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## 4.25 POTENTIAL REGULATORY PERMITS

### INTRODUCTION

Transportation projects should comply with a wide range of federal and state environmental laws and regulations, permits, reviews, notifications, consultations, and other approvals. This section summarizes most of the “permits” potentially applicable to the activities identified (see **Table 4.25-1**). It is not represented as an all-inclusive list nor does it include reviews, consultations, and other types of approval that do not involve granting or denial of a permit.

Citations to both statutory authority and applicable regulations are provided as an aid to reviewers. Abbreviations common to the literature are used. For example, U.S.C. means United States Code while C.R.S. refers to the Colorado Revised Statutes. The Code of Federal Regulations is abbreviated C.F.R. while CCR means Code of Colorado Regulations. Federal or Colorado regulations derive from the applicable statutes or law. The abbreviation et seq. means et sequens or “and the following sections.”

**Table 4.25-1 Potential Permits Requirements**

Laws/Regulations	Agency	Regulated Activity	Requirement
<b>AIR QUALITY</b>			
<b>State of Colorado</b>			
<i>Stationary Source Permitting and Air Pollution Notice Requirements</i> , 5 CCR 1001-5 Part B (Reg. No. 3)	CDPHE, APCD	Emissions associated with construction activities including operation of portable sources	Construction permit
<i>Portable Source Construction Permits</i> , 5 CCR 1000-3 Part B II C (Reg. No. 3)	CDPHE, APCD	Operation of portable sources, e.g., asphalt plants, generators, and rock crushers	Portable source permit
<b>BIOLOGICAL RESOURCES</b>			
<b>Federal</b>			
<i>Endangered Species Act (ESA)</i> , 16 U.S.C. § 1531 et seq.; 50 C.F.R. Part 17 (listing); 50 C.F.R. Part 402 (interagency cooperation)	Department of the Interior (DOI), U.S. Fish and Wildlife Service (USFWS)	Adverse impacts likely to jeopardize federally listed threatened or endangered (T/E) species or destroy or modify critical habitat.	“Section 7 consultation” with USFWS; preparation of biological assessment if species may be present
<b>State of Colorado</b>			
<i>Protection of Fishing Streams</i> C.R.S. 33-5-101 et seq. (S.B. 40, 1969)	CDNR, DOW	Obstruction, damage, destruction, modification or change of streams or banks by construction.	Notification to DOW of stream damage and approval of CDOT-SB40 form



Laws/Regulations	Agency	Regulated Activity	Requirement
<b>EXPLOSIVES</b>			
<b>State of Colorado</b>			
<i>Explosives Regulation and Inspection</i> , C.R.S. §§ 9-7-101 <i>et seq.</i> ; 7 CCR 1101-9	Colorado Department of Labor and Employment, Division of Oil and Public Safety	Use, possession, storage, transport, or disposal of explosives of blasting agents	Explosives permit
<b>WATER QUALITY</b>			
<b>Federal</b>			
<i>National Pollutant Discharge Elimination System (NPDES)</i> , Clean Water Act § 402, 33 U.S.C. § 1342; 40 C.F.R. Part 122	EPA	Discharge of pollutants to U.S. waters from a point source	NPDES permit issued by an EPA-authorized state agency (CDPHE)
<b>State of Colorado</b>			
<i>Colorado Discharge Permit System (CDPS)</i> , C.R.S. §§ 25-8-501-505; 5 CCR 1002-61 (Reg. No. 61)	CDPHE, Water Quality Control Division (WQCD)	Discharge of pollutants to state waters from a point source (pipe, ditch, channel, etc.)	CDPS construction stormwater permit (if disturbance of 1 or more acres)
<i>Construction Dewatering Activities</i> , C.R.S. §§ 25-8-101; <i>et seq.</i> C.R.S, 1973 as amended	CDPHE, WQCD	Construction dewatering of groundwater and/or stormwater	Construction dewatering permit under 33 USC 1251 for the discharge of waters requiring effluent limitations, monitoring requirements and other conditions
CDPS, 5 CCR 1002-61	CDPHE, WQCD	Discharge of groundwater from construction dewatering actions	CDPS construction dewatering permit
CDPS, 5 CCR 1002-61	CDPHE, WQCD	Discharge of process water and/or stormwater from sand and gravel processing	CDPS general permit for sand and gravel operations
<i>401, 402, and 404 Permit Certifications</i> ; C.R.S. 25-8-202, 205, and 302(1)(f); 5 CCR 1002-82	CDPHE, WQCD	Discharge of pollutants under NPDES or CDPS permits for dredged and fill material under USACE permits	Clean Water Act §§ 401, 402, and 404 permit certifications



Laws/Regulations	Agency	Regulated Activity	Requirement
<b>WETLANDS</b>			
<b>Federal</b>			
<i>Clean Water Act § 404 (33 U.S.C. § 1344; 33 C.F.R. Parts 320, 323, 325 (USACOE) and 40 C.F.R. Part 230 (EPA)</i>	U.S. Army Corps of Engineers (USACE) and EPA	Discharge of dredged or fill material into waters of the U.S. including wetlands	“404 Permit” <sup>1</sup> and finding that discharge is associated with the “least environmentally damaging practicable alternative

Note: <sup>1</sup>December 2004 CDOT, USACOE, and FHWA NEPA/404 Merger Process and Agreement for Transportation Projects in Colorado.



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