

Table of Contents

7.0 PERMITS, REGULATIONS, AND POLICIES 7-1

7.1. PERMITS AND OTHER REGULATORY REQUIREMENTS7-1

7.2. REGULATIONS AND POLICIES7-7

7.2.1. Comprehensive Environmental Laws, Regulations, and Policies7-10

7.2.2 Transportation.....7-11

7.2.3 MOU and MOA7-14

7.2.4 Natural Resources7-25

7.2.5 Cultural/Social/Economic Resources7-36

7.2.6 Hazardous Substances7-49

7.2.7 Rights of Way7-51



This page intentionally left blank.

7.0 Permits, Regulations, and Policies

7.1. PERMITS AND OTHER REGULATORY REQUIREMENTS

During the course of a highway construction project, there are many environmental permits, certifications, approvals, and concurrences that must be obtained before the project can proceed from one phase to the next. Many of these permits and approvals are required by National Environmental Policy Act (NEPA). **Table 7.1** presents a brief overview of the permits that may be required, the project phase when the permit is required, the affected resources, and the potential environmental consequences addressed by permit compliance. Refer to the regulations and additional resources listed in the table for information on obtaining the permits.

Table 7.1 Required Permits, Approvals, Certifications, and Concurrences

Permit, Approval, Certification, or Concurrence: When Required	Coordinating Agency(ies) (See Section 5 for discussion) ^a	Timing	Applicable Project Phase(s)	Potentially Affected Resource(s) ^b	Potential Environmental Consequence(s) Addressed by Compliance	Regulations and Additional Resources
Air Quality Concurrence Letter: required for projects in air quality nonattainment or maintenance areas.	<ul style="list-style-type: none"> Colorado Department of Public Health and the Environment (CDPHE), Air Pollution Control Division (APCD) Federal Highway Administration (FHWA) 	Before final FHWA environmental approvals are required for project.	NEPA document development—must be included in appendix to Environmental Assessment (EA) or Environmental Impact Statement (EIS).	Air (Section 4.1)	Degradation of air quality in nonattainment or maintenance area resulting from construction of the project.	<ul style="list-style-type: none"> Clean Air Act (CAA), Section 176(c) Memoranda of Agreement (MOA) between CDOT and APCD regarding procedures for determining project level conformity (Appendix I) Colorado Department of Transportation (CDOT) Project Development Manual (PDM), Section 2.16
Senate Bill (SB) 40 Clearance: required when a project or maintenance activity may obstruct, damage, diminish, destroy, change, modify, or vary the natural shape and form of any stream or river or its banks, tributaries, or as much riparian area as is expected to contribute to the quality of the general stream habitat. Also applies to lakes.	Colorado Division of Wildlife (CDOW)	Before construction begins.	Construction planning.	Vegetation (Section 4.6) Fish and Wildlife (Section 4.7) Wetlands (Section 4.5)	Habitat degradation caused by altered water body or its course, banks, or riparian area. Habitat degradation caused by altered riparian environment.	<ul style="list-style-type: none"> Colorado SB 40 (CRS 33-5-101) Guidelines for SB 40 Wildlife Certification (Appendix J) 23 CFR Part 771, Environmental Impact and Related Procedures MOA between CDOT and Colorado Department of Natural Resources (CDNR) regarding SB 40 Certification (Appendix I) CDOT PDM, Section 2.12
Section 7 Consultation: required when the project has the potential to affect listed species or modify designated critical habitat.	US Fish and Wildlife Service (USFWS)	During NEPA document development.	NEPA document development—must be included in appendix to EA or EIS.	Threatened and Endangered Species (Section 4.8)	Effects to listed species or modification of critical habitat.	<ul style="list-style-type: none"> 16 USC 1531–1543, Endangered Species Act 42 USC 4321, NEPA [insert link] 23 CFR Part 771, Environmental Impact and Related Procedures 50 CFR Part 402, Interagency Cooperation – Endangered Species Act CDOT PDM, Section 2.13 FHWA Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents
Depredation Permit: required for projects that involve taking, possession, or transport of migratory birds to prevent damage to personal property, agricultural interests, and natural resources, or for health and human safety purposes.		Before implementation of action that would affect migratory birds.	Construction.	Fish and Wildlife (Section 4.7)	To authorize take of migratory birds, including eggs and occupied nests.	
Wetland Finding: required for certain projects that involve construction in wetlands to determine the effect the project will have on their quality.	<ul style="list-style-type: none"> CDOW US Army Corps of Engineers (USACE) USFWS Bureau of Land Management 	Beginning of project development.	NEPA document development—include in Final EIS or EA, depending on size of project. May need amendment at Finding of No Significant Impact	Water Resources (Section 4.3) Wetlands (Section 4.5) Fish and Wildlife (Section 4.7)	Degradation to water quality. Loss or degradation of wetlands. Habitat degradation.	<ul style="list-style-type: none"> Executive Order 11990, Protection of Wetlands 23 CFR Part 777, Mitigation of Environmental Impacts to Privately Owned Wetlands 23 CFR Part 771, Environmental Impact and Related Procedures FHWA Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents

Table 7.1 Required Permits, Approvals, Certifications, and Concurrences

Permit, Approval, Certification, or Concurrence: When Required	Coordinating Agency(ies) (See Section 5 for discussion) ^a	Timing	Applicable Project Phase(s)	Potentially Affected Resource(s) ^b	Potential Environmental Consequence(s) Addressed by Compliance	Regulations and Additional Resources
	(BLM) • FHWA		(FONSI), Record of Decision (ROD), or Reevaluation.	Vegetation (Section 4.6)	Habitat degradation.	<ul style="list-style-type: none"> ▪ CDOT PDM, Section 2.11
Clean Water Act (CWA) Section 404 Permit: required when construction or maintenance projects require discharge of dredged or fill material below the ordinary high-water line in any body of water considered a water of the United States (US).	USACE	Before construction begins.	Construction planning.	Wetlands (Section 4.5) Fish and Wildlife (Section 4.7) Vegetation (Section 4.6)	Loss or degradation of wetlands. Degradation to water quality. Habitat degradation. Habitat degradation.	<ul style="list-style-type: none"> ▪ CRS 25-8-101 through 25-8-105 and 25-8-201 through 25-8-205, Colorado Water Quality Control Act ▪ CDOT Erosion Control and Stormwater Quality Guide ▪ CDOT PDM, Section 2.19 ▪ 23 Code of Federal Regulations (CFR) Part 771, Environmental Impact and Related Procedures ▪ 33 CFR Parts 320-384 USACE– General Regulatory Policies ▪ 33 United States Code (USC) 1251-1376, CWA ▪ FHWA Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents
CWA Section 401 Certification: required for any project or maintenance activity that has obtained an individual Section 404 permit.	CDPHE, WQCD	Four to six months prior to construction.	Construction planning.	Water resources (Section 4.3) Wetlands (Section 4.5) Fish and Wildlife (Section 4.7) Vegetation (Section 4.6)	Degradation of water quality. Loss or degradation of wetlands. Habitat degradation. Habitat degradation.	<ul style="list-style-type: none"> ▪ CRS 25-8-101 through 258-105, Colorado Water Quality Control Act ▪ 23 CFR Part 771, Environmental Impact and Related Procedures ▪ 33 USC 1251-1376, CWA ▪ FHWA Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents ▪ CDOT PDM, Section 2.17
CWA Section 402 Certification: required for projects with construction dewatering operations or if a discharge is expected to occur from mechanical wastewater treatment plants, vehicle washing, or industrial discharges.	CDPHE, Water Quality Control Division (WQCD)	30 days prior to construction. 401 certification is sought at the same time the individual 404 permit application is submitted.	NEPA document development—include discussion of the need for permit in EIS or EA.	Water resources (Section 4.3)	Depletion of groundwater resources and degradation of water quality from discharging dewatering fluids containing sediment into adjacent water bodies.	<ul style="list-style-type: none"> ▪ CRS 25-8-101 through 25-8-105, Colorado Water Quality Control Act ▪ Regulation No. 61 Colorado Discharge Permit System (CDPS) Regulations ▪ FHWA Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents ▪ 23 CFR Part 771, Environmental Impact and Related Procedures ▪ 40 CFR Part 122, CWA – The National Pollutant Discharge Elimination System ▪ 33 USC 1251-1376, CWA ▪ CDOT PDM, Section 2.18
CDPS Construction General Permit: required when a project will disturb one acre or greater of land.	CDPHE, WQCD	Before construction begins.	Construction.	Threatened/endangered species (Section 4.8), Vegetation (Section 4.6), Fish/wildlife (Section 4.7) Geologic resources (Section 4.2)	Habitat degradation caused by concentrated stormwater flows and sediment. Erosion and potentially destabilized formations caused by concentrated stormwater flows.	CRS 25-8-101 through 25-8-105 and 25-8-201 through 25-8-205, Colorado Water Quality Control Act <ul style="list-style-type: none"> ▪ CDOT PDM, Section 2.20 ▪ New National Pollution Discharge Elimination System (NPDES) Procedure for Construction Activities Memo (CDOT

