

ROW Manual Chapter 3 – Most Significant Updates

ROW Manual Chapter 3 – Most Significant Updates April 2026

Section(s)	Description	Change	Comment
Chapter 3	Entire Chapter	References	References to external and internal citing's have been updated to reflect the latest information. CFR changed to C.F.R. CRS changed to C.R.S.
3.1.6	Just Compensation	Added citing	It is the duty of the state, in the conduct of an inquest by which the compensation is ascertained, to see that it is just, not merely to the individual whose property is taken, but to the public which is to pay for it. <i>Williams v. City & County of Denver</i> , 147 Colo. 195, 363 P.2d (171 (1961) (citing <i>Searl v School District No. 2, Lake County</i> (1890), 133 U.S. 53, 562, 10 S Ct 374, 377, 33 L Ed. 740).
3.1.12	Reasonable Market Value	Updated	Section enhanced to explain there is NO difference in the term Reasonable Market Value and Fair Market Value Footnote added: CDOT's ROW Manual and Forms utilize the term "Fair Market Value." All references to "Fair Market Value" in this ROW Manual and/or CDOT approved forms shall have the same meaning as "Reasonable Market Value."
3.1.16	Definition of Damages	changed to reflect Colorado Jury Instruction 36:4	Updated language to quote directly from CJI 36:4 which is: "Any damages are to be measured by the decrease, if any in the reasonable market value of the residue, that is, the difference between the reasonable market value of the residue, before the property actually taken is acquired and the reasonable market value of the residue after the property actually taken has been acquired. Any damages that may result to the residue from what is expected to be done on land other than the land actually taken from the respondent are not to be considered."
3.18	Conflict of Interest	Updated dollar amounts	Updated the dollar thresholds to comply with the uniform act

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3.1.20	Undivided Basis	Removed references to jurisdictional exception	USPAP Standards Rule 1-4(d) states “(d) When developing an opinion of the value of a leased fee estate or a leasehold estate, an appraiser must analyze the effect on value, if any, of the terms and conditions of the lease(s). CDOT eminent domain appraisal is based on Fee Simple, therefore no JE is necessary
3.1.28	Required Appraisal Documentation and Reporting	Litigation appraisal	Removed references to requirement to confirm sales with the Buyer/Seller. Note: This same change was made throughout Chapter Project Influence – change made to quote page 145 in the yellow book which states:” in valuations for just compensation purposes, once a property is “within the scope” of the government project, all project influence on the property’s market value must be disregarded.”
3.1.30	Required Letter of Information to the Appraiser	Added valuation scoping checklist - & - Added level of confirmation required	Added the valuation scoping checklist to the Brief Description of Problems/Concerns on Each Parcel to Consider and also added level of confirmation of sales required by the ROW manager
3.2	General Appraisal Reporting Information	Inserted serious matter and certain functions information	Reinserted information that was inadvertently removed in a previous update related to appraiser and review appraiser responsibilities. Replace the word reimburse with pay to quote C.R.S. 38.1.121(1). CDOT “will pay the reasonable fee for the appraisal”.
3.2.1	Waiver Valuations	Moved waiver valuation to section 3.3.8	Waiver valuation information specific to appraisers is moved into section 3.3 – Value Concepts and Considerations.
3.2.6	Donation of Property	Rewritten for Clarity	Separated narrative of appraisal for property owner tax credit purpose and value to CDOT for project cost credit.
3.3.3	Temporary Easements	Second legal siting added for valuing TE’s	Added reference to the Fowler Irrevocable Trust 1992-1 vs City of Boulder, the supreme court held that in a temporary taking, the value must be determined based on the fair rental value for the property during the time that the condemning authority possesses the temporary taking.

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3.3.4 3.9.4 3.10.10 3.10.11 3.15.2	Access Control	Access Control is not a property right	Guidance added - property owners access (ingress/egress) on highways is controlled by State's Highway Access Code and is a Police Power and diminution of access is generally not compensable in an eminent domain taking. However if a judge first finds that there is a substantial impairment to the access, the landowner can then introduce evidence regarding the amount of damages. This change was made throughout chapter 3 where access control is referenced.
3.3.7	Mineral Rights	Exclude analysis and value completely	Language updated – removed the statements: For that reason, the appraiser must determine if there is any change in value to the mineral estate due to this loss of access. Unless the mineral estate has a significant value, the change in value to the mineral estate for loss of access to the surface land is usually either zero or a nominal value. The appraiser must use reasonable diligence to ascertain the mineral interests involved with the property being appraised. ..."
3.3.8	Waiver Valuation	Uniform Act changes –	By definition waiver valuations are not appraisals, therefore specific waiver valuation guidance is moved into chapter 4 (section 4.5 Waiver Valuation) of the Right of Way Manual The definition of who is an appraiser in C.R.S. 12-10-602(9)(b)(VI) was updated per new legislation signed into law in August 2025. This change removed the state law cap of \$25,000 for waiver valuations. The new language is now in sync with the federal regulations and now reads: "A right-of-way acquisition agent, an appraiser who is licensed and certified pursuant to this part 6, or any other individual who has sufficient understanding of the local real estate market to be qualified to make a waiver valuation when the agent, appraiser, or other qualified individual is employed by or contracts with a public entity and provides an opinion of value that is not represented as an appraisal and when, for any purpose, the property or portion of property being valued is valued at not more than the

