



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

**Issued by the Department of Transportation
On the 2nd day of June, 2003**

Served: June 2, 2003

Northwest Airlines, Inc.

**Violations of 49 U.S.C. §§ 41310, 41702, 41705
and 41712 and 14 CFR Part 382
Enforcement Proceeding**

Docket OST-2001-10598

ORDER

On April 25, 2003, Northwest Airlines, Inc. ("Northwest") filed a motion under 14 CFR 302.419 to amend OST Order 01-10598. Order OST 01-10598, among other obligations, required Northwest to pay a civil penalty of \$75,000 by May 1, 2003, unless it achieved a 15% reduction in 14 CFR Part 382 complaints in calendar year 2002 over calendar year 2001. Northwest's motion states that it has failed to meet this requirement by year-end 2002 and thereafter entered into discussions with the Office of Aviation Enforcement and Proceedings ("Enforcement Office") proposing to expend \$100,000 in additional enhancements for its passengers with disabilities rather than paying the \$75,000 civil penalty. Northwest's motion further advises that the Enforcement Office supports Northwest's amendment. On April 30, 2003, under assigned authority

in Parts 419 and 385, the Department took review of this motion and stayed further proceedings. Order 2003-4-24.

BACKGROUND

On February 2, 2002, Chief Administrative Law Judge Ronnie A. Yoder issued Order OST-01-10598 approving a settlement between Northwest and the Enforcement Office regarding Northwest's failure to provide adequate wheelchair and other required assistance to persons with disabilities in violation of the Air Carrier Access Act ("ACAA") and 14 CFR 382.39. The Order assessed a civil penalty of \$700,000, with specific offset and forgiveness provisions. The offsets allowed Northwest to spend up to \$550,000 on additional previously unbudgeted enhancements to accommodate passengers with disabilities. One of the forgiveness provisions in the Order required Northwest to pay \$75,000 by May 1, 2003, unless it achieved a 15 percent reduction in Part 382 complaints filed with the Department in calendar year 2002 over calendar year 2001.

When Northwest discovered that it had not achieved the necessary 15 percent reduction in Part 382 complaints, it contacted the Enforcement Office and proposed that, rather than pay the \$75,000 fine, Northwest would expend an additional \$100,000 in enhancements in service for its disabled customers. These expenditures would include spending \$44,600 in increased resources for wheelchair staffing at hub airports, purchasing \$10,000 worth of additional wheelchairs for Detroit Metropolitan Wayne County Airport, purchasing \$16,400 worth of additional oxygen bottles; and, spending \$29,000 to maintain Northwest's ACAA Quality Assurance Program from March 2, 2004, to March 1, 2005. To formalize this arrangement, on April 25, 2003, Northwest filed a motion to amend Order 01-10598. The Enforcement Office agreed to that proposal, and language was negotiated and accepted subject to Departmental approval. On April 30, 2003, we issued Order 2003-4-24 taking review of the Motion and staying the civil penalty pending review.

DECISION

After reviewing Northwest's motion and the original record of decision, we have determined that, in this specific case, as long as additional conditions are met, granting Northwest's motion to amend would best serve the public's interest by enhancing the quality of service disabled air passengers receive. Therefore, we grant the motion to expend \$100,000 in additional enhancements for its passengers with disabilities rather than paying a \$75,000 civil penalty on

condition that Northwest submits a sworn and certified statement from an appropriate company official that the \$100,000 it proposes to expend does not come from funds already budgeted for enhancements in its service to disabled passengers, and once expended, documentation, including a sworn and certified statement from an appropriate company official, demonstrating that the \$100,000 was properly expended. Such documentation must be submitted to the Enforcement Office, the Inspector General's Office and the Office of Aviation and International Affairs, and is subject to review or audit by those offices.

ACCORDINGLY,

1. We grant Northwest Airlines' motion to amend OST Order 01-10598 on condition that it complies with paragraphs 2-5 and that it submits, within 14 days after this order becomes final, a sworn and certified statement from an appropriate company official, to the Enforcement Office, this office and the Inspector General's Office that the \$100,000 it proposes to expend does not come from funds already budgeted for enhancements in its service to disabled passengers, and once expended, documentation, including a sworn and certified statement from an appropriate company official, demonstrating that the \$100,000 was properly expended. Failure to comply with any of these provisions will result in the immediate reinstatement of the \$75,000 civil penalty;

2. Northwest will spend \$44,600 in increased resources for wheelchair staffing at hub airports and must submit documentation evidencing such expenditure by January 31, 2004;

3. Northwest will spend \$10,000 towards purchasing additional wheelchairs for Detroit Metropolitan Wayne County Airport and submit supporting documentation evidencing such expenditure by July 31, 2003;

4. Northwest will purchase \$16,400 worth of additional oxygen bottles and submit documentation evidencing such purchase by July 31, 2003;

5. Northwest will spend \$29,000 to maintain its ACAA Quality Assurance Program from March 2, 2004, to March 1, 2005, and submit documentation evidencing such expenditure by April 1, 2005; and

6. Northwest will retain all books and records pertinent to this Order for three years following the date that Northwest fulfilled its obligations under paragraphs 1-5.

This order is issued under authority in 14 CFR 302.419.

BY:

READ C. VAN DE WATER
Assistant Secretary for Aviation
and International Affairs

(seal)

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