Table 7.1 Required Permits, Approvals, Certifications, and Concurrences

Permit, Approval, Certification, or Concurrence: When Required	Coordinating Agency(ies) (See Section 5 for discussion) ^a	Timing	Applicable Project Phase(s)	Potentially Affected Resource(s) ^b	Potential Environmental Consequence(s) Addressed by Compliance	Regulations and Additional Resources
				Soil (Section 4.2)	Erosion of topsoil and formation of gullies caused by increased stormwater flows from disturbed area.	PDM) CDOT Procedural Directive 704.1 Section 404 Permit Access Process 23 CFR Part 771, Environmental Impact and Related Procedures 23 CFR Part 777, Mitigation of Environmental Impacts to Privately Owned Wetlands 40 CFR Part 122, CWA <ul style="list-style-type: none"> ▪ FHWA Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents ▪ CDOT Erosion Control and Stormwater Quality Guide
				Water resources (Section 4.3)	Water quality degradation caused by stormwater carrying sediment and other pollutants.	
				Floodplains (Section 4.4)	Flooding caused by increased stormwater runoff from disturbed site.	
Section 303 4(f) Evaluation: required for any project that will use land designated a historic site or publicly owned parks, recreational areas, and wildlife and waterfowl refuges.	<ul style="list-style-type: none"> • Department of the Interior (DOI) • State Historic Preservation Officer (SHPO) • FHWA 	Before route location approval is required from FHWA.	Construction planning. NEPA document development.	Land use (Section 4.11)	Restricted land use by public.	<ul style="list-style-type: none"> ▪ 23 CFR Part 771.135, Environmental Impact and Related Procedures – Section 4(f) (49 U.S.C 303) ▪ FHWA Section 4(f) Policy Paper (Revised June 7, 1989) ▪ FHWA Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents ▪ CDOT PDM, Section 2.04
				Fish and Wildlife (Section 4.7)	Habitat degradation.	
Section 6(f) Approval: required when a project must use lands acquired or improved using Land and Water Conservation funds. Where Section 6(f) lands will be used for transportation project construction, replacement lands are required.	<ul style="list-style-type: none"> • DOI, National Park Service (NPS) • FHWA 	As soon as Section 6(f) lands are identified. May require extensive research and coordination with DOI.	NEPA document development—analysis can be included in EIS or EA or as separate document.	Land use (Section 4.11)	Land can no longer be used for purposes for which improvement funds were expended.	<ul style="list-style-type: none"> ▪ 16 USC 4601-4608, Section 6(f) Requirements ▪ CDOT PDMI, Section 2.04 ▪ FHWA Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents
				Water resources (Section 4.3)	Change in land use will adversely affect water conservation.	
Section 106 Consultation: for all projects, CDOT in-house cultural resource staff or contractor conducts archival research and a field survey to document and evaluate all historic properties more than 50 years old.	<ul style="list-style-type: none"> • SHPO • Advisory Council on Historic Preservation (ACHP) • FHWA 	Prior to FHWA approval and funding of construction and maintenance projects.	NEPA document development—include in EA or EIS.	Historic Properties (Section 4.9)	Adverse effects to historic property.	<ul style="list-style-type: none"> ▪ 23 CFR Part 771.135, Environmental Impact and Related Procedures – Section 4(f) (49 U.S.C 303) ▪ 36 CFR Part 60, DOI, National Register of Historic Places ▪ 36 CFR Part 800, Parks, Forests, and Public Property, Protection of Historic and Cultural Properties ▪ CRS 24-80.1 ff, Colorado Register of Historic Places Act ▪ CDOT PDM, Section 2.05 ▪ FHWA Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents
Farmland Protection Clearance: required for projects that need to acquire Right-of-way (ROW) through designated farmland.	Natural Resources Conservation Service (NRCS)	During NEPA document development.	NEPA document development—include in EA or EIS.	Farmlands (Section 4.21)	Conversion of prime or unique farmland to non-agricultural uses.	<ul style="list-style-type: none"> ▪ 7 CFR Part 658, Agriculture – Farmland Protection Policy Act (FPPA) ▪ 23 CFR Part 771, Environmental Impact and Related Procedures ▪ CDOT PDM, Section 2.10 ▪ Farmland Protection Flowchart, Figures 2(a) and 2(b) (CDOT

Table 7.1 Required Permits, Approvals, Certifications, and Concurrences

Permit, Approval, Certification, or Concurrence: When Required	Coordinating Agency(ies) (See Section 5 for discussion) ^a	Timing	Applicable Project Phase(s)	Potentially Affected Resource(s) ^b	Potential Environmental Consequence(s) Addressed by Compliance	Regulations and Additional Resources
						PDM, Section 2.10)
Special Use Permits: required when CDOT or a contractor is required to work outside the ROW or easement area that was previously obtained from other government entities.	<ul style="list-style-type: none"> • State Board of Land Commissioners • BLM • US Forest Service (USFS) • FHWA 	Prior to construction, including environmental clearances, utility relocations, surveying, or related work.	Construction planning.	ROW (Section 4.16)	Encroachment on property for which CDOT has not been granted right of way.	<ul style="list-style-type: none"> ▪ 23 CFR 660A, Special Programs, Forest Highways ▪ CDOT ROW Manual, Chapter 2 ▪ CDOT Survey Manual ▪ Memoranda of Understanding (MOU), USFS and Bureau of Land Management, August–September 1995 ▪ CRS 38-50-101 ff, Survey Plats and Monument Records – General Provisions ▪ CRS 38-51-101 ff, Survey Plats and Monument Records – Minimum Standards for Land Surveys and Plats ▪ CRS 38-52-101 ff, Survey Plats and Monument Records – Colorado Coordinate System ▪ CDOT PDM, Section 6.02
ROW Certification Letter: required when federal aid will be used for project construction.	FHWA	Before project can be advertised for construction.	Construction planning.	ROW (Section 4.16)	Encroachment on property for which CDOT has not been granted right of way.	<ul style="list-style-type: none"> ▪ CFR 23, Part 710.201 through 713.308, ROW issues ▪ CDOT PDM, Section 6.02 ▪ CDOT ROW Manual ▪ Federal-aid Policy Guide ▪ FHWA ROW Project Development Guide
Railroad Agreement: required for projects that involve work on railroad property or railroad crossings. A Public Utilities Commission application is required when projects involve railroad crossings or over/underpasses.	<ul style="list-style-type: none"> • Railroad company • Local agencies • Public Utilities Commission 	Early in planning process, as obtaining clearance may take 12 months.		Railroad (Section 4.18)	Encroachment on property for which CDOT has not been granted right of way.	<ul style="list-style-type: none"> ▪ CFR 23 Part 140I, Reimbursement for Railroad Work; Part 646A Railroad-Highway Insurance Protection, and Part 646B, Railroad-Highway Projects ▪ FHWA Railroad – Highway Grade Crossing Handbook

Notes:

a Agency definitions: ACHP: Advisory Council on Historic Preservation; BLM: United States (US) Bureau of Land Management; CDOW: Colorado Division of Wildlife; CDPHE, APCD: Colorado Department of Public Health and Environment, Air Pollution Control Division; CDPHE, WQCD: CDPHE, Water Quality Control Division; DOI: US Department of Interior; DOI, NPS: DOI, National Park Service; FHWA: Federal Highways Administration; NRCS: Natural Resources Conservation Service; SHPO: State Historic Preservation Officer; USACE: US Army Corps of Engineers; USFS: US Forest Service

b A detailed description of the project conditions requiring the specific permit, approval, certification, or coordination identified is further discussed in Section 4.0 (Resources) in the subsection noted.

Note: Most of the information in this table came from the CDOT Project Development Manual (Chapters 2 and 6). The manual updates were reviewed and incorporated, but the information should be checked for accuracy.

7.2. REGULATIONS AND POLICIES

This section identifies federal laws, executive orders, and regulations applicable to transportation projects; policy, guidance, directives, and advisories pertaining to NEPA and related federal environmental laws; and agreements pertaining to NEPA and Section 4(f) compliance. Additionally, agreements pertaining to other federal and State of Colorado requirements are found in this section.

The regulations and policies referenced below are organized into six sections on the basis of their primary topics. They are hyperlinked to a table on each regulation and guidance that provides a summary of its purpose, applicability, and timing relative to the overall CDOT planning process, as well as a cross-reference to its complete text. Full text of the regulations and guidance can be found online at the identified websites.

Comprehensive Environmental Laws, Regulations, and Policies

- 23 CFR Part 771
- Council on Environmental Quality (CEQ) Regulations
- NEPA of 1969

Transportation

- 49 CFR Part 24 - Uniform Relocation Assistance and Real Property Acquisition Policies Act (URARPA) of 1970 and Advisory Circular 150/5100-17
- 49 USC, Subtitle III, Chapter 53, Transportation, General and Intermodal Programs – Mass Transportation
- Economic, Social and Environmental Effects 23 USC109H
- Federal Aviation Administration (FAA) Order 5050.4, Airport Environmental Handbook
- FHWA Technical Advisory (T-6640.8A)
- Highway Beautification
- MOUs & MOAs
- Public Hearings, 23 USC 128
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- Section 4(f), Department of Transportation (DOT) Act
- DOT Act of 1966

Natural Resources

- Bald and Golden Eagle Protection Act
- CAA (42 USC 7401-7626)
- CWA of 1972
- Colorado State Implementation Plan (SIP)
- Endangered Species Act of 1973 as amended (16 USC §§1531-1543)
- EO 13148: Greening the Government through Leadership in Environmental Management

- EO 11988: Floodplain Management
- EO 11990 Protection of Wetlands
- EO 13112: Invasive Species
- FPPA
- Fish and Wildlife Coordination Act (FWCA) of 1958 (16 USC §§661–667e)
- Land and Water Conservation Fund Act
- Migratory Bird Treaty Act
- National Flood Insurance Act (NFIA) of 1968
- Rivers and Harbors Act of 1899 (33 USC §403)
- Safe Drinking Water Act (SDWA) of 1974
- Section 404 Regulatory Program
- Water Bank Act
- Wild and Scenic Rivers
- Wildflowers

Cultural/Social/Economic Resources

- 23USC 140 (Non discrimination)
- 23USC 324 (Non discrimination on basis of sex)
- American Indian Religious Freedom Act
- Americans with Disabilities Act of 1990
- Archeological Resources Protection Act
- Colorado Historical, Prehistorical, and Archaeological Resources Protection Act of 1973
- DOT Order 5610.2 on Environmental Justice
- EO 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- EO 13166: Improving Access to Services for Persons With Limited English Proficiency (LEP)
- FHWA Environmental Policy Statement 1994
- FHWA Order 6640.23 on Environmental Justice
- FHWA Order 6640.8A
- Historic Bridges
- National Historic Preservation Act of 1966 (NHPA)
- Native American Graves Protection and Repatriation Act (NAGPRA)
- Preservation of American Antiquities
- Section 110, Historic Preservation Act
- Title VI of the Civil Rights Act of 1964
- URARPAA

Hazardous Substances

- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
- Resource Conservation and Recovery Act (RCRA) (42 USC §6901 et seq.)

Prior to implementing NEPA compliance for a specific project, please check online to be certain there are no recent changes in NEPA or the

Occupational and Safety Health Administration (OSHA) Hazardous Waste Operations and Emergency Response (HAZWOPER) 29 CFR 1910.120 Anyone working around hazardous waste must have the proper training and certification in accordance with these regulations. At a minimum, check the CEQ website and its links, the CDOT environmental website and its links, and the FHWA environmental website and its links. In addition, check the US Environmental Protection Agency (USEPA)'s CWA website, the USEPA SDWA website, the ACHP website, and the USEPA RCRA website to look for recent changes in guidance on air quality, drinking water, historic resources, and hazardous waste, respectively.

