

# STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION  
Herman Stockinger, Director  
Office of Policy and Government Relations  
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To: Transportation Commission

From: Herman Stockinger / Mark Imhoff

Re: Policy Directive 82.0 “Implementation of FTA Regulations for a Drug and Alcohol Free Workplace.”

Date: May 16, 2013

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Executive Summary: The Department requests that the Transportation Commission approve 82.0 “Implementation of FTA Regulations for a Drug and Alcohol Free Workplace” in order to meet a deadline established by the Federal Transit Authority to include certain language in the Department’s policy regarding a drug and alcohol free workplace.

1. Action Requested: Approval of Procedural Directive 82.0 “Implementation of FTA Regulations for a Drug and Alcohol Free Workplace”

2. Documents Included in this Agenda Submission

- A. Memorandum from Herman Stockinger and Mark Imhoff to the Transportation Commission
- B. Proposed Policy Directive 82.0
- C. Proposed Resolution

3. Date of Document this Policy Directive Supersedes, if Any: none

4. Rationale for this Policy Directive: This Policy Directive was created to address a Federal Transit Authority finding in the State Management Review dated September 4, 2012 that CDOT's Drug and Alcohol Policy was missing certain language required by the federal regulations. This Policy Directive includes all requirements of the FTA regulations. The Department will consolidate and complete a general drug and alcohol policy and procedural directive early in the next fiscal year which will meet with FHWA requirements and include these directives as a section on FTA compliance. Finally, the related directives currently in place do not conflict with these FTA directives.

5. Individuals/Entities Impacted by Policy Directive: All Division of Transit and Rail employees of CDOT, and all Contractors or Grantees funded by the Federal Transit Administration.

6. Fiscal Impact to Implementation: This Policy Directive is not anticipated to have a fiscal impact.

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input checked="" type="checkbox"/> <b>POLICY DIRECTIVE</b> <input type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>	
Subject			Number
<b>Implementation of FTA Regulations for a Drug and Alcohol Free Workplace</b>			<b>82.0</b>
Effective	Supersedes	Originating office	
	<b>N/A</b>	<b>Division of Transit and Rail / Transit Programs Section</b>	

## I. PURPOSE

The Colorado Department of Transportation (“CDOT”) is committed to:

- Maintaining a working environment free of drugs, alcohol and other controlled substances; and
- Complying with federal regulations regarding drug and alcohol testing, education and compliance regarding a drug and alcohol free workplace for contractors and grantees who receive Federal Transit Administration funding from CDOT.

## II. AUTHORITY

41 U.S.C. § 8101, § 8102, § 8103 to § 8106, Drug Free Workplace Act of 1988

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

49 U.S.C. § 5331, Alcohol and Controlled Substances Testing

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

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

49 CFR Part 32 Government Wide Requirements for a Drug-Free Workplace (Grants)

## III. APPLICABILITY

This Policy Directive shall apply to all Division of Transit and Rail employees of CDOT, and all Contractors or Grantees funded by the Federal Transit Administration.

## IV. DEFINITIONS

The definitions set forth in Procedural Directive 82.1 “Procedures for Implementation of FTA Regulations for a Drug- and Alcohol-Free Workplace” are incorporated herein by this reference.

## V. POLICY

- A. The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace.
- B. If convicted of a drug statute violation occurring in the workplace, employees are required to report such to the employer in writing no later than five days after such conviction.
- C. All Division of Transit and Rail CDOT employees and all Contractors and Grantees must abide by the terms of this Policy as a condition of employment and funding.
- D. All Division of Transit and Rail CDOT employees, Contractors and Grantees shall follow applicable federal regulations with regard to drug and alcohol testing. Contractors or Grantees may obtain a copy of the federal regulations from the Manager of the Transit Grants Unit, Division of Transit and Rail, or his designee, or the Director of the Office of Transportation Safety, or his designee, at CDOT Headquarters.
- E. In the event this Policy Directive conflicts with any state or federal law or regulation, the state or federal law shall control. For purposes of construction, all relevant federal laws and regulations are herein incorporated by this reference.
- F. The Manager of the Transit Grants Unit, Division of Transit and Rail, or his designee, shall be the designated person to answer questions from Contractors or Grantees about the requirements under this Policy Directive. For CDOT employees, the Director of the Office of Transportation Safety or his designee shall be the designated person to answer questions.

## **VI. IMPLEMENTATION PLAN**

- A. The Office of Policy and Government Relations shall post this Policy Directive on the intranet webpage within one week of adoption.
- B. The Manager of the Transit Grants Unit shall distribute this Policy Directive to all Division of Transit and Rail employees, contractors and grantees within thirty (30) days of adoption.
- C. The Manager of the Transit Grants Unit and the Office of Procurement and Contract Services will ensure that appropriate language in conformance with federal regulations is contained in all contracts and agreements.
- D. The Manager of the Transit Grants Unit will reference this Policy Directive in its State Management Plan and in any applicable manuals and other guidance.
- E. The Manager of the Transit Grants Unit shall monitor all contractors and grantees for ongoing compliance with this Policy Directive.

## **VII. REVIEW DATE**

This Policy Directive shall be reviewed on or before May 2014.

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**Secretary, Transportation Commission**

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**Date of Approval**

**Resolution # TC-**

**Adoption of Policy Directive 82.0 “Implementation of FTA Regulations for a Drug and Alcohol Free Workplace”**

WHEREAS, pursuant to § 43-1-106(8)(a), C.R.S., the Colorado Transportation Commission is charged with formulating general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state; and

WHEREAS, the Colorado Department of Transportation (“CDOT”) is committed to maintaining a working environment for CDOT Division of Transit and Rail employees, free of drugs, alcohol and other controlled substances; and

WHEREAS, CDOT is also committed to complying with the federal regulations stated in the policy as they pertain to contractors and grantees who receive Federal Transit Administration (“FTA”) funding from CDOT; and

WHEREAS, in response to a finding by the FTA in its State Management Review dated September 12, 2012, CDOT has developed a policy which complies with federal requirements prohibiting unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace; and

WHEREAS, CDOT is developing a comprehensive drug and alcohol policy to be completed prior to May 2014 which will incorporate this Policy Directive 82.0 as well as outline requirements of the Federal Highway Administration; and

WHEREAS, in the interest of meeting the FTA deadline of July 1, 2013, as an interim step towards a comprehensive policy, this Policy Directive 82.0 requires compliance as of the effective date by the Division of Transit and Rail employees as well as contractors and grantees funded by the FTA through CDOT.

NOW THEREFORE BE IT RESOLVED, the Commission herein approves 82.0 “Implementation of FTA Regulations for a Drug and Alcohol Free Workplace.”