

## 9211. Issuance of Complaint

## (a) Complaint

(1) If the Department of Enforcement believes that any NASD member or associated person is violating or has violated any rule, regulation, or statutory provision, including the federal securities laws and the regulations thereunder, which the Association has jurisdiction to enforce, the Department of Enforcement may request authorization from the Office of Disciplinary Affairs to issue a complaint.

(2) the NASD Regulation Board and the NASD Board each shall have the authority to direct the Office of Disciplinary Affairs [Department of Enforcement] to authorize and the Department of Enforcement to issue a complaint when, on the basis of information and belief, either of such boards is of the opinion that any NASD member or associated person is violating or has violated any rule, regulation, or statutory provision, including the federal securities laws and the regulations thereunder, which the Association has jurisdiction to enforce.

## (b) No change.

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## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDR included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it receive on the proposed rule change. The text of these statements may be examined at the place specified in Item IV below. NASDR has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

Currently, the Case Authorization Unit ("CAU"), located in the Department of Enforcement ("Enforcement") of NASDR, authorized all disciplinary actions. The Office of Disciplinary Policy ("ODP"), which reports to the Office of the President of NASDR, is the primary reviewer of cases developed in the Washington, D.C. office and those involving "quality-of-market" issues. ODP also review and comments on all cases involving policy issues. The NASD is proposing amendment so that the Code of Procedure ("Code") that would provide

for ODP to authorize all disciplinary actions. ODP would be renamed Office of Disciplinary Affairs ("ODA") to reflect its additional role as a case authorizer.

Under the existing structure, CAU and ODP have coordinated efforts, minimized areas of potential duplication, and worked well together during the first year of staff authorization of cases. There is, however, an overlap of functions between these two offices. To increase overall operating efficiency and to maintain the consistency and independence of the case authorization function, NASDR proposes to place the functions performed by ODP and CAU in one office. Under the proposed rule changes, all cases would be authorized by ODA, which would review the legal, policy and consistency issues presented by each case.

#### 2. Statutory Basis

NASDR believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>4</sup> which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the proposed rule change is consistent with Sections 15A(b) (7) and (8) of the Act,<sup>5</sup> which mandate that the Association maintain a fair disciplinary process. The proposed rule change would provide for the same review of all Enforcement cases—whether developed in the districts or the Washington office.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

NASDR does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i)

<sup>4</sup> U.S.C. 78o-3(b)(6).

<sup>5</sup> U.S.C. 78o-3 (b)(7), (b)(8).

as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-98-90 and should be submitted by December 29, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 98-33071 Filed 12-11-98; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Fitness Determination of Edelweiss Holdings, Inc.; d/b/a Edelweiss Air d/b/a Rio Grande Air

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Commuter Air Carrier Fitness Determination—Order 98-12-5, Order to Show Cause.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should

<sup>6</sup> 17 CFR 200.30-3(a)(12).

not issue an order finding that Edelweiss Holdings, Inc. d/b/a Edelweiss Air d/b/a Rio Grande Air is fit, willing, and able to conduct scheduled passenger operations as a commuter air carrier.

**DATES:** Persons wishing to file objections should do so no later than December 22, 1998.

**ADDRESSES:** Objections and answers to objections should be filed with the Air Carrier Fitness Division, X-56, Room 6401, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Ms. Janet A. Davis, Air Carrier Fitness Division (X-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9721.

Dated: December 8, 1998.

**Patrick V. Murphy,**

*Deputy Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 98-33037 Filed 12-11-98; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[USCG-1998-4860]

#### Random Drug Testing Rate for Covered Crewmembers

**AGENCY:** Coast Guard, DOT.

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

**SUMMARY:** The Coast Guard has set the 1999 minimum random drug testing rate at 50 percent of covered crewmembers. Based on an evaluation of the 1997 Management Information System (MIS) data collection forms submitted by marine employers, we determined that random drug testing on covered crewmembers for the calendar year 1997 resulted in positive test results 1.59 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 1999.

**DATES:** Effective January 1, 1999 through December 31, 1999.

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice, please contact Lieutenant Jennifer Williams, Project Manager, Office of Investigations and Analysis (G-MOA), U.S. Coast Guard Headquarters, telephone 202-267-0686.

**SUPPLEMENTARY INFORMATION:** Coast Guard regulations in Title 46 Code of Federal Regulations (CFR) § 16.230 require 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 to December 31. Marine employers must submit this data to the Coast Guard in an annual MIS report (Form CG-5573 found in Appendix B of Part 16). Marine employers may either submit their 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 1997 MIS data indicates that the positive random testing rate is greater than one percent industry-wide (1.59 percent), the Coast Guard announces in accordance with 46 CFR 16.230(e), that the minimum random drug testing rate is set at 50 percent of covered employees for the period of January 1, 1999 through December 31, 1999.

MIS reports are due to the United States Coast Guard, Commandant (G-MOA), 2100 Second Street, SW, Washington, DC, 20593-0001, not later than March 15 of each calendar year. 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 7, 1998.

**J.P. High,**

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-98-24]

#### Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions

for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before January 4, 1999.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. \_\_\_\_\_, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-CMTS@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267-3132.

**FOR FURTHER INFORMATION CONTACT:** Brenda Eichelberger (202) 267-7470 or Terry Stubblefield (202) 267-7624, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on December 8, 1998.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

#### Dispositions of Petitions

*Docket No.: 26048.*

*Petitioner:* National Test Pilot School.

*Sections of the FAR Affected:* 14 CFR 91.319(a)(1) and (2).

*Description of Relief Sought/*

*Disposition:* To permit National Test Pilot School to operate aircraft that have experimental certificates to train flight test students who are pilots and flight engineers through the demonstration and practice of flight test techniques and to teach those students flight test