7.2.1. Comprehensive Environmental Laws, Regulations, and Policies

23 CFR Part 771

Legislative/Regulations Reference	Environmental Impact and Related Procedures; 23 CFR 771
Full text	http://www.fhwa.dot.gov/hep/23cfr771.htm
Purpose	<p>“This regulation prescribes the policies and procedures of the FHWA and the Urban Mass Transportation Administration (UMTA), now Federal Transit Administration (FTA) for implementing the NEPA of 1969 as amended (NEPA), and the regulation of the CEQ 40 CFR 1500–1508. This regulation sets forth all FHWA, UMTA, and DOT requirements under NEPA for the processing of highway and urban mass transportation projects. This regulation also sets forth procedures to comply with 23 USC 109(h), 128, 138, and 49 USC 303, 1602(d), 1604(h), 1604(i), 1607a, 1607a-1 and 1610.”</p> <p>http://www.dot.state.mn.us/tecsup/xyz/plu/hpdp/book4/23cfr771.html#101</p>
Applicability	All CDOT projects that involve federal funds, federal approvals, federal lands, and the State 1601 process.
Timing/considerations	The regulations outline procedures for each stage of the NEPA process.
Agency for coordination and consultation	FHWA

CEQ Regulations

Legislative/Regulations Reference	Regulations for implementing NEPA from CEQ; 43 Federal Register (FR) 55990, November 28, 1978
Full text	http://ceq.eh.doe.gov/nepa/reg/ceq/toc_ceq.htm
Purpose	The CEQ was created by the NEPA of 1969 to oversee federal agencies’ compliance with NEPA. Each federal agency is required to promulgate its own regulations to comply with NEPA, which must be consistent with the CEQ’s regulations.
Applicability	All CDOT projects that involve federal funds, federal approvals, federal lands, and the State 1601 process.
Timing/Considerations	The regulations outline procedures for each stage of the NEPA process.

NEPA

Legislative/Regulations Reference	NEPA of 1969 ; 42 USC 4321-4347; (P.L. 91-190) (P.L. 94-83); 23 CFR 770–772; 40 CFR 1500–1508 EO 115514 as amended by EO 11991 on NEPA responsibilities
Full text	http://ceq.eh.doe.gov/nepa/nepanet.htm
Purpose	To declare a national policy that will encourage productive and enjoyable harmony between man and his environment; to promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a CEQ.
Applicability	All CDOT projects that involve federal funds, federal approvals, federal lands, and the State 1601 process.
Timing/ considerations	Consideration of NEPA requirements should be a component of initial project planning and continue throughout project development. Mitigation and monitoring commitments established by a NEPA ROD should continue throughout project operation.
Agency for coordination and consultation	FHWA

7.2.2 Transportation

49 CFR Part 24 - URARPAA of 1970 and Advisory Circular 150/5100-17

Legislative/Regulations Reference	URARPAA of 1970 (42 USC 4601 ET SEQ., P.L. 91-646) as amended by the Uniform Relocation Act Amendments of 1987 (P.L. 100-17); 49 CFR 24
Full text	http://www.fhwa.dot.gov/realestate/49cfr.htm
Purpose	To implement the Uniform Act as amended in an efficient manner; to ensure property owners of real property acquired for and persons displaced by federal-aid projects are treated fairly, consistently, and equitably, and so they will not suffer disproportionate injuries.
Applicability	All projects involving federal-aid funds.
Timing/ considerations	Procedures set forth in 49 CFR 24.
Agency for coordination and consultation	DOT/FHWA has lead responsibility. Appropriate federal, state, and local agencies.

49 USC, Subtitle III, Chapter 53, Transportation, General and Intermodal Programs – Mass Transportation

Legislative/Regulations Reference	49 USC, Subtitle III, Chapter 53
Full text	http://www.access.gpo.gov/uscode/title49/subtitleiii_chapter53_.html
Purpose	To improve mass transit equipment, techniques, facilities, and methods; to encourage planning; and to provide financial assistance.
Applicability	Mass transportation projects.
Timing/considerations	The regulation outlines processes for metropolitan planning, grant programs, and research and development of mass transit.
Agency for coordination and consultation	FHWA

Economic, Social, and Environmental Effects 23 USC109H

Legislative/Regulations Reference	Economic, social, and environmental effects: 23 USC 109(H); (P.L. 91-605); 23 USC 128; 23 CFR 771
Full text	http://www.fhwa.dot.gov/hep/23cfr771.htm
Purpose	To ensure that possible adverse, economic, social, and environmental effects of proposed highway projects and project locations are fully considered and that final decisions on highway projects are made in the best overall public interest.
Applicability	Applicable to the planning and development of proposed projects on any federal-aid system for which FHWA approves the plans, specifications, and estimates, or has the responsibility for approving a program.
Timing/considerations	Identification of economic, social, and environmental effects; consideration of alternative courses of action; involvement of other agencies and the public; systematic interdisciplinary approach. The report required by Section 128 on the consideration given to ESE impacts may be the NEPA compliance document.
Agency for coordination and consultation	Appropriate federal, state, and local agencies.

FAA Order 5050.4, Airport Environmental Handbook

Legislative/Regulations Reference	FAA Order 5050.4 Airport Environmental Handbook
Full text	http://www.faa.gov/airports_airtraffic/airports/resources/publications/orders/environmental_5050_4/
Purpose	Implements FAA order 1050, FAA agency-wide instructions to complete the NEPA process.
Applicability	CDOT projects at airports.
Timing/considerations	The handbook should be used as a guide throughout the NEPA process while working with FAA at airport projects.
Agency for coordination and consultation	FAA

FHWA Technical Advisory (T-6640.8A)

Legislative/Regulations Reference	Technical Advisory: Guidance for preparing and processing environmental and Section 4(f) documents
Full text	http://www.fhwa.dot.gov/legsregs/directives/techadvs/t664008a.htm
Purpose	To provide guidance to FHWA field offices and to project applicants on the preparation and processing of environmental and Section 4(f) documents. Specifically, it covers preparation of Categorical Exclusions (CatExs), EAs, FONSI, EISs, supplemental EISs, reevaluations, and Section 4(f) evaluations.
Applicability	The material contained in the Technical Advisory is not regulatory. It has been developed to provide guidance for uniformity and consistency in the format, content, and processing of the various environmental studies and documents pursuant to the NEPA, 23 USC 109(h) and 23 USC 138 (Section 4(f) of the DOT Act) and the reporting requirements of 23 USC 128. The guidance is limited to the format, content and processing of NEPA and Section 4(f) studies and documents. It should be used in combination with a knowledge and understanding of the CEQ Regulations for Implementing NEPA (40 CFR 1500-1508), FHWA's Environmental Impact and Related Procedures (23 CFR 771) and other environmental statutes and orders.
Timing/considerations	As with the consideration of NEPA requirements, consideration of the Technical Advisory should be a component of initial project planning and continue throughout project development. Mitigation and monitoring commitments established by a NEPA ROD should continue throughout project operation.
Agency for coordination and consultation	FHWA

Highway Beautification

Legislative/Regulations Reference	Highway Beautification Act of 1965 23 USC 131, 23 USC 136, 23 USC 319, (P.L. 89-285); 23 CFR 750, 23 CFR 751, 23 CFR 752
Full text	http://www.gpo.gov/nara/cfr/waisidx_02/23cfr750_02.html
Purpose	To provide effective control of outdoor advertising and junkyards, to protect the public investment, to promote the safety and recreational value of public travel and preserve natural beauty, and to provide landscapes and roadside development reasonably necessary to accommodate the traveling public.
Applicability	Interstate and primary systems including toll sections thereof.
Timing/considerations	Procedures set forth in 23 CFR 750, 751, and 752.
Agency for coordination and consultation	DOT/FHWA, state, and local agencies.

7.2.3 MOU and MOA

This section identifies MOUs and MOAs specific to CDOT. Complete text of each of the memoranda can be found online (<http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp>).

Title	Letter of Agreement on Environmental Compliance Certification and Consultation
Agencies	CDOT, FHWA
Date	6/23/1999
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	Defines procedures for certifying completion of environmental requirements for Class I and III projects.
Applicability	Applies to all EIS and EAs. Prior to a Class I or III federal-aid project being advertised for construction, a memo will be prepared by the Region Planning and Environmental Manager and forwarded to the FHWA Division Administrator (to the attention of the appropriate Operations Engineer). The department will follow a similar procedure for non-federal-aid projects documented with an EA or EIS, except the Environmental Compliance memo will also be sent to the Project Manager, Region File, and Central Files.

