



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

**Issued by the Department of Transportation
On the Twenty-Eighth day of December, 2010**

Insel Air International B.V.

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

Docket OST 2010-0005

Served December 28, 2010

CONSENT ORDER

This consent order concerns reporting delinquencies by Insel Air International B.V. (Insel) that constitute violations of 49 U.S.C. § 41708 and the Department's foreign air carrier reporting requirements (14 CFR Part 217). This order directs Insel 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.

Insel Air is a Caribbean carrier based in Curacao, Netherlands Antilles. In 2007, Insel applied for and received foreign air carrier exemption authority from the Department to engage in scheduled foreign air transportation of persons, property, and mail between

points in Netherlands Antilles and the United States.¹ Insel began service to the United States on October 1, 2008, and since then operated a substantial number of flights without filing Schedule T-100(f) reports with the Department's Bureau of Transportation Statistics as required by Part 217.²

In mitigation, Insel states that it takes its DOT obligations very seriously and has cooperated fully with the Department in this matter. Insel explains that it was unaware that it was not in compliance with the Department's Part 217 filing requirements, and correspondence about this matter did not reach Insel in a timely manner. Once Insel became aware of the situation, Insel states that it took immediate steps to safeguard compliance with these DOT regulations, hired a local U.S. tax accounting firm to file all T-100 forms for Insel, and filed all past-due reports promptly. Since notification of the violation, all Part 217 reports have been filed on a timely basis. The filing lapse was Insel's first and only violation of DOT filing requirements.

The Department views seriously the failure of Insel to file required traffic statistics reports. After considering the circumstances surrounding this matter, including information provided by Insel, the Office of Aviation Enforcement and Proceedings (Enforcement Office) believes that enforcement action is warranted. In order to avoid litigation, the Enforcement Office and Insel have reached a settlement of this matter. Insel, without admitting or denying any violation, consents to the issuance of this order to cease and desist from future violations of section 41708 and Part 217, 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 Insel, 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 information, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that Insel Air International B.V. 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 Insel Air International B.V. and all other entities owned and controlled by or under common ownership with Insel Air International B.V., and their successors and assignees, to cease and desist from further violations of 49 U.S.C. § 41708 and 14 CFR Part 217;

¹ Final Order – Docket OST-2007-27718 (October 25, 2007).

² After being contacted by the Office of Aviation Enforcement and Proceedings, Insel submitted all past due reports and is currently up to date with respect to its reporting obligations.

4. We assess Insel Air International B.V. a compromise civil penalty of \$20,000 in lieu of civil penalties that might otherwise be assessed for the violations found in ordering paragraph 2, above. Of this total amount, \$10,000 shall be due and payable within 30 days of the date of issuance of this consent order. The remaining \$10,000 shall become due and payable immediately only if Insel Air International B.V. violates this order's cease and desist or payment provisions during the 12 months following the service date of this order, and Insel Air International B.V. also may be subject to further enforcement action for failure to comply with this order; and
5. We order Insel Air International B.V. to pay the compromise civil penalty assessed in ordering paragraph 2, above, 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. Failure to pay the penalty as ordered shall subject Insel Air International B.V. to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to 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 initiative.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

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