

The current rule and the proposed rule change do not fully address the scope of Drug and Alcohol testing and there is a potential for the rule to be administered differently based on interpretation.

The rule does not describe the scope of testing to be administered within an organization (other than an air carrier where it assumed that any person performing a safety sensitive function will be doing so on an aircraft operated by that air carrier), and what the responsibilities are for an "employer" who is not also an air carrier.

Example: A 145 repair station holding an FAA approved drug and alcohol program employs 100 technicians and inspectors. The repair station is eligible to hold his own FAA approved program because he has a direct contract with an air carrier. The volume of work performed by direct contract for an air carrier is accomplished within a one week time period (the balance of the year the repair station only performs maintenance on Part 91 aircraft). Additionally, 10 technicians and inspectors perform that work. The rule is not clear as to whether the repair station must test its personnel throughout the year (either those 10 technicians and inspectors), or whether the other 90 employees (technicians and inspectors) must also be tested (it is assumed that all 100 personnel, by definition, perform safety sensitive functions throughout the year).

If the intent of the rule (current or proposed) is that all personnel performing a safety sensitive function for a repair station holding an FAA approved program must be tested equally and throughout the year, regardless of the volume of work performed by contract to an air carrier, and regardless of whether a person actually performs a safety sensitive function directly on an air carrier's aircraft, the rule should state this fact.