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			specified amount permitted by federal law and 49 C.F.R. 24.102 (c)(2), as amended;
Section(s)	Description	Change	Comment
3.4.3	Outdoor Advertising Sites	Section Rewritten	Section rewritten/restructured to comply with the Colorado Code of Regulations as they apply to Outdoor Advertising State Statutes and terminology
3.5.5	Yard/ Landscaping- Improvements	Modified language	Removed statement “Replacement costs from a nursery based upon caliper, height, or size, are not indicative of contributory value and are not applied. ‘
3.5.10	Irrigation Ditches	Ditch replacement	Additional language added : “(although it is preferred that the ditch owner hire contractors to design and construct their own replacement ditch facilities if designed and built by CDOT the ditch company should be required to approve the plans in writing and signed off on the final construction of the replacement facilities).”
3.7	Plan Revisions	Rewritten for clarity	Section rewritten for clarity.
3.8 3.8.1 3.8.2 3 8 3	Outdoor Advertising Valuation	Section Rewritten	Section rewritten/restructured to comply with Outdoor Advertising State Statutes Advertising Device means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or any other contrivance designed, intended, or used to advertise or inform, for which compensation is directly or indirectly paid or earned in exchange for its erection or existence by any person or entity, and having the capacity of being visible from the travel way of any state highway, except any advertising device on a vehicle using the highway or any advertising device that is part of a comprehensive development. The term “vehicle using the highway” does not include any vehicle parked near said highway for advertising purposes, C.R.S. § 43-1-403(1). For Chapter 3 Outdoor Advertising Valuation purposes - The term “Advertising Device” refers to compensation based advertisement and “Signs” refers to any other advertisement that that is not compensation based.

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3.9	Valuation of CDOT-Owned Real Property	Inserted language	Inserted an introductory paragraph to the section.
3.10.9	Quality Control	Removed obsolete form reference	CDOT does not have an Appraisal Revisions Request, so it has been eliminated from the quality Control list.
3.10.17	Property Owner's Appraisal Report	Section rewritten & cleaned up	Entire section restructured for clarification of reviewer's responsibilities.
3.10.20	Damages	Modified for clarity	Updated language for clarity – "Due to the many elements of damage that may occur, the possibility of discussing an all-inclusive list of potential damage is not possible. " "A statement such as "based on the appraiser's experience or opinion" or "based on realtors surveyed in the area" is insufficient and not acceptable. This is a deficiency in the appraisal and must be returned to the appraiser for correction or in the case of an owner report is cause for the appraisal report receiving a not accepted review conclusion. "
3.10.24	Dwelling Breakout	Modified for clarity	Section modified to clarify the second appraisal report necessary when an impacted residence is not the highest and best use of a property when the residence is occupied and requires relocation.
3.11.1	Appraisal Report Updating	Modified for clarity	Removed reference to "Condemnation Facts Sheet ("yellow sheet") – no longer accurate. Removed references to 'buyer/seller' sale confirmation requirement, per: The Colorado Court of Appeals has recently held that, CRE 803(8) and section 38-1-118 are not in conflict with each other and that section 38-1-118 does not directly prohibit the admission of evidence. CORE Elec. Coop. v. Freund Invs., LLC, 2022 COA 63, ¶ 38, 517 P.3d 697, 705. In this case, the appraiser had verified the sales' prices with the assessor's records and cross-checked the prices with the clerk and recorder records.

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Section(s)	Description	Change	Comment
3.11.2	Pre-Trial Preparation	Modified for clarity	Removed reference to “Condemnation Facts Sheet (“yellow sheet”) – no longer accurate.
3.13.2	General Assignment Conditions for Partial Takes	Modified for clarity	Removed reference to “stock pass” which is no longer applicable.
3.15	Appraisal Report Formats	Inserted exception for residential Total take	Added an exception to the use of the CDOT Total Take format for residential total take acquisitions.
3.15 2 2	Part 1 – Scope of Work	Modified for clarity	#11 – ROW Plans relied on for Valuation Purposes enhanced to include Advance of Plans Exhibits. In Assumptions and Limiting Conditions - A real property appraisal report must clearly, conspicuously, and accurately disclose any extraordinary assumptions, hypothetical conditions, and general assumptions and limiting conditions that may directly affect the appraisal and have an impact on value Removed statement from Real Property Interest Appraised – “Also, because mineral interests are excluded and not acquired, any damages to the remaining mineral estate must be considered.” In Definition of Reasonable Market Value – <i>In determining the market value of the property actually taken, you are not to take into account any increase or decrease in value caused by the project for which the property is being acquired</i> SPECIAL NOTE: ALL CHANGES MUST CARRY FORWARD TO CDOT TEMPLATES/FORMATS