Title	Letter of Agreement for Programmatic Approval for Use of Certain CATEXs
Agencies	CDOT, FHWA
Date	11/19/1991
Full Text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	<p>FHWA granted programmatic category designation approval to the department for Class II actions (CATEX) meeting the definitions found at 23 CFR 771.117, subparagraphs 1–20.</p> <p>Specific CATEX. Projects that are determined to be programmatic CATEX shall not require further NEPA approvals by FHWA.</p>
Applicability	<p>All projects will, based on anticipated project activities and past experience, satisfy the definition of CATEX found in 23 CFR 771.117 (a) and (b).</p>
Title	MOU Related to Activities Affecting the State Transportation System and Public Lands in the State of Colorado
Agencies	CDOT, FHWA, BLM, USFS
Date	11/1/2003
Full Text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	<p>Establishes procedures for coordinating activities affecting the state transportation system and lands administered by USFS/BLM within the State of Colorado. This MOU supersedes and replaces the MOU (USFS No. 1102-0007-97-002) of December 4, 1996, between USFS, BLM, FHWA, and CDOT.</p> <p>All projects that include National Forest System or BLM lands.</p>
Applicability	<p>The MOU specifies coordination procedures in the areas of early notification, long-range planning, project coordination, environmental coordination, NEPA document preparation, project design, rights-of-way, authorization for entry during emergency situation, construction/reconstruction, maintenance, signing, access control, third party occupancy, and snow avalanche control.</p>

Title	MOU among CDOT, FHWA Central Federal Lands Division, and USFS Region 2 for the Planning, Programming, Project Development, Construction and Maintenance of Forest Highways in the State of Colorado
Agencies	CDOT, FHWA, USFS
Date	9/17/1997
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	<p>This MOU is to set forth the general procedures for the planning, programming, environmental studies, design, construction, and maintenance of forest highways in Colorado.</p> <p>Roads within, or providing access to, the National Forest System.</p>
Applicability	<p>A program meeting will be held annual in accordance with 23 CFR 660.109(a) with representatives from FHWA, CDOT, and USFS Region 2 to agree on the program of projects. CDOT agrees to integrate the long-range Forest Highways transportation plan into the state's long-range transportation plan. CDOT agrees to share information with FHWA on Forest Highway routes from their bridge, pavement, and safety management systems. The USFS agrees to work with FHWA and CDOT when amending or revising Forest Management Plans to incorporate land use and transportation planning.</p>
Title	NEPA/CWA Section 404 Merger Process
Agencies	FHWA, CDOT, COE
Date	12/2004
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	<p>The purpose of this agreement is to establish a procedure and provide guidance to ensure that documentation and coordination conducted to comply with NEPA will meet the standards of all signatories and that any preferred alternative selected under this joint NEPA/CWA Section 404 decision-making process also complies with CWA Section 404(b)(1) guidelines. These procedures do not supersede lead agency NEPA decision-making requirements.</p> <p>Projects requiring a CWA Section 404 merger.</p>
Applicability	<p>A project expected to require an EA and an Standard Individual Permit then it will enter the merger process only if FHWA, USACE, and CDOT determine it is in the overall best interest of the project. This agreement specifically outlines initiating the process, its purpose and need, alternatives to be evaluated, preferred alternative, and compensatory mitigation.</p>

Title	MOA between CDOT and FHWA, Colorado Division Regarding the Programmatic Approval of Certain Wetland Findings
Agencies	CDOT, FHWA
Date	4/21/2006
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	To expedite the wetland process and eliminate unnecessary coordination and paper work Projects that have a small impact to wetlands that can be easily mitigated.
Applicability	The agreement outlines coordination between FHWA and CDOT regarding the programmatic approval of certain wetland findings. The agreement also provides guidance defining a wetland, required criteria, the applicability of a programmatic approval, and coordination with the Division of Wildlife (DOW).
Title	MOA Among the CDNR and CDOT Regarding SB 40 Certification (action to minimize adverse impacts to streams)
Agencies	CDOT, CDNR
Date	11/30/1990
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	Expedite the SB 40 certification process. Any project that impacts any stream or its bank or tributaries under SB 40 jurisdiction.
Applicability	The agreement outlines agreed-upon guidelines for SB 40 Wildlife Certification that include procedures for both a programmatic SB 40 certification, which will apply on certain activities resulting in minimal impact, and for a formal application for certification.
Title	MOU between CDOT and DOW to Manage Wildlife Within Highway ROW
Agencies	CDOT, DOW
Date	7/30/1980
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	To conserve maintenance dollars and energy. Maintenance and management of aquatic and terrestrial wildlife within highway rights-of-way.
Applicability	The agreement outlines responsibilities for maintenance of rights-of-way areas and communication between CDOT and DOW.

Title	MOA between CDOT and the APCD of CDPHE Regarding Procedures for Determining Project Level Conformity and Hotspot Analysis
Agencies	CDOT, CDPHE (APCD)
Date	12/22/1995
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	<p>To identify procedures for ensuring compliance of federally funded transportation projects with the federal transportation conformity requirements and NEPA.</p> <p>All federally funded transportation projects.</p>
Applicability	<p>The agreement outlines consultation procedures for EA/EISs, CatEx, and project exempt requirements. The agreement also identifies hotspot project modeling procedures, MOBILE model emission factors/assumptions, conformity to federal standards, program review, and applicability.</p>
Title	MOU Between the CDPHE and CDOT Regarding the CDPHE Liaison Position
Agencies	CDOT, CDPHE
Date	10/4/2001
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	<p>To reduce the time and expense involved when both agencies are involved in the same projects and/or issues by having a liaison to facilitate the functions and activities of both agencies when involved with hazardous waste management activities.</p>
Applicability	<p>All CDOT projects.</p> <p>The liaison primarily will provide coordination and assistance for proposed highway projects with all CDPHE positions, the EPA, and local health agencies.</p>
Title	MOU between BLM, Colorado State Office, and CDOT (Archaeology)
Agencies	CDOT, BLM
Date	7/31/1985
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	<p>To provide for the highway department's needs to perform short notice archaeological work on BLM-administered lands in Colorado while meeting the BLM's legally mandated requirements to ensure that only qualified, responsible organizations and individuals are permitted to perform such scientific, archaeological undertakings.</p>
Applicability	<p>CDOT projects located on BLM property where a Cultural Resource Use Permit application for archaeological testing and excavations would be required.</p>

Title	MOU Between CDOT and the Colorado SHPO Regarding Cultural Resource Investigations – Negative Finds and Isolated Finds (Archaeology)
Agencies	CDOT, SHPO, State Archaeologist
Date	1/3/1989
Full Text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	To reduce review time for projects with negative or isolated finds.
Applicability	Report of Cultural Resource Investigations for an undertaking that identifies no historic resources or only isolated finds.
Title	MOU between FHWA and the Heritage Conservation and Recreation Service Concerning Emergency Procedures Applicable to Unanticipated Historic Resources Discovered During Construction of Federal-Aid Highways
Agencies	FHWA, Heritage Conservation and Recreation Service, National Conference of SHPOs
Date	10/28/1980
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	To provide an expeditious alternate method for consideration of historic resources that are discovered after construction has begun.
Applicability	Projects that discover an unanticipated cultural resource.
Title	MOA between CDOT and SHPO Regarding Section 106 and State Register Act Procedures for Historic Resources
Agencies	CDOT, SHPO
Date	3/14/1996
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	Outlines CDOT and SHPO procedures for compliance with Section 106.
Applicability	Projects requiring Section 106 compliance.
Title	Programmatic Agreement on Minor Highway Improvement Projects Among FHWA, the ACHP, and SHPO
Agencies	CDOT, SHPO, State Archaeologist, FHWA, ACHP
Date	2/15/1991
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	Outlines coordination procedures for minor highway improvement projects.
Applicability	Projects requiring Section 106 compliance.

Title	Historic Marker Maintenance Agreement
Agencies	CDOT, Colorado Historical Society
Date	12/1/1994
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	Outlines the management of federal funds for the maintenance of historic markers.
Applicability	Historic markers.
Title	Programmatic Agreement with ACHP and SHPO Regarding the Management and Preservation of Colorado Historic Bridges
Agencies	CDOT, ACHP, SHPO, FHWA
Date	7/1/2003
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	Coordination procedures for the preservation and management of historic bridges.
Applicability	All projects involving a bridge or where a bridge may be impacted.
Title	Letter of Agreement on Historic Bridge Recordation
Agencies	CDOT, NPS
Date	2/19/1986
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	Documentation for the recordation of Colorado's historic bridges to Historic American Engineering Record standards.
Applicability	Specific Colorado historic bridges.
Title	Programmatic Agreement between FHWA, ACHP, and the National Conference of SHPOs on Transportation Enhancements
Agencies	FHWA, ACHP, National Conference of SHPOs
Date	6/11/1997
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	To expedite review by CDOT in enhancement projects.
Applicability	Transportation enhancement projects.

Title Interagency letter of agreement between CDOT and the USFWS for a position to be assigned to the USFWS who will be dedicated to completing USFWS tasks on CDOT projects

Agencies CDOT, USFWS

Date 11/17/1999

Full text <http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp>

Purpose Liaison between CDOT and USFWS projects.

Applicability USFWS/CDOT projects.

Title Policy Agreement for the Review of EAs by EPA

Agencies CDOT, FHWA, EPA

Date 8/31/2000

Full text <http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp>

Purpose Outlines the review process for EAs by EPA when FHWA is the lead agency.

Applicability EAs.

Title Native American Cultural Resources Consultation (Also included is a memo dated 10-24-01 from FHWA headquarters that provides approval of CDOT's role in the consultation with Native American tribal governments on federal-aid projects.)

Agencies CDOT, FHWA, SHPO

Date 2/12/2001

Full text <http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp>

Purpose Outlines consultation with Native American tribes.

Applicability Projects requiring tribal coordination.

Title	Programmatic Consultation Agreement About Canada Lynx in Colorado (Note: this agreement has expired. CDOT is in the process of updating it.)
Agencies	CDOT, FHWA, USFWS
Date	6/1/2002
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	To guide impact assessment of CDOT projects that may affect lynx by providing standard guidelines.
Applicability	Projects that meet the “no effect” and “not likely to adversely affect” criteria set forth in the agreement are covered by a blanket concurrence that will not require further consultation.
Title	MOA Shortgrass Prairie Initiative among CDOT, FHWA, USFWS, CDNR, CDOW, and The Nature Conservancy (TNC)
Agencies	CDOT, FHWA, USFWS, CDNR, CDOW, TNC
Date	4/1/2001
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	Regional conservation by providing proactive advance conservation of priority habitats for multiple species.
Applicability	Projects located within Colorado’s shortgrass prairie.
Title	East Plum Creek Conservation Bank Agreement
Agencies	CDOT, FHWA, USFWS
Date	4/1/2003
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	Establishes the terms and conditions for a conservation bank on certain real property located in Castle Rock, Colorado, within the East Plum Creek Conservation Bank.
Applicability	Projects located in or impacting the East Plum Creek Conservation Bank; map of the area included in the agreement.

Title	MOU between FHWA, EPA, and CDOT That Formalizes the Cooperative Working Relationship Between These Agencies
Agencies	FHWA, EPA, CDOT
Date	3/1/2004
Full text	http://www.dot.state.co.us/environmental/StandardsForms/Forms.asp
Purpose	To formalizes and strengthen the cooperative working relationship between FHWA, EPA, and CDOT.
Applicability	All CDOT projects.

