



MEMORANDUM

To: All CDOT Employees

From: Herman Stockinger / Darrell Lingk

Re: Updated Procedural Directive 81.1 “Drug and Alcohol Testing”

Date: February 4, 2015

1. Name of Procedural Directive: 81.1 “Drug and Alcohol Testing”
2. Date of PD this Directive Supersedes: 8.28.14
3. Executive Summary: This Procedural Directive was updated on August 28, 2014. The following clarifications have been made to the August 28, 2014 draft.
 - Post accident testing for safety-sensitive employees. See pages 7, 8 and 9. This section has been revised to track the precise language of the federal regulations.
 - When an Appointing Authority refers an employee to contact a Substance Abuse Professional (SAP) for drug or alcohol counseling, the Employee must do so within ten days. This applies to both safety-sensitive and non-safety-sensitive Employees. See page 7.
 - In the case where an Employee is sent for a Controlled Substance test but can't produce (this applies to both urine samples and breath tests), the clinic where the Employee is brought will conduct a test, and the federal regulations are very specific on the procedure it must follow. The added language on page 4 clarifies that the Employee's supervisor should contact the Drug and Alcohol Program Manager so that he can instruct on the next step to take. If the Drug and Alcohol Program Manager is unavailable, the supervisor should contact the Director of Transportation Safety or the Statewide Safety Manager. It also provides a new Appendix with contact information.
 - A minor change was made to what CDOT Human Resources may request of a job candidates' prior employer. See page 5, section 1, under (a)(4)



- Under General Provisions, the CDOT employee is instructed to contact the Drug and Alcohol Program Manager with questions, as provided in Appendix C. See page 4.

This Procedural Directive follows the Governor’s guidance to all agencies regarding how marijuana should be treated (legal under state law, considered a Controlled Substance under federal law and illegal). The following summarizes the significant points:

- Employees may not report to work impaired or while at work be impaired by alcohol or any controlled substance including marijuana;
- All Appointing Authorities, designees and direct reports must be trained in the reasonable suspicion process;
- Appointing Authorities retain the discretion to determine the appropriate course of personnel action.
- The directive clearly sets forth which tests (pre-employment, reasonable suspicion, post-accident, random drug) applies to safety-sensitive and non-safety-sensitive employees;
- The definition of “safety-sensitive” employee is limited to the possession of a CDL license, except for DTR employees who are under Federal Transit Authority regulations; these regulations contain a broader definition;
- Does not require the presence of a second trained supervisor for a reasonable suspicion evaluation, but recommends it if possible.
- CDOT’s encouraging employees to self-disclose is integrated into this directive (prior 81.3); and
- The directive eliminated unnecessary language on the testing process because it is stated in federal regulations or readily available from the testing facility and substance abuse professionals.

4. Persons to Contact with Questions: CDOT’s Drug and Alcohol Coordinator Elbert Hunt 7-9420

5. Procedural Directive will be Implemented by: Office of Transportation Safety and Division of Transit and Rail (for CDOT employees governed by FTA regulations)

6. Effective Date: February 9, 2015



COLORADO DEPARTMENT OF TRANSPORTATION		<input type="checkbox"/> POLICY DIRECTIVE <input checked="" type="checkbox"/> PROCEDURAL DIRECTIVE	
Subject CDOT's Drug and Alcohol Testing			81.1
Effective 2.9.15	Supersedes 82.0: 5.23.13 82.1: 5.23.13 81.0: 6.19.03	81.1: 8.28.14 81.2: 4.01.04 81.3: 4.01.04	Originating Office Office of Transportation Safety (OTS) (Re: DOT requirements) and Division of Transit and Rail (Re: FTA requirements)

I. PURPOSE

The Colorado Department of Transportation (“CDOT”) seeks to maintain a safe, healthy, efficient work environment for its Employees, volunteers and the public. Employees who are impaired by alcohol and/or drugs during working hours may cause disruption in the workplace and pose safety and health risks not only to themselves, but to others. In order to ensure the safety of all employees, volunteers, and the public, use of alcohol, other drugs or Controlled Substances that adversely impacts the Employee and volunteer’s ability to perform his or her job will not be tolerated. It is CDOT’s intent to balance our respect for individuals with the need to maintain an alcohol and drug free environment by complying with the provisions of the Drug-Free Workplace Acts of 1988 and 1998.

