

flyer program reciprocity agreements to us for review under 49 U.S.C. 41720. That statute requires such agreements between major U.S. airlines to be submitted to us more than 30 days before their planned implementation. We may extend that waiting period by up to 150 days for code-sharing agreements and 60 days for other types of agreements. We have previously extended the waiting period for the code-sharing agreement for a total of 90 days, and we extended the waiting period for the frequent flyer agreement for 60 days, the maximum period authorized by the statute. 67 FR 59328 (September 20, 2002); 67 FR 64960 (October 22, 2002); 67 FR 69804 (November 19, 2002). We have determined to extend the waiting period for the code-sharing agreement for an additional 30 days to give us time to complete our review of the Delta/Continental/Northwest agreements.

As we have stated earlier, the purpose of our review of the agreements is to see whether they may reduce competition. Our governing statute specifically requires us to consider, in the public interest, the objectives of "avoiding unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would tend to allow at least one air carrier \* \* \* unreasonably to increase prices, reduce services, or exclude competition in air transportation." 49 U.S.C. 40101(a)(10). If we were to determine that, separately or in combination, aspects of the agreements constitute unfair methods of competition under 49 U.S.C. 41712, we could bar the airlines from implementing them. Unfair methods of competition are airline agreements and other practices that violate the antitrust laws or antitrust principles. *See United Air Lines v. CAB*, 766 F.2d 1101 (7th Cir. 1985). The purpose of our current review is to determine whether we should institute a formal proceeding to determine whether the agreements and the three airlines' proposed relationship violate section 41712.

We have informally reviewed the agreements submitted by Delta, Continental, and Northwest, discussed the competitive issues with the Justice Department, and given outside parties the opportunity to review unredacted copies of the agreements and to submit comments based on that review and other information available to such commenters. 67 FR 69804. We have received comments on the proposed agreements from interested parties as recently as today. We have also received complaints that the three airlines have allegedly engaged in anti-competitive

conduct in the recent past. We have met with Delta, Continental, and Northwest, and with other interested parties. In their written comments, a number of parties have requested that we extend the waiting period to allow additional time for consideration. *See, e.g.*, the November 15, 2002, letter from AirTran, America West, Frontier, JetBlue, Midwest Express, Southwest, and Spirit; the November 12, 2002, letter from Tom Miller, the Attorney General of Iowa, written on behalf of himself and the Attorneys General of Connecticut, the District of Columbia, Florida, Maine, Minnesota, New York, and Vermont; the November 13, 2002, letter from Senator John Ensign; the November 4, 2002, letter from Senator James M. Inhofe; and the October 29, 2002, letter from Senator Russell D. Feingold.

While we have not made any final decision, we have advised the three airlines that we believe the agreements as presented to us raise competitive issues. We have discussed our concerns in detail with the three airlines. Because we need additional time to complete our review of the agreements and to complete further discussions with interested parties, we are extending the waiting period to January 20, 2003.

Issued in Washington, DC on December 16, 2002.

**Read C. Van de Water,**

*Assistant Secretary for Aviation and International Affairs.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[USCG-2002-13978]

#### Random Drug Testing Rate for Covered Crewmembers

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of minimum random drug testing rate.

**SUMMARY:** The Coast Guard has set the calendar year 2003 minimum random drug testing rate at 50 percent of covered crewmembers. An evaluation of the 2001 Management Information System (MIS) data collection forms submitted by marine employers determined that random drug testing on covered crewmembers for the calendar year 2001 resulted in positive test results 1.63 percent of the time. Based on this percentage, we will maintain the minimum random drug testing rate at 50 percent of covered crewmembers for the calendar year 2003.

**DATES:** The minimum random drug testing rate is effective January 1, 2003 through December 31, 2003. You must submit your 2002 MIS reports no later than March 15, 2003.

**ADDRESSES:** You must mail your annual MIS report to Commandant (G-MOA), U.S. Coast Guard Headquarters, 2100 Second Street SW., Room 2404, Washington, DC 20593-0001.

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice, please contact Mr. Robert C. Schoening, Drug and Alcohol Program Manager, Office of Investigations and Analysis (G-MOA), U.S. Coast Guard Headquarters, telephone 202-267-0684. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

**SUPPLEMENTARY INFORMATION:** Under 46 CFR 16.230, the Coast Guard requires marine employers to establish random drug testing programs for covered crewmembers on inspected and uninspected vessels. All marine employers are required to collect and maintain a record of drug testing program data for each calendar year, January 1 through December 31. You must submit this data by 15 March of the following year to the Coast Guard in an annual MIS report (Form CG-5573 found in Appendix B of 46 CFR 16).

You may either submit your own MIS report or have a consortium or other employer representative submit the data in a consolidated MIS report. The chemical drug testing data is essential to analyze our current approach for deterring and detecting illegal drug abuse in the maritime industry.

Since 2001 MIS data indicates that the positive random testing rate is greater than one percent industry-wide (1.63 percent), the Coast Guard announces that the minimum random drug testing rate is set at 50 percent of covered employees for the period of January 1, 2003 through December 31, 2003 in accordance with 46 CFR 16.230(e). Each year we will publish a notice reporting the results of the previous calendar year's MIS data, and the minimum annual percentage rate for random drug testing for the next calendar year.

Dated: December 13, 2002.

**L.L. Hereth,**

*Acting Assistant Commandant for Marine Safety, Security and Environmental Protection.*

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