Public Hearings, 23 USC 128

Legislative/Regulations Reference	Public hearings: 23 USC 128; 23 CFR 771.111
Full text	http://www.gpo.gov/nara/cfr/waisidx_02/23cfr771_02.html
Purpose	To ensure adequate opportunity for public hearings on the effects of alternative project locations and major design features, as well as on the consistency of the project with local planning goals and objectives.
Applicability	Public hearings or hearing opportunities are required for projects described in each state's FHWA-approved public involvement procedures.
Timing/considerations	Public hearings or hearing opportunities during the consideration of highway locations and design proposals are conducted as described in the state's FHWA-approved public involvement procedures. States must certify to FHWA that such hearings or the opportunity for them have been held and must submit a hearing transcript to FHWA.
Agency for coordination and consultation	Appropriate federal, state, and local agencies.

SAFETEA-LU

Legislative/Regulations Reference	SAFETEA-LU Public Law 109-59; SAFETEA-LU Section(s): 6002-6005, 6007, 6009, 6010
Full text	http://www.fhwa.dot.gov/safetealu/legis.htm
Purpose	SAFETEA-LU incorporates changes aimed at improving and streamlining the environmental process for transportation projects. SAFETEA-LU retains and increases funding for environmental programs of TEA-21, and adds new programs focused on the environment. SAFETEA-LU also includes significant new environmental requirements for the statewide and metropolitan planning process.
Applicability	All CDOT projects that involve federal funds, federal approvals, and/or federal lands.
Timing/considerations	Consideration of SAFETEA-LU should take place at the earliest stages of a NEPA project as well as during the environmental review process, CATEX, and Section 4(f).
Agency for coordination and consultation	FHWA

Section 4(f), DOT Act

Legislative/Regulations Reference	Section 4(f) of the DOT Act: 23 USC 138; 49 USC 303; (P.L. 100-17); (P.L. 97-449); (P.L. 86-670); 23 CFR 771.135
Full text	http://www.access.gpo.gov/nara/cfr/waisidx_03/23cfr771_03.html
Purpose	To preserve publicly owned parklands, waterfowl and wildlife refuges, and significant historic sites.
Applicability	Significant publicly owned public parklands, recreation areas, wildlife and waterfowl refuges, and all significant historic sites "used" for a highway project.
Timing/considerations	Specific findings required: Selected alternative should avoid protected areas, unless not feasible or prudent, and include all possible planning to minimize harm.
Agency for coordination and consultation	DOI, Department of Agriculture (DOA), Housing and Urban Development (HUD), state, or local agencies having jurisdiction and the SHPO (for historic sites).

DOT Act of 1966

Legislative/Regulations Reference	DOT Act of 1966, Declaration of Purpose and Section 4(f), as amended; (Public Law 89-670), 49 USC 303 (formerly 49 USC 1651(b)(2) and 49 USC 1653f). Public Law 90-495 (August 23, 1968) amended section 4(f) to its most commonly known form, which is presented here. Public Law 97-449, (January 12, 1983) recodified the Act from 49 USC 1651 to 49 USC 303.
Full text	http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+49USC303
Purpose	Special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.
Applicability	All CDOT projects that involve federal funds, federal approvals, federal lands, and the State 1601 process.
Timing/considerations	The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the states, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.
Agency for coordination and consultation	FHWA, DOI, BLM, USFWS, HUD, USDA, SHPO

7.2.4 Natural Resources

CAA (42 USC 7401–7626)

Legislative/Regulations Reference	The CAA of 1990, as amended (42 USC 7401, 7642), requires CDOT to protect air quality, maintain federal- and state-designated air quality standards, and abide by the requirements of the Colorado SIP.
Full text	http://www.epa.gov/air/caa/
Purpose	To ensure that transportation plans, programs, and projects conform to the state's air quality implementation plans.
Applicability	Nonattainment and maintenance areas. The CAA of 1990, as amended (42 USC 7401, 7642), requires CDOT to protect air quality, maintain federal- and state-designated air quality standards, and abide by the requirements of the Colorado SIP.
Timing/considerations	As with consideration of NEPA requirements, consideration of the CAA requirements should be a component of initial project planning and continue throughout project development. Mitigation and monitoring commitments established by a NEPA ROD should continue throughout project operation.
Agency for coordination and consultation	FTA, EPA, metropolitan planning organizations, state departments of transportation and state and local air quality control agencies.

CWA of 1972

Legislative/Regulations Reference

The 1972 amendments to the Federal Water Pollution Control Act (known as the CWA)

Full text

<http://www.epa.gov/r5water/cwa.htm>

Purpose

Established the basic structure for regulating discharges of pollutants into the waters of the US. It gave EPA the authority to implement pollution control programs, such as setting wastewater standards for industry and continued requirements to set water quality standards for all contaminants in surface waters, and made it unlawful for any person to discharge any pollutant from a point source into navigable waters unless a permit was obtained under its provisions. It provides the statutory basis for the NPDES permit program and the basic structure for regulating the discharge of pollutants from point sources to waters of the US. EPA sets effluent limits on an industry-wide (technology-based) basis and on a water-quality basis that ensure protection of the receiving water. The CWA requires anyone who wants to discharge pollutants to first obtain an NPDES permit, or else that discharge will be considered illegal.

Applicability

Construction is one of the industries regulated by the NPDES program and construction sites that disturb greater than one acre must obtain an NPDES stormwater discharge permit to prevent pollution of surface water bodies. CDOT is considered a large municipal separate storm sewer system under NPDES Phase I regulations and holds a state NPDES permit. Other state permits related to CWA that CDOT may be required to obtain during highway construction include: construction dewatering, sand and gravel production operations, and discharges to groundwater via land application. Under the Section 404 regulatory program the USACE may issue permits for the discharge of dredged or fill material into the navigable waters of the US at specified disposal sites Section 404 permits are also required, together with mitigation, if there are impacts to wetlands that are identified as jurisdictional.

Timing/considerations

Identification of jurisdictional wetlands should begin as soon as the project area is defined, since field studies on wetlands are seasonally constrained and coordination with USACE can take time. These processes can impede project implementation if they are not started early. There is a tradeoff between the cost of performing field studies on these species over an area large enough to contain all potential alternatives, the potential time (and money) lost by waiting until specific alternatives have been defined or the preferred alternative has been selected, and the more streamlined review process when the project is as specific as possible. Permits related to the CWA must also be in hand before construction can begin.

Agency for coordination and consultation

USACE, EPA, CDPHE

Colorado SIP

Legislative/Regulations Reference	The CAA of 1990, as amended (42 USC 7401, 7642)
Full text	http://www.environment.fhwa.dot.gov/guidebook/content/EPA_EO11990.asp
Purpose	As a requirement of the CAA and a requirement to attain and maintain National Ambient Air Quality Standards (NAAQS), the state submits a SIP to EPA for approval.
Applicability	All CDOT projects.
Timing/considerations	<p>Several sections of the CAA describe the states' planning obligations to achieve healthy air quality. Section 110 of the Act requires states to submit SIPs to EPA that provide for implementation, maintenance, and enforcement of the primary and secondary NAAQS established by EPA under Title I of the Act. Section 172, and other provisions in Title I, Part D, of the Act, identify additional SIP requirements for areas that do not meet the NAAQS and that have been designated as nonattainment under Section 107 of the Act. Section 175A of the Act describes the maintenance plan requirements for states wishing to redesignate an area from nonattainment to attainment.</p> <p>Additionally, SIPs contain state air regulations that, for example, allow states to permit the construction and operation of stationary sources, establish specific requirements for categories of stationary sources, and identify open burning requirements.</p> <p>Each SIP revision submitted by the state must undergo reasonable notice and public hearing at the state level, and SIPs submitted to EPA to attain or maintain the NAAQS must include enforceable emission limitations and other control measures, schedules, and timetables for compliance.</p>
Agency for coordination and consultation	EPA, CDPHE

Endangered Species Act of 1973 as amended (16 USC §§1531–1543)

Legislative/Regulations Reference	The Endangered Species Act of 1973, as amended (16 USC §§1531–1543); 7 CFR 355, 50 CFR 17, 23, 81, 222, 225–227, 402, 424, 450–453
Full text	http://www.fws.gov/Endangered/esa.html
Purpose	The law directs federal agencies to ensure that their actions do not jeopardize threatened and endangered species and that, through their authority, they help bring about the recovery of such species.
Applicability	Any action that is likely to jeopardize continued existence of such endangered/threatened species or result in destruction or modification of critical habitat.
Timing/considerations	Consult with the Secretary of the Interior or Commerce, as appropriate. CDOT must obtain information from the USFWS and/or the National Marine Fisheries Service (NMFS) to determine the presence or absence of listed and proposed threatened or endangered species and designated and proposed critical habitat in the proposed project area (50 CFR 402.12(c)). When a proposed or listed species or a proposed or designated critical habitat may be present in the proposed project area, an evaluation or, if appropriate, a biological assessment is made on the potential impacts to identify whether any such species or critical habitat are likely to be adversely affected by the project.
Agency for coordination and consultation	DOI USFWS) Informal consultation with the USFWS or NMFS should begin as soon as the project area is defined. Investigation of the species potentially present in the area can then begin and the need for formal consultation determined. Formal consultation can be a lengthy process and field studies, if required, are seasonally constrained. These processes can impede project implementation if they are not started early. There is a tradeoff between the cost of performing field studies on these species over an area large enough to contain all potential alternatives, the potential time (and money) lost by waiting until specific alternatives have been defined or the preferred alternative has been selected, and the more streamlined review process when the project is as specific as possible.

EO 13148: Greening the Government Through Leadership in Environmental Management

Legislative/Regulations Reference	Greening the Government Through Leadership in Environmental Management, EO 13148
Full text	http://www.nepa.gov/nepa/regs/eos/eo13148.html
Purpose	To ensure that the federal government exercises leadership in the reduction of petroleum consumption through improvements in fleet fuel efficiency and the use of alternative fuel vehicles and alternative fuels.
Applicability	Purchase and management of CDOT vehicles.
Timing/considerations	At the time of purchase or management of the CDOT fleet vehicles.
Agency for coordination and consultation	FHWA

EO 11988: Floodplain Management

Legislative/Regulations Reference	EO 11988, Floodplain Management, as amended by EO 12148; DOT Order 5650.2; 23 CFR 650, Subpart A, 23 CFR 771
Full text	http://www.epa.gov/owow/wetlands/regs/eo11988.html
Purpose	To avoid the long- and short-term adverse impacts associated with the occupancy and modification of floodplains, and to restore and preserve the natural and beneficial values served by floodplains.
Applicability	All construction of federal or federally aided buildings, structures, roads, or facilities that encroach upon or affect the base floodplain.
Timing/considerations	Assessment of floodplain hazards. Specific finding is required in the final environmental document for significant encroachments.
Agency for coordination and consultation	Federal Emergency Management Agency (FEMA), state and local agencies.