II. AUTHORITY

Federal Authority

Federal Drug-Free Workplace Act of 1988 and 1998, as amended, and Implementing Regulations, 41 U.S.C. § 8101, *et seq.*

Omnibus Transportation Employee Testing Act of 1991, (FOTETA), 49 U.S.C. 5331, as amended, and Implementing Regulations

The Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C § 801, *et seq.*, including the Federal Controlled Substances Act of 1970, as amended, and Implementing Regulations

42 U.S.C. § 12114, Illegal Use of Drugs and Alcohol

49 C.F.R. Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs

49 C.F.R. Part 382, Controlled Substances and Alcohol Use and Testing

49 C.F.R. Part 655 “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations”

Subject Procedures for Drug and Alcohol Testing	Number 81.1
---	-----------------------

State Authority

CDOT Executive Director pursuant to § 43-1-105, C.R.S.

Executive Order D0002 91 Regarding Substance Abuse Policy for Colorado State Employees

State of Colorado Constitution, Article XVIII – Section 14 (10) (b)

State of Colorado Constitution, Article XVIII – Section 16 (6) (a)

§ 42-4-1301, C.R.S.

Colorado Revised Statutes Title 18, Article 18, Part 2, Schedules I-V

State Personnel Board Rules and Personnel Director’s Administrative Procedures 4 CCR 801.

Department of Public Safety, Minimum Standards for the Operation of Commercial Vehicles, 8 CCR 1507-1.

III. APPLICABILITY

This Procedural Directive applies to all CDOT Employees. Employees who are designated as “safety sensitive” must adhere to all related federal and state laws, regulations and policies as well as CDOT policies and procedures. All CDOT employees are subject to the provisions of this Procedural Directive, and in addition, CDOT employees in the Division of Transit and Rail must also be familiar with and adhere to the Federal Transit Administration requirements in section V. D.

IV. DEFINITIONS

“Appointing Authority” refers to the status of a CDOT employee as defined under Colorado Constitution art. XII, Sec. 13 (7) and may also include his/her Designee.

“CDOT Property” means land, buildings, vehicles or other assets owned, leased, borrowed, or otherwise used by CDOT.

“Controlled Substance” means any drug or substance listed in the Federal Controlled Substances Act.

“Employee” means any individual who is an employee or volunteer who conducts business for CDOT, is representing CDOT, or is conducting business in or on CDOT property.

“Impairment” may be present when an Employee’s behavior or condition adversely affects job performance, threatens the safety of her or himself or others or property,

and/or exhibits unprofessional conduct detrimental to the public's perception of state personnel as a result of the use of alcohol, Controlled Substances or other drugs.

"Safety-Sensitive" means an Employee who holds a CDL license necessary for conducting business on behalf of CDOT. For FTA funded positions, "Safety Sensitive" also includes any Employee engaged in the direction or maintenance of a passenger vehicle. This includes operators of revenue service vehicles, CDL-holding operators of non-revenue service vehicles, vehicle controllers, revenue service vehicle mechanics, firearm-carrying security personnel. See Appendix "C".

"Trained Supervisor" means a CDOT Employee who supervises other CDOT Employees and who has undergone the required Reasonable Suspicion training to act as a Trained Supervisor for purposes of this Directive.

"Work Hours" mean hours during which an Employee is conducting business on behalf of CDOT, representing CDOT, while in or on CDOT property, and while on-call or paid standby for CDOT. For Safety-Sensitive positions "Work Hours" also means the time when an Employee is required to be in readiness to work until the time he/she is relieved from all responsibility for performing work. See 49 CFR § 395.2.

