

**TITLE 51 - NATIONAL AND COMMERCIAL SPACE PROGRAMS****Subtitle III - Administrative Provisions****CHAPTER 311 - SAFETY****§ 31102. Drug and alcohol testing**

(a) **Definition of Controlled Substance.**— In this section, the term “controlled substance” means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802 (6)) specified by the Administrator.

(b) **Testing Program.**—

(1) **Employees of administration.**— The Administrator shall establish a program applicable to employees of the Administration whose duties include responsibility for safety-sensitive, security, or national security functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, security, and national security, for the conduct of periodic recurring testing of such employees for such use in violation of applicable law or Federal regulation.

(2) **Employees of contractors.**— The Administrator shall, in the interest of safety, security, and national security, prescribe regulations. Such regulations shall establish a program that requires Administration contractors to conduct preemployment, reasonable suspicion, random, and post-accident testing of contractor employees responsible for safety-sensitive, security, or national security functions (as determined by the Administrator) for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, security, and national security, for the conduct of periodic recurring testing of such employees for such use in violation of applicable law or Federal regulation.

(3) **Suspension, disqualification, or dismissal.**— In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension, disqualification, or dismissal of any employee to which paragraph (1) or (2) applies, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such employee has used, in violation of applicable law or Federal regulation, alcohol or a controlled substance.

(c) **Prohibition on Service.**—

(1) **Prohibition unless program of rehabilitation completed.**— No individual who is determined by the Administrator under this section to have used, in violation of applicable law or Federal regulation, alcohol or a controlled substance after December 9, 1991, shall serve as an Administration employee with responsibility for safety-sensitive, security, or national security functions (as determined by the Administrator), or as an Administration contractor employee with such responsibility, unless such individual has completed a program of rehabilitation described in subsection (d).

(2) **Unconditional prohibition.**— Any such individual determined by the Administrator under this section to have used, in violation of applicable law or Federal regulation, alcohol or a controlled substance after December 9, 1991, shall not be permitted to perform the duties that the individual performed prior to the date of the determination, if the individual—

- (A) engaged in such use while on duty;
- (B) prior to such use had undertaken or completed a rehabilitation program described in subsection (d);
- (C) following such determination refuses to undertake such a rehabilitation program; or
- (D) following such determination fails to complete such a rehabilitation program.

**(d) Program for Rehabilitation.—**

**(1) Regulations and availability of program for contractor employees.—** The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (b) in need of assistance in resolving problems with the use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. Each contractor is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (b)(2). The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any Administration contractor from establishing a program under this subsection in cooperation with any other such contractor.

**(2) Establishment and maintenance of program for administration employees.—** The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Administration whose duties include responsibility for safety-sensitive, security, or national security functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

**(e) Procedures for Testing.—** In establishing the programs required under subsection (b), the Administrator shall develop requirements which shall—

**(1)** promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

**(2)** with respect to 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 subsequent amendments thereto, including mandatory guidelines which—

**(A)** establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

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

**(C)** establish 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 section;

**(3)** require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

**(4)** provide that all tests which indicate the use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

**(5)** provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the initial 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 as may be necessary and in consultation with the Department of Health and Human Services;

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

- (7) provide for the confidentiality of test results and medical information of employees; 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.

**(f) Effect on Other Laws and Regulations.—**

**(1) Consistency with federal regulation.—** No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section.

**(2) Continuance of regulations issued before december 9, 1991.—** Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before December 9, 1991, that govern the use of alcohol and controlled substances by Administration employees with responsibility for safety-sensitive, security, and national security functions (as determined by the Administrator), or by Administration contractor employees with such responsibility.

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3374.)

**Historical and Revision Notes**

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
31102(a)	42 U.S.C. 2473c(h).	Pub. L. 102–195, § 21(c)–(h), Dec. 9, 1991, 105 Stat. 1616.
31102(b)	42 U.S.C. 2473c(c).	
31102(c)	42 U.S.C. 2473c(d).	
31102(d)	42 U.S.C. 2473c(e).	
31102(e)	42 U.S.C. 2473c(f).	
31102(f)		
42 U.S.C. 2473c(g).		

In subsection (b)(2), the words “within 18 months after the date of enactment of this Act” are omitted as obsolete.

In paragraphs (1) and (2) of subsection (c), and in subsection (f)(2), the date “December 9, 1991” is substituted for “the date of enactment of this Act” to reflect the date of enactment of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992 (Public Law 102–195, 105 Stat. 1605).

**Findings**

Pub. L. 102–195, § 21(b), Dec. 9, 1991, 105 Stat. 1616, provided that: “The Congress finds that—

- “(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;
- “(2) the success of the United States civil space program is contingent upon the safe and successful development and deployment of the many varied components of that program;
- “(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the positions affecting safety, security, and national security;
- “(4) the use of alcohol and illegal drugs has been demonstrated to adversely affect the performance of individuals, and has been proven to have been a critical factor in accidents in the workplace;

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“(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

“(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual’s right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual’s reputation or career development is unduly threatened or harmed; and

“(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.”