



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

Issued by the Department of Transportation  
on the 24th day of March, 1999

**Served March 24, 1999**

**Aerovias Venezolanas, S.A. (AVENSA)  
Servicios Avensa, S.A. (SERVIVENSA)**

**Violations of 49 U.S.C. § 41708,  
14 CFR Part 217 and 14 CFR Part 250**

**CONSENT ORDER**

This consent order concerns reporting delinquencies of Aerovias Venezolanas, S.A. (AVENSA), and Servicios Avensa, S.A. (SERVIVENSA), two carriers licensed in Venezuela. The carriers, which are under common ownership, have on numerous occasions over the past two years failed to file in a timely manner the T-100 traffic reports required under 14 CFR Part 217 and the Form 251 denied boarding reports required under 14 CFR Part 250. The failure to file these reports violates 49 U.S.C. § 41708 as well as the two cited regulations. By this order we are directing AVENSA and SERVIVENSA to cease and desist from future similar violations and to pay a compromise civil penalty.

Each of these carriers has failed to file required reports on time on numerous occasions during the past two years and the same personnel prepare reports for these commonly owned carriers. At one point during this period, the Department sent a warning letter to SERVIVESNA regarding its delinquencies.<sup>1</sup> The carriers, however, have not remained in compliance with the Department's reporting rules. As of December 15, 1998, although AVENSA was overdue in the filing of only one report, it had filed late an additional ten reports since January 1997, or one-third of

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<sup>1</sup> In September 1997, the Office of Aviation Enforcement and Proceedings (Enforcement Office) sent a warning letter to SERVIVENSA regarding its pattern of delinquent reporting, stating that any future failure to file required reports on time would likely result in enforcement action.

all reports the carrier was required to file. SERVIVENSA, on the other hand, has complied with the applicable reporting requirements, with minor exceptions, since it received the warning letter in September 1997, referred to above, regarding its prior deficiencies.<sup>2</sup> In view of the common ownership of the two companies and the fact that the same personnel prepare their reports, we believe a single order addressing the past violations of both carriers is appropriate.

The Department uses carriers' reports to monitor carrier fitness and ownership, to analyze the effects of air transportation policy initiatives, to allocate airport development funds, to forecast traffic, and to develop airport and airway traffic policy. A carrier's failure to file its reports prevents the Department from making fully informed decisions and is therefore a significant enforcement concern.

In mitigation of the allegations that AVENSA and SERVIVENSA failed to make prompt filings of certain reports, the carriers state that the delays in submitting the T-100(f) reports were minimal and primarily occasioned by postal delays between Caracas where the reports were prepared and the Department of Transportation in Washington. The carriers also state that the Form 251 reports have been the responsibility of a third party that provides certain services to AVENSA and SERVIVENSA in the United States. These have been the most seriously delinquent reports and, although AVENSA and SERVIVENSA acknowledge that the ultimate responsibility for the delinquency is theirs, they were not fully aware until recently of the extent of the reporting delays by the third party. According to the carriers, appropriate steps to deal with that problem and avoid its recurrence in the future have been taken.

The Enforcement Office has carefully considered the information provided by AVENSA and SERVIVENSA but continues to believe that enforcement action is warranted. In this connection, the Enforcement Office and the two carriers have reached a settlement of this matter. In order to avoid litigation, and without admitting or denying the alleged violations, AVENSA and SERVIVENSA consent to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41708 and 14 CFR Parts 217 and 250 and to the assessment of \$15,000 in compromise of potential civil penalties. Of this amount, the two carriers shall pay \$7,500 in two installments according to the schedule set forth in the ordering paragraphs below. The remaining \$7,500 shall be suspended for one year following the service date of this order and shall be forgiven unless either AVENSA or SERVIVENSA fails to comply with the payment provisions of this order or commits other violations of 49 U.S.C. § 41708, 14 CFR Part 217 or 14 CFR Part 250, or this order during the one-year suspension period, in which case the entire unpaid portion of the \$15,000 assessed penalty shall become due and payable immediately. We believe that this compromise assessment is appropriate

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<sup>2</sup> AVENSA and SERVIVENSA have now filed all delinquent reports

and serves the public interest. It represents an adequate deterrence to future noncompliance with the Department's reporting requirements by AVENSA and SERVIVENSA, 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 this order as being in the public interest;
2. We find that Aerovias Venezolanas, S.A. (AVENSA), and Servicios Avensa, S.A. (SERVIVENSA), have violated 14 CFR Part 217 and 14 CFR Part 250 by failing to file required reports in a timely manner;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2 above AVENSA and SERVIVENSA have also violated 49 U.S.C. § 41708;
4. AVENSA and SERVIVENSA, and all other entities owned or controlled by or under common ownership with these companies, and their successors and assignees, are ordered to cease and desist from violations of 49 U.S.C. § 41708 and the reporting requirements of 14 CFR Parts 217 and 250 of the Department's regulations;
5. AVENSA and SERVIVENSA are jointly and severally assessed \$15,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3 above. Of this amount, \$7,500 shall be paid in two equal installments of \$3,750 each. The first payment shall be due 30 days following the service date of this order; the second payment shall be due 90 days following the service date. The remaining \$7,500 of the penalty assessed here shall be suspended for one year following service of this order and shall be forgiven unless either AVENSA and SERVIVENSA fails to comply with the payment provisions of this order or commits other violations of 49 U.S.C. § 41708, the reporting requirements of 14 CFR Parts 217 and 250, or this order during that period, in which case the entire unpaid portion of the assessed penalty shall become due and payable immediately and the carriers may be subject to further enforcement action; and

6. 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 in accordance with the attached instructions. Failure to pay the penalty as ordered will subject AVENSA and SERVIVENSA jointly and severally, 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)**

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