V. PROCEDURE

A. General Requirements

1. Employees are required to report to work unimpaired, and while at work will remain unimpaired by alcohol, Controlled Substances including marijuana, and other drugs including prescription and non-prescription medications.
2. It is a violation of this Directive for an Employee to use, possess, manufacture, sell, trade, transfer, and/or offer for sale alcohol or any drug covered under the Federal Controlled Substances Act, including marijuana, while on work hours except as stated in paragraph 3, below. Any drug covered under the Federal Controlled Substances Act, including marijuana, and drug paraphernalia, is prohibited on CDOT property except as stated in paragraph 3, below.
3. Use and possession of prescription drugs is not prohibited when possessed by the individual to whom it is prescribed and when used in the stated dosage, according to labeling, and a physician's prescription. The sale, trade, transfer, and/or offer for sale of any prescription drug is prohibited on CDOT property and during work hours. Marijuana, including medical marijuana, is not a prescribed drug. Over-the-counter drugs are not prohibited when used at the stated dosage according to labeling.
4. Violations of this Directive may be cause for management/supervisor intervention that may result in a referral to mandatory treatment and/or corrective or disciplinary action up to and including termination.

5. It is the responsibility of all management and supervisory personnel to implement and enforce this Directive and ensure compliance by Employees.
6. CDOT will comply with the model collection and drug testing standards issued by the U.S. Department of Health and Human Services.
7. Immediately contact the CDOT Drug and Alcohol Program Manager in the Office of Transportation Safety when there is a question related to testing or training procedures, and if problems are encountered in the testing process. See Appendix "C" for contact information. If unable to reach the Program Manager, contact the Director of Transportation Safety and Risk Management and as a final option the Statewide Safety Manager.

B. Applicable Testing

1. The following chart provides an overview of the testing pertaining to different stages of the testing process.

Type of Testing	Non-Safety Sensitive Employees	Safety Sensitive Employees
Pre-Employment (Drug)		✓
Reasonable Suspicion	✓	✓
Post-Accident		✓
Random Alcohol/Drug		✓
Return-to-Duty	✓	✓
Follow-Up	✓	✓

2. When directed to participate in a controlled substance test, the Employee must provide the appropriate sample. When an Employee cannot meet this requirement, the responsible supervisor should contact the CDOT Drug and Alcohol Program Manager in the Office of Transportation Safety as soon as possible to be advised of the next required steps in the process. If unable to reach the Program Manager, the responsible supervisor should call the Director of Transportation Safety and Risk Management and then the Statewide Safety Manager. When contacting any or all of the above individuals, detailed messages should be left on voice mail if the individual is not available. See Appendix "C" for contact information.

1. Pre-Employment (Drug). Safety-Sensitive candidates for employment with CDOT shall be subject to pre-employment testing and may not be approved for employment if they test positive or refuse to test. See CDOT Form 1200, "Pre-Employment Physical/DOT Physical/ All Drug and Alcohol Testing."

a) The candidate must provide written consent to CDOT to contact the candidate's previous employer(s) so that they may provide CDOT with:

(1) Alcohol test results with a concentration of .04 or greater;

(2) Positive controlled substance(s) test results;

(3) Refusals to submit to a required alcohol or controlled substance(s) test; and

(4) Information that the candidate participated in a Return-to-Duty Program in accordance with 49 CFR part 40.

2. Reasonable Suspicion

a) All Employees are subject to reasonable suspicion testing. Reasonable suspicion testing is designed to provide management with a tool to identify Employees who may use alcohol, Controlled Substances, or other drugs including prescription and non-prescription medications that result in Impairment on the job.

(1) Reasonable suspicion testing for alcohol should be performed within 2 hours of the reasonable suspicion determination whenever possible, but must be performed within 8 hours following the reasonable suspicion determination.

