

3.27 PERMITS REQUIRED

Transportation projects must comply with a wide range of federal and state environmental laws and regulations, permits, reviews, notifications, consultations, and other approvals. This section summarizes the permits that may be potentially applicable to regulated project activities. It is not an all-inclusive list nor does it include reviews, consultations, and other types of approval that do not involve granting or denial of a permit. The following permits and coordination activities may be required to support the construction of either of the proposed build packages.

What's in Section 3.27?

3.27 Permits Required

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3.27.1 Water Quality/Water Resources

3.27.1.1 COLORADO DISCHARGE PERMIT SYSTEM (CDPS)

A Colorado Discharge Permit System (CDPS) permit is required by State and Federal regulations for stormwater discharged from any construction activity that disturbs at least one acre of land. This discharge permit is required to ensure the quality of stormwater runoff from the construction site. Under CDPS permit stipulations, a site-specific stormwater management plan would be prepared that outlines in detail specific best management practices (BMPs) for inclusion in project plans and implementation in the field. Included in the stormwater management plan are such aspects as BMP locations, turbidity and monitoring requirements, seed mix, concrete wash-out provisions, and other relevant information. Permits would be obtained from Colorado Department of Public Health and Environment (CDPHE's) Water Quality Control Division.

3.27.1.2 SECTION 404 PERMIT

A Section 404 permit, which is issued by the U.S. Army Corps of Engineers (USACE), is required whenever construction projects or maintenance activities require filling that would occur below the ordinary high water line in any body of water considered a water of the U.S. (navigable waters of the U.S. and adjacent wetlands; all tributaries to navigable waters and adjacent wetlands; interstate waters and their tributaries and adjacent wetlands). An individual permit is required if an excess of 0.5 acre or 300 linear feet of waterway are to be filled; a nationwide permit is required where lesser amounts of waterway are to be filled.

This project is being accomplished under a merger agreement with the USACE. The plan is that a Section 404 permit application would be made at the same time as the Final EIS is made available for public review.

1 **3.27.1.3 SECTION 402 PERMIT**

2 A Section 402 permit is required for dewatering of construction areas, if necessary. The
3 following activities would likely require a 402 permit:

- 4 ▶ Construction dewatering operations associated with utility excavation, bridge pier
5 installation, foundation or trench digging, or other subsurface activities
- 6 ▶ If discharge from a point source is expected to occur due to vehicle washing, or from
7 industrial discharges.

8 A 402 certification would be obtained from CDPHE's Water Quality Control Division.

9 **3.27.1.4 SECTION 401 WATER QUALITY CERTIFICATION**

10 A Section 401 Water Quality Certification is required in conjunction with an Individual 404
11 Permit (dredge and fill permit) for any transportation construction project or maintenance
12 activity where work occurs below the ordinary high-water line or adjacent to wetlands. As
13 part of its 401 Certification, Regulation No. 82 states that CDOT is required to notify the
14 CDPHE and the owners and operators of municipal and domestic water treatment intakes
15 or diversions downstream if potential impacts to nearby receiving waters may occur during
16 construction, e.g., when blasting occurs near receiving streams. Unless specified by the
17 Water Quality Control Division of CDPHE, in-stream turbidity monitoring is not typically
18 required. The 401 Certification must be obtained from the Water Quality Control Division of
19 the CDPHE. If a 404 Nationwide or General Permit is issued for the project, a 401
20 Certification is not required.

21 **3.27.1.5 FLOODPLAIN PERMITS**

22 Floodplain permits, including a floodplain development permit, Conditional Letter of Map
23 Revision, and Letter of Map Revision, is required for any floodplain encroachment.

24 **3.27.2 Air Quality**

25 **3.27.2.1 STATIONARY SOURCE PERMITTING AND AIR POLLUTION EMISSIONS**
26 **NOTICE REQUIREMENTS**

27 A stationary source permit and Air Pollution Emissions Notice (APEN) requirements
28 stipulate that a construction permit must be obtained from CDPHE for any and all emissions
29 associated with construction activities, including operations of portable sources. An APEN
30 will be submitted to CDPHE's Air Pollution Control Division if more than 25 acres of land
31 would be impacted and/or project construction would last longer than six months. CDPHE
32 will respond whether or not a permit would be required prior to commencing construction.

33 **3.27.2.2 PORTABLE SOURCE CONSTRUCTION PERMIT**

34 A portable source construction permit would likely need to be obtained from CDPHE for the
35 operation of portable sources (e.g. asphalt plants, generators, rock crushers).

3.27.3 Biological Resources

3.27.3.1 SENATE BILL (SB) 40 CERTIFICATION

Senate Bill (SB) 40 certification would be required by the Colorado Division of Wildlife (CDOW) for the crossing of streams or adjacent stream banks to avoid adverse effects to waterways, stream banks, or associated tributaries. This legislation is designed to protect fishing waters and to recognize the importance of the entire stream ecosystem, including wetland and riparian areas. A SB 40 wildlife certification application would need to be submitted to CDOW 60 days before construction begins.

Based on the Memorandum of Understanding (MOU) signed by CDOW and CDOT in 2004, it was established that all future transportation, construction, and maintenance activities that satisfy the requirements for use of the Programmatic SB 40 Wildlife Certification as described in the Guidelines of the MOU may be taken without written certification from CDOW.

3.27.3.2 PRAIRIE DOG RELOCATION PERMIT

A prairie dog relocation permit, issued by CDOW, will be required for the relocation, transportation, or donation of any prairie dog(s) or colonies that may be affected by project activities. Local permits may also be needed for this activity.

3.27.4 Access

3.27.4.1 STATE ACCESS PERMIT

A state Access Permit, issued by CDOT, would be required for all requests for new or modified access to all state highway roadways. Owners of any existing accesses adversely affected by the project would be notified of the proposed changes.

3.27.4.2 CONSTRUCTION ACCESS PERMIT

Construction access permits would likely be required for temporary access needs outside the project limits.

3.27.5 Other Local Permits

Other local permits would likely be required by cities and counties as needed, such as construction, grading, erosion control, utility, or survey permits either prior to the beginning or during construction phases.

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