

with responsibility for safety-sensitive functions and who was found by the Administrator to have used alcohol or a controlled substance after October 28, 1991, in violation of law or a Government regulation may not carry out the duties related to air transportation that the individual carried out before the finding of the Administrator if the individual—

- (1) used the alcohol or controlled substance when on duty;
- (2) began or completed a rehabilitation program described in section 45105 of this title before using the alcohol or controlled substance; or
- (3) refuses to begin or complete a rehabilitation program described in section 45105 of this title after a finding by the Administrator under this section.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1222; Pub. L. 107-71, title I, §139(2), Nov. 19, 2001, 115 Stat. 640.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
45103(a) .....	49 App.:1434(b)(1).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §614(b); added Oct. 28, 1991, Pub. L. 102-143, §3(a), 105 Stat. 954.
45103(b) .....	49 App.:1434(b)(2).	
45103(c) .....	49 App.:1434(b)(3).	

In subsection (b), the words “Notwithstanding subsection (a) of this section” are added for clarity.

#### Editorial Notes

##### AMENDMENTS

2001—Pub. L. 107-71 substituted “screening employee” for “screening contract employee” wherever appearing.

#### § 45104. Testing and laboratory requirements

In carrying out section 45102 of this title, the Administrator of the Federal Aviation Administration shall develop requirements that—

- (1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;
- (2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this chapter, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this chapter;

(3) require that a laboratory involved in controlled substances testing under this chapter have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a United States Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual’s confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this chapter; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1222.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
45104 .....	49 App.:1434(d).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §614(d); added Oct. 28, 1991, Pub. L. 102-143, §3(a), 105 Stat. 955.

In this section, the word “samples” is omitted as surplus.

In clause (2), before subclause (A), the word “subsequent” is omitted as surplus.

In clause (3), the words “of any individual” are omitted as surplus.

In clause (4), the words “by any individual” are omitted as surplus.

In clause (5), the word “tested” is substituted for “assayed” for consistency. The words “2d confirmation test” are substituted for “independent test” for clarity and consistency.

In clause (6), the word “Secretary” is substituted for “Department” for consistency in the revised title and with other titles of the United States Code.

#### § 45105. Rehabilitation

(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS.—The Administrator