(2) When alcohol testing is not administered within 2 hours following the reasonable suspicion determination, written documentation must be provided stating the reason for the test delay. When alcohol testing is not performed by the 8 hour time limit, attempts to administer the test shall cease and a written record shall be prepared and maintained by the supervisor indicating why the test could not be performed.

b) Employees have a duty to inform a supervisor or Appointing Authority if he or she observes an Employee who appears impaired on the job.

c) If an Employee who first observes behavior that appears to be indicative of Impairment is not a Trained Supervisor, a Trained Supervisor must be contacted to conduct the reasonable suspicion screening process.

d) When a Trained Supervisor observes that reasonable suspicion may exist to suggest that an Employee is impaired on the job, he or she may request the

presence of a second Trained Supervisor. A second Trained Supervisor is recommended but not required during the reasonable suspicion screening process.

e) Training coordinators in the regions and headquarters have access to their respective training records which is located in SAP in the ZH40 Report. Enter Object ID 50000940. This pulls up the names, the positions, the organizations, and the dates of individuals trained in reasonable suspicion and the date training was completed. The Drug and Alcohol Coordinator can act as a resource if needed to locate CDOT employees trained in reasonable suspicion.

f) Trained Supervisors must:

(1) Meet all training and record keeping requirements of this Procedural Directive.

(2) Complete the Reasonable Suspicion checklist, CDOT Form 946a.

(3) Upon completing Form 946a, contact the Appointing Authority for a reasonable suspicion determination and to get authorization to send the Employee for drug and/or alcohol testing.

g) The Appointing Authority is encouraged to meet with the Employee, either in person or on the telephone to inform him or her of the reason for sending the Employee for testing, and allow the Employee an opportunity to explain the circumstances surrounding the behavior underlying the reasonable suspicion.

h) All Employees shall be temporarily removed from the performance of their duties on the day of the test. The following day, Employees are required to report for regularly scheduled duty and the Appointing Authority will re-evaluate whether the Employee should resume regular duties.

i) The Appointing Authority or designee must arrange for safe transportation of the Employee to and from the testing site. The individual who transports the Employee must remain with him or her until the completion of the testing and the Employee is safely transported back to work or home following testing.

j) The CDOT Drug and Alcohol Coordinator receives the test results along with the Region DER (Designated Employee Representative).

k) If the test result is negative, the Employee may return to normal duty and no further action is required.

l) If the test result is positive, the Appointing Authority must determine the appropriate course of personnel action. The Appointing Authority is encouraged to consult with Employee Relations / Legal Office during this phase of the process.

Subject Procedures for Drug and Alcohol Testing	Number 81.1
---	-----------------------

m) If the Appointing Authority does not take personnel action that results in the Employee's separation from employment, then the following applies:

- (1) If the Employee is Safety-Sensitive, the Appointing Authority must refer the Employee to Drug or Alcohol Counseling with a qualified Substance Abuse Professional ("SAP");
- (2) If the Employee is non-Safety-Sensitive, the Appointing Authority may refer the Employee to Drug or Alcohol Counseling with a qualified SAP.

n) The Employee who is referred to Drug or Alcohol Counseling must contact the SAP Referral Service to find a SAP to provide the counseling. The Employee has ten working days to contact and make an appointment with the (SAP), and inform the Appointing Authority or designee of the scheduled appointment, and name, address, and phone number of SAP.

o) The Employee must successfully complete the Drug or Alcohol Counseling including but not limited to any follow-up or return-to-duty testing prescribed by the SAP and/or Appointing Authority.