EO 11990: Protection of Wetlands

Legislative/Regulations Reference	EO 11990, Protection of Wetlands; DOT Order 5660.1A, 23 CFR 777
Full text	http://www.archives.gov/Federal-register/codification/executive-order/11990.html
Purpose	To avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.
Applicability	Federally undertaken, financed, or assisted construction and improvements in or with significant impacts on wetlands.
Timing/considerations	Evaluate and mitigate impacts on wetlands. Specific finding is required in the final environmental document.
Agency for coordination and consultation	DOI (USFWS), EPA, USACE, USFS, state agencies.

EO 13112: Invasive Species

Legislative/Regulations Reference	On February 3, 1999, EO 13112 was signed establishing the National Invasive Species Council. The EO requires that a Council of Departments dealing with invasive species be created. Currently there are 13 departments and agencies on the council.
Full text	http://www.invasivespeciesinfo.gov/laws/execorder.shtml
Purpose	To create a Council of Departments dealing with invasive species.
Applicability	Management of invasive species.
Timing/considerations	As with consideration of NEPA requirements, consideration of EO 13112 should be a component of initial project planning and continue throughout project development. Mitigation and monitoring commitments established by a NEPA ROD should continue throughout project operation.
Agency for coordination and consultation	CEQ, DOI

FPPA

Legislative/Regulations Reference	FPPA of 1981: 7 USC 4201--4209, (P.L. 97-98), (P.L. 99-198); 7 CFR 658
Full text	http://www.nrcs.usda.gov/programs/fppa/pdf_files/FPPA_Law.pdf
Purpose	To minimize impacts on farmland and maximize compatibility with state and local farmland programs and policies.
Applicability	All projects that take ROW in farmland, as defined by the regulation. Early coordination with the NRCS.
Timing/considerations	Land evaluation and site assessment. Determination of whether or not to proceed with farmland conversions, based on severity of impacts and other environmental considerations.
Agency for coordination and consultation	NRCS

FWCA of 1958 (16 USC §§661–667e)

Legislative/Regulations Reference	FWCA: 16 USC 661–666 (C), (P.L. 85-624), (P.L. 89-72), (P.L. 95-616)
Full text	http://ipl.unm.edu/cwl/fedbook/fwca.html
Purpose	The FWCA provides the basic authority for the USFWS's involvement in evaluating impacts to fish and wildlife from proposed water resource development projects. It requires that fish and wildlife resources receive equal consideration to other project features. It also requires federal agencies that construct, license, or permit water resource development projects to first consult with the USFWS (and the NMFS in some instances) and the state fish and wildlife agency regarding the impacts on fish and wildlife resources and measures to mitigate these impacts. Conservation, maintenance, and management of wildlife resources.
Applicability	Any project that involves impoundment (surface area of 10 acres or more), diversion, channel deepening, or other modification of a stream or other body of water. Transfer of property by federal agencies to state agencies for wildlife conservation purposes.
Timing/considerations	Coordinate early in project development with USFWS and state fish and wildlife agencies.
Agency for coordination and consultation	DOI (USFWS), state fish and wildlife agencies.

Land and Water Conservation Fund Act

Legislative/Regulations Reference	Land and Water Conservation Fund Act (Section 6f): 36 CFR Part 59
Full text	http://www.nps.gov/ncrc/programs/lwcf/protect.html
Purpose	To preserve, develop, and assure the quality and quantity of outdoor recreation resources for present and future generations.
Applicability	All projects that impact recreational lands purchased or improved with land and water conservation funds.
Timing/considerations	The Secretary of the Interior must approve any conversion of property acquired or developed with assistance under this act to other than public, outdoor recreation use.
Agency for coordination and consultation	DOI, state agencies.

NFIA of 1968

Legislative/Regulations Reference	NFIA (P.L. 90-448); DOT Order 5650.2; 23 CFR 650; Subpart A, 7; 23 CFR 771; 44 CFR 59-62, 64-68, 70-71, 75-77
Full text	http://www.ssa.gov/OP_Home/comp2/F090-448.html
Purpose	To identify flood-prone areas and provide insurance. Requires purchase of insurance for buildings in special flood hazard areas.
Applicability	Any federally assisted acquisition or construction project in an area identified as having special flood hazards.
Timing/considerations	Avoid construction in, or design to be consistent with, FEMA-identified flood hazard areas.
Agency for coordination and consultation	FEMA, state and local agencies.

Rivers and Harbors Act of 1899 (33 USC §403)

Legislative/Regulations Reference	Rivers and Harbors Act of 1899: 33 USC 401, et seq., as amended and supplemented; 23 CFR 650, Subparts D & H, 33 CFR 114–115
Full text	http://www.law.cornell.edu/uscode/uscode33/usc_sup_01_33.html
Purpose	To protect navigable waters in the US.
Applicability	Any construction affecting navigable waters and any obstruction, excavation, or filling.
Timing/considerations	Must obtain approval of plans for construction, dumping, and dredging permits (Sec. 10) and bridge permits (Sec. 9).
Agency for coordination and consultation	USACE, USCG, EPA, state agencies.

SDWA of 1974

Legislative/Regulations Reference	SDWA: 42 USC 300F-300J-6 (P.L. 93-523), (P.L. 99-339); FAPG Subpart E
Full text	SDWA: http://www.epa.gov/safewater/sdwa/index.html Colorado Source Water Assessment and Protection (SWAP) program: http://www.cdphe.state.co.us/wq/sw/swaphom.html
Purpose	Originally passed by Congress in 1974 to protect public health by regulating the nation’s public drinking water supply; amended in 1986 and 1996, it requires many actions to protect drinking water and its sources: rivers, lakes, reservoirs, springs, and ground water wells. SDWA regulates private wells that serve 25 or more individuals. For these, EPA sets national health-based standards for drinking water to protect against both naturally occurring and man-made contaminants that may be found in drinking water. States and water suppliers must conduct assessments of water sources to see where they may be vulnerable to contamination. Water systems may also voluntarily adopt programs to protect their watershed or wellhead and states can use legal authorities from other laws to prevent pollution.
Applicability	CDOT is a potential stakeholder in the Colorado SWAP program mandated by the SDWA. The DOT (and, thus, FHWA) is a signatory to the Federal Multi-Agency Source Water Agreement and thereby committed to considering state, tribal, and local drinking water source protection priorities when developing management plans . . . including decisions regarding placement and construction of new facilities.
Timing/considerations	Identification of the source water assessment area in which the CDOT project occurs should begin as soon as the project area is defined. Knowledge of the susceptibility of this area will enable early incorporation of any appropriate extraordinary measures to protect water quality into project planning.
Agency for coordination and consultation	EPA, CDPHE

Section 404 Regulatory Program

Legislative/Regulations Reference	The Federal Water Pollution Control Act Amendments of 1972 established the Section 404 Regulatory Program
Full text	http://www.epa.gov/r5water/cwa.htm
Purpose	Section 404 of the CWA establishes a program to regulate the discharge of dredged or fill material into waters of the US, including wetlands. Activities in waters of the US regulated under this program include fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports), and mining projects. Section 404 requires a permit before dredged or fill material may be discharged into waters of the US, unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities).
Applicability	Projects impacting waterways and wetlands
Timing/considerations	An <i>individual permit</i> is required for potentially significant impacts. Individual permits are reviewed by USACE, which evaluates applications under a public interest review, as well as the environmental criteria set forth in the CWA Section 404(b)(1) Guidelines. However, for most discharges that will have only minimal adverse effects, a <i>general permit</i> may be suitable. General permits are issued on a nationwide, regional, or state basis for particular categories of activities.
Agency for coordination and consultation	EPA, USFWS

Water Bank Act

Legislative/Regulations Reference	Water Bank Act: 16 USC 1301–1311, (P.L. 91-559), (P.L. 96-182); 7 CFR 752
Full text	http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title07/7cfr752_main_02.tpl
Purpose	To preserve, restore, and improve wetlands of the nation.
Applicability	Any agreements with landowners and operators in important migratory waterfowl nesting and breeding areas.
Timing/considerations	Apply procedures established for implementing EO 11990.
Agency for coordination and consultation	Secretary of Agriculture, Secretary of Interior.

Intermodal Surface Transportation Act (ISTEA) - Wetland Mitigation Banking

Legislative/Regulations Reference	ISTEA of 1991. Wetlands Mitigation Banks: Sec.1006–1007 (P.L. 102-240, 105 STAT 1914); 23 CFR 771
Full text	http://thomas.loc.gov/cgi-bin/query/z?c102:H.R.2950.ENR :
Purpose	To mitigate wetland impacts directly associated with projects funded through CDOT and STP, by participating in wetland mitigation banks, restoration, enhancement, and creation of wetlands authorized under the Water Resources Development Act, and through contributions to statewide and regional efforts.
Applicability	Federally undertaken, financed, or assisted construction, and improvements, or with impacts on wetlands.
Timing/considerations	Evaluate and mitigate impacts on wetlands. Specific finding is required in the final environmental document. Guidance document: http://www.fhwa.dot.gov/environment/tea21bnk.htm http://www.epa.gov/owow/wetlands/guidance/mitbankn.html
Agency for coordination and consultation	DOI (USFWS), EPA, USACE, state agencies.

Wild and Scenic Rivers

Legislative/Regulations Reference	Wild and Scenic Rivers Act: 16 USC 1271–1287; 36 CFR 251, 297 43 CFR 8350
Full text	http://www4.law.cornell.edu/uscode/html/uscode16/usc_sec_16_00001271----000-.html
Purpose	To preserve and protect wild and scenic rivers and their immediate environments for benefit of present and future generations.
Applicability	All projects that affect designated and potential wild, scenic, and recreational rivers, and/or immediate environments.
Timing/considerations	Coordinate project proposals and reports with appropriate federal agency.
Agency for coordination and consultation	DOI (NPS) and/or Department of Agriculture (USFS), state agencies.

