWest Airlines, Inc. (SkyWest), a certificated air carrier that operates large aircraft. This order directs SkyWest to cease and desist from future similar violations of Part 234 and the cited statutory provision and assesses the carrier \$25,000 in compromise of civil penalties that might otherwise be assessed against the carrier for such violations.

The Department uses the carrier reports of flight delay causation 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 accurately file its reports, therefore, may among other things prevent the Department from making fully informed decisions.

In 2005, the Federal Aviation Administration's (FAA) review of SkyWest's airline service quality performance reports showed that the carrier appeared to have inappropriately attributed flight delays to the National Aviation System (NAS). NAS delays and cancellations refer to a broad set of conditions, external to the carrier's operations, such as weather-non-extreme, airport operations, heavy traffic volume, air traffic control, etc. 14 CFR 234.4(g)(3). Repeatedly, the FAA requested that SkyWest verify the accuracy of its data and correct any misinformation. After the FAA determined that its requests to SkyWest had gone unheeded, the Department's Office of Airline Information warned SkyWest that failure to bring itself into compliance would result in referral of the matter to the Office of Aviation Enforcement and Proceedings (Enforcement Office). SkyWest continued to attribute a greater number of

flight delays due to the NAS than the FAA could verify.¹

In mitigation, SkyWest states that it deeply regrets the errors and that there was no intent to mislead or misinform the Department. The inaccuracies, according to the carrier, were due to a coding error in its reporting software. SkyWest notes that it has corrected the coding error and that its recent reports attributing delays to air traffic control are accurate. Finally, the carrier points out that the Enforcement Office does not allege that SkyWest's failure to correctly attribute the causes of reported delays affected SkyWest's actual on-time statistics.

We view seriously SkyWest's repeated failure to file accurate reports as required. 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 SkyWest has, on numerous occasions, failed to file accurate airline service quality performance reports in violation of 14 CFR Part 234 and 49 U.S.C. § 41708. In order to avoid litigation, SkyWest has agreed to settle these matters with the Enforcement Office and enter into this consent order directing SkyWest to cease and desist from future similar violations of Part 234 and 49 U.S.C. § 41708, and to pay \$25,000 in compromise of potential civil penalties otherwise due and payable. Of this amount, \$12,500 shall be due and payable within 15 days after the service date of this order and the remaining \$12,500 of the assessed penalty shall be suspended for one year following the service date of this order and forgiven after that time if the carrier complies with the payment provisions and commits no further violations during that period. 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 SkyWest, 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 SkyWest Airlines, Inc. has violated 14 CFR Part 234 by failing to file accurate airline service quality performance reports;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2 above, SkyWest Airlines, Inc. has also violated 49 U.S.C. § 41708;
4. SkyWest Airlines, Inc., and all other entities owned or controlled by or under common ownership with SkyWest Airlines, Inc., its successors and assignees are ordered to cease and desist from further violations of 14 CFR Part 234 and 49 U.S.C. § 41708;
5. SkyWest Airlines, Inc. is assessed \$25,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3 above, of which

¹ As of April 24, 2006, the carrier had corrected its misreporting problem.

\$12,500 shall be due and payable within 15 days after the service date of this order. The remaining \$12,500 of the assessed penalty shall be suspended for one year following the service date of this order, and shall be forgiven, unless, during this time period, SkyWest fails to comply with the payment provisions of this order or the cease and desist provisions of paragraph 4 above, in which case the entire unpaid portion of the assessed penalty shall become due and payable immediately and the carrier may be subject to further enforcement action; 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 SkyWest Airlines, 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.

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:

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Deputy General Counsel

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