3. Post-Accident

a) Safety Sensitive Employees who drive a state vehicle are subject to post accident testing. Safety sensitive Employees are subject to immediate drug or alcohol testing following any accident that meets one or more of the following.

b) The Safety Sensitive Employee must be tested for **alcohol** if he or she:

(1) Was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Receives a citation within 8 hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

c) A Safety Sensitive Employee shall be tested for **Controlled Substances** for if the Safety Sensitive Employee:

(1) Was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Who receives a citation within thirty-two hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

d) The following table notes when a post-accident test is required to be conducted by paragraphs (a), (b) and (c) above:

Type of Accident Involved	Citation Issued to the Safety Sensitive Employee	Test Must be Performed
Human fatality	YES	YES
	NO	YES
Bodily Injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

e) A Safety sensitive Employee who is involved in an accident must immediately report the accident to the Appointing Authority. The Appointing Authority will:

- (1) Consult with law enforcement and/or arrive at the scene of the accident to determine if testing should be completed;
 - (2) Transport or arrange for transport of the Employee to the appropriate collection site.
- f) A Safety-sensitive Employee who is involved in an accident must refrain from consuming alcohol until after he/she submits to an alcohol test or for 8 hours following the accident or, whichever occurs first.
- g) If an alcohol test could not be administered within 2 hours of the accident, the supervisor must prepare and maintain a record stating the reason a test was not promptly administered.
- h) If an alcohol test could not be administered within 8 hours, efforts to administer the test must cease and the supervisor must prepare and maintain a record stating the reason a test was not promptly administered. Records shall be submitted to the FMCSA upon request.
- i) If a required drug test could not be administered within 32 hours, the supervisor shall cease attempts to administer a controlled substances test, and must prepare and maintain a record stating the reason a test was not promptly administered. Records shall be submitted to the FMCSA upon request.
- j) CDOT may substitute a test administered by law enforcement officials under separate authority.
- k) A Safety Sensitive Employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing.
- l) As stated above, when directed to participate in a controlled substance test, the Employee must provide the appropriate sample. When an Employee cannot meet this requirement, the responsible supervisor should contact the CDOT Drug and Alcohol Program Manager in the Office of Transportation Safety as soon as possible to be advised of the next required steps in the process. If unable to reach the Program Manager, the responsible supervisor should call the Director of Transportation Safety and Risk Management and then the Statewide Safety Manager. When contacting any or all of the above individuals, detailed messages should be left on voice mail if the individual is not available. See Appendix "C" for contact information.
- m) Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a Safety Sensitive Employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary

Subject Procedures for Drug and Alcohol Testing	Number 81.1
---	-----------------------

emergency medical care.

4. Random Testing. Employees who are designated as “Safety Sensitive” due to a CDL license or under FTA regulations are subject to random drug testing following CDOT procedures as implemented in accordance with applicable Federal laws, policies and regulations.

5. Positive Test Results

a) “Positive Alcohol Test” means the result of a test that is administered by a breath alcohol technician (“BAT”) or other SAP in which an Employee’s breath or blood sample tests 0.02 BAC (Blood Alcohol Content) or greater.

b) “Positive Drug Test” means a test in which a drug or metabolite has been confirmed to be over the cutoff limits by the testing facility and verified by the Medical Review Officer.

c) A Safety-Sensitive Employee may be placed off duty for 24 hours from the time the alcohol test results were rendered if the results are between 0.02 and 0.039 BAC. Safety-sensitive Employees with results of 0.04 BAC or greater shall be removed from performing Safety-Sensitive duties, and be referred to a SAP.

d) In conformance with DOT standards, CDOT will require an HHS-certified laboratory to test on a 5-panel drug test regimen, which will include marijuana (THC), Cocaine, Amphetamines, Opiates, and Phencyclidine (PCP). An Appointing Authority has the discretion, pursuant to reasonable suspicion or post-accident testing procedures, to request additional testing which are not included in the 5-panel drug test regimen.

e) Any Employee who tests positive for alcohol or the metabolites of drugs through breath, blood, or urine may be in violation of this directive and subject to corrective and/or disciplinary action up to and including termination.

f) An Employee who refuses to cooperate in the testing process, or who adulterates, tampers with, or otherwise interferes with accurate testing will be treated as if his/her test returned as a positive test result, making the Employee subject to corrective or disciplinary action up to and including termination.

g) Employees who test positive will be given the opportunity through the Medical Review Officer process to provide a legitimate medical explanation, such as a valid physician’s prescription, for the positive result.

h) The Department shall provide a Safety Sensitive Employee with necessary post-accident information, procedures and instructions, prior to the Employee

Subject Procedures for Drug and Alcohol Testing	Number 81.1
---	-----------------------

operating a state vehicle, so that the Employee will be able to comply with these requirements.