Wildflowers

Legislative/Regulations Reference	Surface Transportation and Uniform Relocation Assistance Act of 1987: Sec. 130 Wildflowers 23 USC 319 (B) (P.L. 100-17); 23 CFR 752
Full text	http://www.gpo.gov/nara/cfr/waisidx_01/23cfr752_01.html
Purpose	To encourage the use of native wildflowers in highway landscaping.
Applicability	Native wildflowers are to be planted on any landscaping project undertaken on the federal-aid highway system.
Timing/considerations	At least 1/4 of 1% of funds expended on a landscaping project must be used to plant native wildflowers on that project.
Agency for coordination and consultation	FHWA State Division, regional contacts.

7.2.5 Cultural/Social/Economic Resources

23 USC 140 (Non-Discrimination)

Legislative/Regulations Reference	23 USC 140
Full text	http://www4.law.cornell.edu/uscode/html/uscode23/usc_sec_23_00000140----000-.html
Purpose	To provide equal opportunity for all persons.
Applicability	Projects with environmental justice considerations.
Timing/considerations	At the scoping stage in the NEPA process, which provides early identification of public and agency issues, there should be adequate consideration of environmental justice. Populations should be identified as early as possible and their concerns should be examined and addressed, preferably in planning.
Agency for coordination and consultation	Department of Labor (DOL)

Americans with Disabilities Act of 1990

Legislative/Regulations Reference	Americans with Disabilities Act of 1990
Full Text	http://www.dol.gov/esa/regs/statutes/ofccp/ada.htm
Purpose	To ensure that no qualified disabled individual shall, solely on the basis of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any of its programs, services, or activities.
Applicability	All CDOT projects.
Timing/considerations	At the scoping stage in the NEPA process, which provides early identification of public and agency issues, there should be adequate consideration of environmental justice. Populations should be identified as early as possible and their concerns should be examined and addressed, preferably in planning.
Agency for coordination and consultation	FHWA headquarters and field offices.

Archeological Resources Protection Act

Legislative/Regulations Reference	DOI (NPS) Departmental consulting archeologist, SHPO; 18 CFR 1312, 32 CFR 229, 36 CFR 79, 36 CFR 296, 43 CFR 7
Full text	http://www.cr.nps.gov/local-law/FHPL_ArchRsrcsProt.pdf#search=%22Archeological%20Resources%20Preservation%20Act%22
Purpose	To preserve and protect paleontological resources, historic monuments, memorials, and antiquities from loss or destruction.
Applicability	Archeological resources on federally or Native American–owned property. Ensure contractor obtains permit, and identifies and evaluates resource.
Timing/considerations	Mitigate or avoid resource in consultation with appropriate officials in the state. If necessary, apply for permission to examine, remove, or excavate such objects.
Agency for coordination and consultation	Department or agency having jurisdiction over land on which resources may be situated (BIA, BLM, DOA, DOD, NPS, USFS, SHPO, Recognized Native American Tribe, if appropriate).

Colorado Historical, Prehistorical, and Archaeological Resources Protection Act of 1973

Legislative/Regulations Reference	CRS 24-80-401ff & CRS 24-80-120ff
Full text	http://www.coloradohistory-oahp.org/publications/pubs/1308b.pdf#search=%22Colorado%20Historical%20Prehistorical%20and%20Archaeological%20Resources%20Act%20of%201973%22
Purpose	Protection of all historic and paleontological properties owned by the state or any of its subdivisions (cities, counties and other political subdivisions); creation of the Office of the State Archaeologist; creation of a permitting system for the investigation of cultural or paleontological resources.
Applicability	State of Colorado lands and properties administered by subdivisions thereof.
Timing/considerations	Consultation with the SHPO for all investigations on State lands.
Agency for coordination and consultation	SHPO, other state agencies and local jurisdictions

DOT Order 5610.2 on Environmental Justice

Legislative/Regulations Reference	DOT Order To Address Environmental Justice in Minority Populations and Low-Income Populations
Full text	http://www.fhwa.dot.gov/environment/ejustice/dot_ord.htm
Purpose	The DOT is issuing its final DOT Order, which will be used by DOT to comply with EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.
Applicability	The order generally describes the process that the Office of the Secretary and each Operating Administration will use to incorporate environmental justice principles (as embodied in the EO) into existing programs, policies, and activities. The order provides that the Office of the Secretary and each Operating Administration within DOT will develop specific procedures to incorporate the goals of the DOT Order and the EO with the programs, policies and activities that they administer or implement.
Timing/considerations	Adequate consideration of environmental justice should take place at the scoping stage of the NEPA process.
Agency for coordination and consultation	FHWA

EO 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Legislative/Regulations Reference	EO 12898: Environmental Justice; FR Vol. 60, No. 125, pp. 33896–33903
Full text	http://www.fhwa.dot.gov/Environment/ejustice/dot_ord.htm
Purpose	To avoid federal actions that cause disproportionately high and adverse impacts on minority and low-income populations with respect to human health and the environment.
Applicability	All federal programs and projects.
Timing/considerations	Environmental justice was first identified as a national policy in 1994 when President Clinton signed EO 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. This order requires that each federal agency shall, to the greatest extent allowed by law, administer and implement its programs, policies, and activities that affect human health or the environment so as to identify and avoid “disproportionately high and adverse” effects on minority and low-income populations. EO 12898 applies to a wider population than Title VI, which does not cover low-income, non-minority populations.
Agency for coordination and consultation	FHWA headquarters and field offices.

EO 13166: Improving Access to Services for Persons With LEP

Legislative/Regulations Reference	EO 13166: Improving access to services for persons with limited English proficiency
Full text	http://www.usdoj.gov/crt/cor/Pubs/eolep.htm
Purpose	Requires federal agencies to examine the services they provide, identify any need for services to those with LEP, and develop and implement a system to provide those services so LEP persons can have meaningful access to them. It is expected that agency plans will provide for such meaningful access consistent with, and without unduly burdening, the fundamental mission of the agency. The EO also requires that the federal agencies work to ensure that recipients of federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.
Applicability	Projects located in communities with limited English proficiency and environmental justice cases. Policy guidance located at FR, Vol. 70, No. 239/Wednesday, December 14, 2005 .
Timing/considerations	At the scoping stage in the NEPA process, which provides early identification of public and agency issues, there should be adequate consideration of environmental justice. Populations should be identified as early as possible and their concerns should be examined and addressed, preferably in planning.
Agency for coordination and consultation	State agencies as appropriate.

FHWA Environmental Policy Statement 1994

Legislative/Regulations Reference	FHWA Environmental Policy Statement 1994
Full text	http://www.fhwa.dot.gov/environment/eps_txt.htm
Purpose	With adoption of the EPS, FHWA is committed to incorporating environmental stewardship into all policies, procedures, and decisions, not just those related to project development. Protecting and enhancing the environment, as well as the quality of life, requires a total, active commitment by all FHWA employees, especially program managers.
Applicability	All federally funded projects.
Timing/considerations	Aggressively pursue improved communication and collaboration with our federal, state, and local partners in the transportation and environmental communities, including other modal administrations within the DOT. Seek new partnerships with tribal governments, businesses, transportation and environmental interest groups, resource and regulatory agencies, affected neighborhoods, and the public. Ensure that those historically underserved by the transportation system, including minority and low-income populations, are included in our outreach. Actively involve our partners and all affected parties in an open, cooperative, and collaborative process, beginning at the earliest planning stages and continuing through project development, construction, and operations. Ensure the development of comprehensive, cooperative public involvement programs during statewide and metropolitan planning and project development activities.
Agency for coordination and consultation	FHWA

FHWA Order 6640.23 on Environmental Justice

Legislative/Regulations Reference	FHWA Order 6640.23 FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
Full text	http://www.fhwa.dot.gov/legsregs/directives/orders/6640_23.htm
Purpose	To establish policies and procedures for FHWA to use in complying with EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (EO 12898), dated February 11, 1994.
Applicability	EO 12898 requires federal agencies to achieve environmental justice by identifying and addressing disproportionately high and adverse human health and environmental effects, including the interrelated social and economic effects, of their programs, policies, and activities on minority populations and low-income populations in the US.
Timing/considerations	These requirements are to be carried out to the greatest extent practicable, consistent with applicable statutes and the National Performance Review. Compliance with this FHWA Order is a key element in the environmental justice strategy adopted by FHWA to implement EO 12898, and can be achieved within the framework of existing laws, regulations, and guidance.
Agency for coordination and consultation	FHWA

FHWA Order 6640.8A

Legislative/Regulations Reference	Guidance for Preparing and Processing Environmental and Section 4(f) Documents, FHWA Order 6640.8A
Full text	http://199.79.179.101/legsregs/directives/techadv/t664008a.htm
Purpose	To provide guidance to FHWA field offices and to project applicants on the preparation and processing of environmental and Section 4(f) documents.
Applicability	Order 6640.8A has been developed to provide guidance for uniformity and consistency in the format, content, and processing of the various environmental studies and documents pursuant to the NEPA, 23 USC109(h) and 23 USC 138 (Section 4(f) of the DOT Act) and the reporting requirements of 23 USC 128.
Timing/considerations	The guidance is limited to the format, content, and processing of NEPA and Section 4(f) studies and documents. It should be used in combination with a knowledge and understanding of the CEQ Regulations for Implementing NEPA (40 CFR 1500–1508), FHWA’s Environmental Impact and Related Procedures (23 CFR 771), and other environmental statutes and orders.
Agency for coordination and consultation	FHWA

Historic Bridges

Legislative/Regulations Reference	Surface Transportation and Uniform Relocation Assistance Act of 1987: Section 123 (F) Historic Bridges 23 USC 144(O) (P.L. 100-17)
Full text	http://www.law.cornell.edu/uscode/html/uscode23/usc_sec_23_00000144----000-.html
Purpose	To complete an inventory of on- and off-system bridges to determine their historic significance. To encourage the rehabilitation, reuse, and preservation of historic bridges.
Applicability	Any bridge that is listed on, or eligible for listing on, the National Register of Historic Places. Identify historic bridges on and off system.
Timing/considerations	Seek to preserve or reduce impact to historic bridges. Seek a recipient prior to demolition.
Agency for coordination and consultation	SHPO ACHP.

