

**FEDERAL AVIATION ADMINISTRATION
NOTICE OF ENFORCEMENT DISCRETION
FOR RANDOM DRUG AND ALCOHOL TESTING 2020
November 6, 2020**

On March 30, 2020, the Federal Aviation Administration (FAA) published a [guidance](#) document for aviation employers, employees, and service agents to address disruptions to drug and alcohol testing during the national emergency related to COVID-19. The FAA is aware that aviation employers continue to experience operational disruptions affecting random drug and alcohol testing required by [14 CFR Part 120](#) and may be unable to comply with FAA's minimum annual percentage rates due to the ongoing impact of the COVID-19 public health emergency. The emergency could result in limited availability of testing facilities and collection personnel in some locations throughout the United States. Moreover, workforce fluctuations resulting from the effects of the emergency have made it challenging for some employers to manage random testing in a manner that will ensure minimum annual drug and alcohol rates are met in accordance with the regulations.

Aviation employers must continue to conduct random testing and make every effort to meet the required minimum annual testing rates of 25 percent for drugs under [14 CFR § 120.109\(b\)](#) and 10 percent for alcohol under [14 CFR § 120.217\(c\)](#) during calendar year 2020. If, due to disruptions caused by the COVID-19 public health emergency, you are unable to perform random tests during the current testing cycle, you should make all reasonable efforts to make up the tests by the end of the year in order to achieve the required 25 percent rate for drug testing and 10 percent for alcohol testing. If a test is unable to be completed due to the COVID-19 public health emergency, aviation employers should document the reason (*e.g.*, testing site closures, testing site restrictions impeding efforts to meet random testing requirements, or the unavailability of testing personnel) and their reasonable, good faith attempts to have the test conducted. In addition, employers should document actions taken to identify alternative testing sites or other testing resources. Aviation employers should maintain their documentation with the random testing records for review by an FAA drug and alcohol compliance and enforcement inspector. For more information, please review the [FAA's Random Drug and Alcohol Testing Program Guidance Alert](#) and [Frequently Asked Questions](#).

Similarly, aviation employers that are unable to ensure that the dates for administering random drug and alcohol tests are spread reasonably throughout the calendar year should document the specific reasons why they did not meet this requirement. For example, in addition to the lack of available testing facilities or personnel, there may be an impact due to prolonged or intermittent furloughs because of COVID-19.

The FAA will not suspend the random testing requirements or exempt aviation employers from compliance. However, the FAA may exercise its discretion not to take enforcement action against an employer that was unable to conduct random testing at the minimum annual testing rates for calendar year 2020, provided the employer made reasonable good faith attempts to conduct required testing and the exercise of such discretion is consistent with aviation safety.

This notice creates no individual rights of action and establishes no precedent for future determinations. The contents of this notice do not have the force and effect of law and are not meant to bind the public in any way. This notice is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.