6. Return-to-Duty and Follow-Up.

- a) An Appointing Authority must implement Return-to-Duty agreements for Safety-Sensitive Employees and may implement for non-Safety Sensitive Employees who violate this Directive but are not separated from employment.
- b) An Appointing Authority shall consult with a SAP, which may include C-SEAP, when developing a Return-to-Duty Agreement.
- c) An Employee who violates a Return-to-Duty agreement may be subject to corrective and/or disciplinary action up to and including termination.

C. Education and Training

- 1. All Appointing Authorities, including their Designees, and Employees who are intended to be designated as Trained Supervisors shall receive drug and alcohol training to identify reasonable suspicion. Those who complete the training shall be designated as Trained Supervisors. Supervisors of safety sensitive Employees and any other supervisors who are expected to initiate a reasonable suspicion drug and alcohol testing process must also be trained to identify reasonable suspicion to be used as a Trained Supervisor for purposes of the reasonable suspicion testing process.
- 2. CDOT's Drug and Alcohol Coordinator shall be responsible for overseeing CDOT's training and will comply with all applicable reporting requirements under federal regulations.

D. Federal Transit Administration Requirements Regarding CDOT Employees

- 1. CDOT Employees in the Division of Transit and Rail ("DTR") are subject to all applicable requirements in this Directive. In addition, the following requirements in this part E. apply to Employees who are governed by the requirements of the Federal Transit Administration, pursuant to 41 U.S.C. § 8102.
- 2. As the designated recipient of Federal Transit Administration funds, DTR is responsible for the following:
 - a) Publishing a statement informing Employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specify the disciplinary actions for violations of the statement;
 - b) Establishing a drug-free awareness program to inform Employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The policy of maintaining a drug-free workplace;

- (3) Available drug counseling, rehabilitation, and Employee assistance programs; and
 - (4) The penalties that may be imposed on Employees for drug abuse violations.
 - c) Providing all CDOT Division of Transit and Rail Employees with a copy of the Procedural Directive;
3. DTR shall notify the Employee in the statement required above that as a condition of employment the Employee will:
- a) Abide by the terms of the statement; and
 - b) Notify CDOT of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 calendar days after the conviction;
 - c) Have a sanction imposed upon, or be required to satisfactorily participate in a drug abuse assistance or rehabilitation program if convicted, as required by 41 U.S.C. § 8104; and
 - d) Make a good faith effort to continue to maintain a drug-free workplace through implementation of the requirements set forth herein.
4. Within 30 days after receiving notice from an employee of a conviction pursuant to 41 U.S.C. 8102 (a)(1)(D)(ii) or 8103(a)(1)(D)(ii), the Appointing Authority shall:
- a) Take appropriate personnel action against the Employee, up to and including termination; and/or
 - b) Require the Employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for those purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

E. Voluntary Disclosure of Alcohol Use or Controlled Substance Use Process

1. Employee Self-Disclosure.

- a) CDOT encourages self-disclosure of alcohol use or Controlled Substance Use

as a means of supporting an Employee and maintaining a valued Employee in the workforce. Whenever practicable and with due regard for the safety of the public and CDOT Employees, CDOT encourages the rehabilitation of Employees who voluntarily seek assistance or self-report alcohol and drug abuse problems. It is CDOT's goal that Employees will take responsibility for their own behavior and be encouraged to voluntarily seek professional assistance.

b) An Employee may self-report an alcohol and/or drug problem to the Appointing Authority. In the absence of a documented job performance problem, an Employee in a non-safety-sensitive position who voluntarily admits to drug or alcohol problems should be strongly encouraged to seek assistance through C-SEAP or another SAP for assessment. Self-reporting by an Employee in a Safety-Sensitive position is governed by the conditions below.

c) Self-disclosure will not alleviate alcohol and drug testing requirements as set forth in this Directive, including random testing and post-accident testing.

d) In the context of a voluntary disclosure, CDOT shall pay for all drug and alcohol testing in connection with evaluating the Employee's compliance to this directive. The Employee shall be responsible to pay for any SAP substance dependency assessments and education and treatment programs the SAP may mandate.