NHPA of 1966

Legislative/Regulations Reference	Section 106 of the NHPA, as amended: (P.L. 89-665) (P.L. 91-243) (P.L. 93-54) (P.L. 94-422) (P.L. 94-458) (P.L. 96-199) (P.L. 96-244) (P.L. 96-515); EO 11593 23 CFR 771, 36 CFR 60, 36 CFR 63, 36 CFR 800
Full text	http://www.achp.gov/nhpa.html To protect, rehabilitate, restore, and reuse districts, sites, buildings, structures, and objects significant in American architecture, archeology, and culture.
Purpose	Expands protection of historic and archeological properties to include those of national, state, and local significance. The NHPA (in Section 106) requires federal agencies to take into account the potential effects of agency actions on properties listed on or eligible for the NRHP. Agencies are also required to consult with the SHPO, and sometimes with the ACHP, concerning those effects. The SHPO is also sometimes consulted concerning applicable methods for determining whether or not there are NRHP-eligible properties in the area of potential effect of an agency undertaking, whether properties are eligible, and appropriate mitigation measures. The NHPA (in Section 110) also requires federal agencies to identify properties that may qualify for listing on the NRHP, to nominate such places to the register, and to develop plans for their management.
Applicability	All properties on or eligible for inclusion on the National Register of Historic Places. CDOT is required to coordinate with the SHPO and, when a National Historic Landmark might be impacted, with the ACHP and DOI. Identify and determine the effects of project on subject properties. Afford Advisory Council an early opportunity to comment, in accordance with 36 CFR 800. Avoid or mitigate damages to greatest extent possible.
Timing/ considerations	Informal consultation with the SHPO should begin as soon as the project area is defined. Investigation of the historic resources in the area and on or potentially eligible for the National Register of Historic Places can then begin. Formal consultation can be a lengthy process and field studies, if required, are seasonally constrained. These processes can impede project implementation if they are not started early. There is a tradeoff between the cost of performing field studies on historic resources over an area large enough to contain all potential alternatives, the potential time (and money) lost by waiting until specific alternatives have been defined or the preferred alternative has been selected, and the more streamlined review process when the project is as specific as possible.
Agency for coordination and consultation	SHPO, DOI (NPS).

NAGPRA

Legislative/Regulations Reference	PL 101-601, 104 Stat. 3049, 25 USC §3001–3013
Full text	http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title43/43cfr10_main_02.tpl
Purpose	To protect human remains and cultural material of Native American and Hawaiian groups.
Applicability	Actions on federal and tribal lands. Consult with appropriate Native American group.
Timing/ considerations	This act and regulations develop a systematic process for determining the rights of Native American tribes to certain Native American human remains and cultural items with which they are affiliated, when such remains and items are (in part) in the possession or control of an institution or state or local government receiving federal funds and were collected prior to November 16, 1990, or are excavated or discovered on federal or tribal lands after that date.
Agency for coordination and consultation	Appropriate Native American group, DOI, BIA, SHPO.

Preservation of American Antiquities

Legislative/Regulations Reference	Act for the Preservation of American Antiquities, 16 USC 431-433 (P.L. 59-209); 36 CFR 251.50-.64 43 CFR 3
Full text	http://www.cr.nps.gov/local-law/anti1906.htm
Purpose	To protect of historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the US.
Applicability	Antiquities located within a project area.
Timing/ considerations	Notify DOI (NPS) when a federal project may result in the loss or destruction of a historic or archeological property. DOI and/or the federal agency may undertake survey or data recovery.
Agency for coordination and consultation	DOI (NPS) Departmental consulting archeologist and SHPO.

Section 110, Historic Preservation Act

Legislative/Regulations Reference	Section 110 of the NHPA, as amended: 16 USC 470H- 2 (P.L. 96-515); 36 CFR 65; 36 CFR 78
Full text	http://www.achp.gov/NHPA.pdf
Purpose	To protect national historic landmarks. To record historic properties prior to demolition.
Applicability	All properties designated as national historic landmarks. All properties on, or eligible for inclusion on, the National Register of Historic Places.
Timing/considerations	Identify and determine the effects of project on subject properties. Afford Advisory Council an early opportunity to comment, in accordance with 36 CFR 800.
Agency for coordination and consultation	SHPO, DOI (NPS)

Title VI of the Civil Rights Act of 1964

Legislative/Regulations Reference	Title VI of the Civil Rights Act of 1964 (42 USC 2000D et seq.) and related statutes; 49 CFR 21 and 23 CFR 200
Full text	http://www.usdoj.gov/crt/cor/coord/titlevi.htm
Purpose	To ensure that no person shall, on the grounds of race, color, national origin, age, sex, or disability be subjected to discrimination under any program or activity receiving federal financial assistance.
Applicability	All federal programs and projects. Procedures set forth in 49 CFR 21 and 23 CFR 200.
Timing/considerations	At the scoping stage in the NEPA process, which provides early identification of public and agency issues, there should be adequate consideration of Title VI and environmental justice. Minority and low-income populations should be identified as early as possible and their concerns should be examined and addressed, preferably in planning.
Agency for coordination and consultation	FHWA headquarters and field offices.

URARPAA

Legislative/Regulations Reference	49 CFR Part 24, PL 91-646
Full text	http://www.fhwa.dot.gov/realestate/ua/index.htm
Purpose	Provides important protections and assistance for people affected by federally funded projects. This law was enacted by Congress to ensure that people whose real property is acquired, or who move as a result of projects receiving federal funds, will be treated fairly and equitably and will receive assistance in moving from the property they occupy.
Applicability	Projects including the purchase of real property. Guidance : http://www.fhwa.dot.gov/realestate/ua/uapubs.htm
Timing/ considerations	At the scoping stage in the NEPA process, which provides early identification of public and agency issues, there should be adequate consideration of environmental justice. Populations should be identified as early as possible and their concerns should be examined and addressed, preferably in planning.
Agency for coordination and consultation	FHWA

7.2.6 Hazardous Substances

CERCLA

Legislative/Regulations Reference	CERCLA, as amended: 42 USC 9601-9657, (P.L. 96-510), Superfund Amendments and Reauthorization Act of 1986: (SARA) (P.L. 99- 499); 40 CFR 300; 43 CFR 11
Full text	http://www.epa.gov/superfund/action/law/cercla.htm
Purpose	<p>To provide for liability, compensation, clean up, and emergency response for hazardous substances released into the environment and the clean up of inactive hazardous waste disposal sites. Provides for liability, risk assessment, compensation, emergency response, and cleanup (including the cleanup of inactive sites) for hazardous substances. The act requires federal agencies to report sites where hazardous wastes are or have been stored, treated, or disposed of, and requires responsible parties, including federal agencies, to clean up releases of hazardous substances.</p> <p>Any project that might take ROW containing a hazardous substance.</p>
Applicability	<p>During early planning, CDOT should identify the location of permitted and non-regulated hazardous waste sites within the project area. Early coordination with the appropriate Regional Office of the EPA and the appropriate state agency will aid in identifying known or potential hazardous waste sites. If known or potential waste sites are identified, the locations should be clearly marked on a map showing their relationship to the alternatives under consideration. If a known or potential hazardous waste site is affected by an alternative, information about the site, the potential involvement, impacts and public health concerns of the affected alternative(s), and the proposed mitigation measures to eliminate or minimize impacts or public health concerns should be discussed in the draft EIS.</p> <p>Avoid hazardous waste sites, if possible.</p> <p>Check EPA lists of hazardous waste sites.</p> <p>Field surveys and reviews of past and present land use.</p> <p>Contact appropriate officials if uncertainty exists.</p>
Timing/ considerations	<p>If hazardous waste is present or suspected, coordinate with appropriate officials.</p> <p>If hazardous waste is encountered during construction, stop project and develop remedial action.</p> <p>CDOT's compliance with CERCLA regarding any hazardous waste sites identified during early planning will continue throughout the project and be a factor in the finalization of alternatives evaluated and the preferred alternative selected and implemented.</p>
Agency for coordination and consultation	EPA or state agency approved by EPA, if any.

RCRA (42 USC §6901 et seq.)

Legislative/Regulations Reference	RCRA, as amended: 42, USC 6901, et seq. (P.L. 94-580) (P.L. 98-616); 40 CFR 260-271
Full text	http://www.epa.gov/rcraonline/
Purpose	<p>To protect human health and the environment. Prohibit open dumping. Manage solid wastes. Regulate treatment, storage, transportation, and disposal of hazardous waste. Authorizes the EPA to manage, by regulation, hazardous wastes on active disposal operations. The act waives sovereign immunity for federal agencies with respect to all federal, state, and local solid and hazardous waste laws and regulations. Federal agencies are subject to civil and administrative penalties for violations and to cost assessments for the administration of the enforcement.</p> <p>Any project that takes ROW containing a hazardous waste.</p>
Applicability	<p>CDOT projects are subject to RCRA to the extent that they have active or future components that fall under EPA's authority to control hazardous waste from the "cradle-to-grave," including the generation, transportation, treatment, storage, and disposal of hazardous waste and the management of non-hazardous wastes. CDOT's compliance with RCRA is a regular part of doing business, and not a specific component of NEPA.</p>
Timing/considerations	<p>Coordinate with EPA or state agency on remedial action. Compliance with RCRA is an integral component of BMP implementation and should be introduced into early planning for project construction and operation, and then continue throughout the project.</p>
Agency for coordination and consultation	EPA or state agency approved by EPA, if any.

7.2.7 Rights of Way

Legislative/Regulations Reference	Title 23 CFR 710
Full text	http://www.access.gpo.gov/nara/cfr/waisidx_01/23cfr710_01.html
Purpose	<p>The primary purpose of the requirements in this part is to ensure the prudent use of federal funds under Title 23 of the USC in the acquisition, management, and disposal of real property. In addition to the requirements of this part, other real property related provisions apply and are found at 49 CFR, part 24.</p>
Applicability	<p>This part applies whenever federal assistance under Title 23 of the USC is used. The part applies to programs administered by FHWA. Where federal funds are transferred to other federal agencies to administer, those agencies' procedures may be utilized.</p> <p>Additional guidance is available electronically at the FHWA Real Estate services website: http:// www.fhwa.dot.gov/realestate/index.htm</p>
Timing/ considerations	Guidance: http://www.fhwa.dot.gov/realestate/polguid.htm
Agency for coordination and consultation	FHWA