



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

Issued by the Department of Transportation
On the Third day of March, 2011

**Aerovías de Intergración Regional,
AIRES S.A.**

**Violations of 49 U.S.C. § 41708 and 14 CFR
Part 217**

Docket OST 2011-0003

Served March 3, 2011

CONSENT ORDER

This consent order concerns reporting delinquencies by Aerovías de Intergración Regional, AIRES S.A., (AIRES) that constitute violations of 49 U.S.C. § 41708 and the Department's foreign air carrier reporting requirements set forth in 14 CFR Part 217. This order directs AIRES to cease and desist from future violations and assesses the carrier a compromise civil penalty of \$20,000.

Section 41708 of the United States Code *inter alia* authorizes the Secretary of Transportation to require air carriers and foreign air carriers to submit reports to the Department. Pursuant to section 41708, 14 CFR Part 217 designates the categories of statistical data to be collected from foreign air carriers and prescribes the manner in which these data are to be submitted to the Department. The Department uses the data for various important purposes, including analyzing the effects of air transportation industry policy initiatives, allocating airport development funds, forecasting traffic, and developing airport and airway traffic policy. A foreign air carrier's failure to file its reports, therefore, prevents the Department from making fully informed decisions. Failure to file reports when they are due constitutes a violation of both 49 U.S.C. § 41708 and 14 CFR Part 217.

AIRES is a Colombia-based air carrier that operates at least nine Boeing B-737 aircraft. In March 2009, AIRES received foreign air carrier exemption authority from the Department to operate charter flights to and from the United States, as well as scheduled flights between Colombia and certain points in the United States.¹ Subsequently, the

¹ *Order Granting Exemption and Show Cause*, Order 2009-3-21 (March 25, 2009).

Department awarded AIRES a foreign air carrier permit for charter and scheduled services.² Since March 2009, AIRES has operated a significant number of flights to or from the U.S., including multiple daily scheduled flights, but failed to file required Schedule T-100(f) reports with the Department's Bureau of Transportation Statistics until November 2010.

In mitigation, AIRES states that it takes its DOT obligations very seriously and has cooperated fully with the Department on this matter. AIRES explains that it was unaware that it was not in compliance with the Department's Part 217 filing requirements because of an administrative oversight in connection with its newly initiated U.S. operations. AIRES further notes that once it became aware of the situation it took immediate steps to comply with the Department's T-100 filing requirements and filed all past-due reports promptly. Since the Department's notification, AIRES has filed all Part 217 reports on a timely basis. The filing lapse was AIRES' first and only violation.

We view seriously the failure of AIRES to file traffic statistics reports as required by section 41708 and Part 217. The Enforcement Office has carefully considered all the circumstances surrounding this matter, and continues to believe that enforcement action is warranted. The Office of Aviation Enforcement and Proceedings (Enforcement Office) and AIRES have reached a settlement of this matter in order to avoid litigation. AIRES, without admitting or denying any violation, consents to the issuance of an order to cease and desist from future violations, and to the assessment of \$20,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

This compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It represents an adequate deterrence to future noncompliance with the Department's reporting requirements by AIRES 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 the order as being in the public interest;
2. We find that Aerovías de Intergración Regional, AIRES S.A., violated 49 U.S.C. § 41708 and 14 CFR Part 217, as described above, by failing to file required monthly traffic data reports in a timely manner;
3. We order Aerovías de Intergración Regional, AIRES S.A., and all other entities owned and controlled by or under common ownership with Aerovías de Intergración

² *Final Order, Application of AEROVIAS DE INTEGRACION REGIONAL, AIRES S.A. for a Foreign Air Carrier Permit under 49 U.S.C. § 41301, Order 2009-6-14 (June 17, 2009).*

Regional, AIRES S.A., and its successors and assignees, to cease and desist from further violations of 49 U.S.C. § 41708 and 14 CFR Part 217;

4. We assess Aerovías de Intergración Regional, AIRES S.A., a compromise civil penalty of \$20,000 in lieu of civil penalties that might otherwise be assessed for the violation found in paragraphs 2 of this order. Of this total amount, \$10,000 shall become due and payable in two equal installments of \$5,000 each. The first installment of \$5,000 shall be due and payable within 30 days of the issuance date of this order, and the second installment of \$5,000 shall be due and payable within 90 days of the issuance date of this order. The remaining \$10,000 shall become due and payable if Aerovías de Intergración Regional, AIRES S.A., violates this order's cease and desist provision or the payment provisions within one year following the date of the issuance of this order, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately. Failure to pay the penalty as prescribed below shall subject Aerovías de Intergración Regional, AIRES S.A., to the assessment of interest, penalties, and collection charges under the Debt Collection Act and to possible enforcement action for failure to comply with this order; and

5. 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 transfers 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 initiative.

BY:

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Deputy General Counsel

(SEAL)

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