2. Appointing Authority Responsibility

a) For all Employees, the Appointing Authority must notify the CDOT Drug and Alcohol Coordinator that the self-disclosure has occurred.

b) An Appointing Authority must immediately remove an Employee from the Safety-Sensitive position.

c) A Safety-Sensitive Employee who voluntarily admits to a drug and/or alcohol problem shall receive a mandatory referral by the Appointing Authority to a SAP and may be subject to return-to-duty testing.

d) For Non-Safety-Sensitive Employees, the Appointing Authority may, within his or her discretion, enter into a Return-to-Duty Agreement with the Employee, which shall be retained by the Coordinator and remain confidential.

e) The Appointing Authority must coordinate a return-to-duty meeting with the Employee and C-SEAP or the SAP and must receive the SAP Return-to-Duty documentation before returning the Employee to duty following self-disclosure-related alcohol or drug treatment.

3. Employee Responsibility

Subject Procedures for Drug and Alcohol Testing	Number 81.1
---	-----------------------

- a) The Employee may voluntarily disclose alcohol or Controlled Substance use to a supervisor prior to the start of their work shift or during off-duty hours and before being notified of a required test or reasonable suspicion testing.
- b) Upon voluntary disclosure, the Employee must comply with all educational and treatment programs recommended by a SAP or other qualified person.
- c) If the Employee fails to comply with the provisions of the Return-to-Duty Agreement, management/supervision intervention may result in referral to further treatment and/or corrective or disciplinary action up to and including termination.
- d) CDOT shall pay for all drug and alcohol testing in connection with evaluating the Employee's compliance to this directive. The Employee shall be responsible to pay for any SAP substance dependency assessments and education and treatment programs the SAP may mandate.

F. Confidentiality

1. CDOT respects the privacy of all Employees. Therefore, reasonable precautions will be taken to ensure the privacy and confidentiality of an Employee throughout the testing process and to make certain that procedures are administered fairly, consistently, and in accordance with CDOT's directives. Access to this information is limited to those who have a legitimate "need to know" in compliance with relevant laws and directives. All alcohol and drug testing information will be maintained in confidential records separate from official personnel files.
2. The Drug and Alcohol Coordinator will maintain test results data. Region DERs maintain negative test records for a period of one year and positive test records for a period of five years.
3. CDOT is prohibited from releasing individual test results, or medical information about an Employee to third parties without the Employee or his or her legal representative's written consent, or as required by applicable law.

VI. DOCUMENTS REFERENCED IN THIS PROCEDURAL DIRECTIVE AND OTHER RESOURCES

Appendix "A" Reasonable Suspicion Guidance

Appendix "B" Requirements Applicable to Safety-Sensitive Positions

CDOT Form 946a (available on the CDOT Forms Library)

CDOT Form 1200, "Pre-Employment Physical/DOT Physical/ All Drug and Alcohol Testing"

DOT Guidance: <http://www.dot.gov/odapc/documents> and
<http://www.dot.gov/sites/dot.gov/files/docs/ODAPC%20EmployeeHandbook%20En.pdf>

FTA Guidance: http://www.fta.dot.gov/13057_6124.html

VII. IMPLEMENTATION PLAN

- A. This Procedural Directive shall be effective upon signature.
- B. This Procedural Directive shall be implemented by the Office of Transportation and Safety regarding DOT requirements, and the Division of Transit and Rail regarding FTA requirements. The Office of Transportation Safety and the Division of Transit and Rail will provide all applicable Employees with a copy of this Procedural Directive.
- C. All Appointing Authorities, designees and direct reports must be trained in the reasonable suspicion process within ninety days of the effective date of this Directive.

