

Permit Requirements

The following table provides possible federal and state permit requirements necessary for the implementation of any of the project alternatives. It is important to note that the necessity for any given permit requirement would be determined at the Tier 2 level of study.

Permit or Requirement for Agency Approval	Applicability	Coordinating Agency
FEDERAL		
Discharge of pollutants to water of the US. Section 402 Permit, Clean Water Act. (33 USC 1251)	The National Pollutant Discharge Elimination System (NPDES) program issues, monitors, and enforces permit for direct discharge of pollutants to the nation's waters. Permit program implements the regulations, limitations, and standards promulgated pursuant to §301, 304, 306, 307, and 308 of the CWA for point source discharge.	US Environmental Protection Agency Colorado Department of Public Health and Environment, Water Quality Division
Management and protection of wetlands. Section 404 Permit, Clean Water Act (40 CFR Parts 230, 33 CFR Parts 320-330 and 40 CFR Part 6, Appendix A)	A section 404 Permit is required when waters of the US including wetlands are affected by the discharge of dredged or fill material into a water of the US.	US Army Corps of Engineers. Omaha District, Denver Regulatory Office Sacramento District
Effects on the aquatic environment Section 404(b)(1), Clean Water Act, (40 CFR Parts 230)	Requirement to identify the least damaging alternative to the aquatic environment. Any discharge permitted must also be within the public interest.	US Army Corps of Engineers. Omaha District, Denver Regulatory Office Sacramento District, Frisco Regulatory Office
Threatened and Endangered Species and their habitat. Section 7 Consultation Endangered Species Act (16 USC 1531 et seq); 50 CFR Part 200, 50 CFR Part 402 Fish and Wildlife Coordination Act (16 USC 661 et seq) 33 CFR Parts 320-330 Migratory Bird Treaty Act of 1918 (16 USC 703-712).	Section 7 consultation in conjunction with Section 404 or 10 permitting is required to assure protection of endangered or threatened species and their critical habitat. The lead agency should request a determination from the USFWS whether there are listed or proposed species or critical habitats present in the study area. A Biological Assessment (BA) will be prepared to examine any possible impacts of a proposed action upon the affected species or critical habitats in the project area. The Migratory Bird Treaty Act implements various treaties and conventions between the U.S. and Canada, Japan, Mexico and the former Soviet Union for the protection of migratory birds. Under the Act, taking, killing or possessing migratory birds is unlawful.	US Fish and Wildlife Service, Colorado Field Office
Actions to protect fish or wildlife. Section 661 Fish and Wildlife Coordination Act (16 USC 661 et seq), 40 CFR 6.302	Consultation is required if alteration of the water resource would occur as a result of the proposed project that would result in impacts on fish and wildlife.	US Fish and Wildlife Service, Colorado Field Office Colorado Division of Wildlife
Disturbance of mine waste within CERCLA operable unit. Section 121 Comprehensive Environmental Response, and Liability Act (42 USC 9601-9657), 40 CFR 300	A MOA between CDOT, EPA CERCLA staff, and CDPHE Solid Waste and CERCLA staff would be prepared to ensure mine waste management is consistent with CERCLA cleanup programs that have taken place in the area.	US Environmental Protection Agency Colorado Department of Public Health and Environment, Solid Waste Unit
Safe use of air space. Federal Aviation Administration, Northwest Mountain Region Planning Guidance 98-19. "Roads in runway protection zone"	A notice to the FAA for the review and approval of activities near the Eagle County Airport will be required to address concerns and effects of the proposed project on the safe and efficient use of navigable air space. Administration Notice of Proposed Construction or Alteration and Hazard Determination (FAA Form 7460-1)	Federal Aviation Administration
Special use permits. US Forest Service	Letter of Consent (LOC) from the USFS for additional easement would be required for obtaining right-of-way on national forest land.	US Forest Service
Protection of archaeological resources. Archeological and Historic Preservation Act. (16 USC 469a-1)	Actions taken to recover and preserve artifacts and archaeological data.	Advisory Council on Historic Properties State Historic Preservation Office
Effects to historic properties. Section 106 Coordination National Historic Preservation Act. (16 USC 470 et seq), 36 CFR Part 800	Section 106 requires that federal agencies take into account the effect of an action or undertaking on historic properties.	Advisory Council on Historic Properties State Historic Preservation Office USFS, Rocky Mountain Region Bureau of Land Management
Section 4(f) Evaluation. US Department of Transportation Act. (23 USC Section 138) 23 CFR 771.135	A Section 4(f) determination will be made when a project encroaches onto public park and recreation lands, wildlife and waterfowl refuges, and historic sites and there is no feasible and prudent alternative to such use.	The Section 4(f) evaluation shall be provided for coordination and comment to the officials having jurisdiction over the Section 4(f) property and to the Department of Interior, and as appropriate to the Department of Agriculture and the Department of Housing and Urban Development. The final decision on applicability of Section 4(f) to a particular property is made by FHWA.

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STATE OF COLORADO		
Disturbance of Mine Waste <i>Colorado recycling guidance.</i>	Historical mine waste material is considered as a solid waste in Colorado if it is disturbed and not reused. CDOT plans to manage this material onsite to the extent possible. CDOT will submit a materials reuse plan to EPA and CDPHE for approval and onsite management.	US Environmental Protection Agency Colorado Department of Public Health and Environment
Division of Wildlife SB40	Aquatic resources, streams, and fishing waters potentially affected by state-funded highway projects are protected under Colorado SB 40 (33-5-101-107, CRS 1973 as amended). The term "fishing waters" is defined as all aquatic and associated riparian ecosystems that support or are capable of supporting viable fish populations (native, introduced, sport, and nongame fish). The application must be completed at least 60 days before the start of construction, is based on final design, and is coordinated with, submitted to, and approved by CDOW's Wildlife Commission. The Wildlife Commission can recommend that project plans be modified to avoid negatively affecting riparian and fishery resources. Recommended avoidance and mitigation measures are based on permanent and temporary impacts on wetlands, stream banks, sensitive species, and Gold Medal fishing waters.	Colorado Division of Wildlife
Point source discharge of water. Colorado Discharge Permit System. Colorado Water Quality Control Act 25-8-101	Any applicant for a federal permit to conduct an operation that may result in any discharge to navigable waters shall provide to the licensing/permitting agency a certificate from the state that the discharge will comply with applicable provisions of CWA §301, 302, 303, 304, 306, and 307.	Colorado Department of Public Health and Environment
NPDES Construction Storm Water Discharge Permit	Construction stormwater permit is required if more than 1 acre of land is disturbed.	Colorado Department of Public Health and Environment, Water Quality Division
Air Quality. Colorado Revised Statute 25-7-112, 1973. 5 Code of Regulations 1001-5, NO 3	Notice of fugitive dust must be given and application made for a fugitive dust permit.	Colorado Department of Public Health and Environment, Air Pollution Control Division
Colorado Revised Statute 34-32-100 et seq. 2 Code of Regulations 4071 Rules 2, 3, and 4.	Limited impact, regular or special mining and reclamation permit for riprap, sand, and gravel for projects.	Colorado Department of Natural Resources, Mine Land Reclamation Division
Permit for explosive material. Colorado Revised Statute, 9-7-101 et seq. 7 Code of Regulations 1101-9	Permit for explosive material.	Colorado Division of Labor, Public Safety Section