VII. REVIEW DATE

This Directive shall be reviewed on or before August 2019.



Executive Director

2-9-15

Date of Approval

Appendix "A"

Reasonable Suspicion Guidance

In making a determination of reasonable suspicion, the factors to be considered may include, but are not limited to, the following:

- Personal observation of specific, current, and articulable observations based on the behavior, odor, appearance and speech ("BOAS") behavioral indicators of drug or alcohol use, physical withdrawal symptoms, and may include potential job performance issues;
- Occurrence of a serious or potentially serious work-related accident that may have been caused by human error or flagrant violations of safety, security or other operating procedures;
- Evidence of prohibited substance use, including possession, sale, delivery while on duty and/or possession of drug paraphernalia;
- Fighting (physical contact) and assaults, or erratic, aggressive or violent behavior;
- Arrest or conviction for a drug-related offense, or the identification of an Employee as the focus of a criminal investigation into illegal drug use or trafficking;
- Past admissions or statements made by the Employee;
- Information provided either by a reliable and credible source, independently corroborated or having corroborative evidence from a manager or supervisor with training and experience in identifying signs and symptoms of alcohol or drug impairment.

Subject Procedures for Drug and Alcohol Testing	Number 81.1
---	-----------------------

Appendix “B”

Requirements Applicable to Safety-Sensitive Positions

This table lists the types of Safety-Sensitive duties subject to DOT drug and alcohol testing relevant to CDOT under FMCSA and FTA:

Transportation Industry	Safety-Sensitive Duties
Commercial Motor Carriers (FMCSA)	Commercial Drivers’ License (CDL) holders who operate a Commercial Motor Vehicle.
Public Transportation (FTA)	Operators of revenue service vehicles, CDL-holding operators of non-revenue service vehicles, vehicle controllers, revenue service vehicle mechanics, firearm-carrying security personnel.

1. Safety-Sensitive Employees:

- A. Must not use or possess alcohol or any illicit drug while assigned to perform Safety-Sensitive functions or actually performing Safety-Sensitive functions.
- B. Must not use alcohol or any illicit drug during the 4 hours before performing Safety-Sensitive functions and 8 hours following an accident or until he/she undergoes a post-accident test, whichever occurs earlier.
- C. Must not report for service, or remain on duty if he/she:
 - Is under the influence or impaired by alcohol;
 - Has a blood alcohol concentration .04 or greater; (with a blood alcohol concentration of .02 to .039, CDOT does not permit the Employee to continue working for 24 hours);
 - Has used any illicit drug.
 - Has used alcohol within four hours of reporting for service or after receiving notice to report.
 - Is using any Controlled Substance unless used pursuant to the instructions of an authorized medical practitioner, and then only if the authorized medical practitioner has advised the Employee that the Controlled Substance will not adversely affect the Employee’s ability to perform the Safety-Sensitive function.
- D. Must not refuse to submit to any test for alcohol or Controlled Substances.

- E. Must not refuse to submit to any test by adulterating or substituting the specimen.
- F. Must inform their supervisor of any medication that is being taken that could interfere with performance of safety-sensitive functions.

For further guidance, see:

<http://www.dot.gov/sites/dot.gov/files/docs/ODAPC%20EmployeeHandbook%20En.pdf>

Subject Procedures for Drug and Alcohol Testing	Number 81.1
---	-----------------------

Appendix “C”

Contact Information for Questions on Drug and Alcohol PD

Current as of 2.3.15

Drug and Alcohol Program Manager: Elbert Hunt office (303) 757-9420 / cell (303) 809-9069

Director of Transportation Safety and Risk Management: Darrell Lingk office (303) 757-9465 / cell 303-257-8486.

Statewide Safety Manager: Steve Gasowski office (303) 757-9463 / cell (303) 515-1655