



CHAPTER 4
PERMIT REQUIREMENTS

SECTION 1
LOCAL PERMITS

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LOCAL PERMITS



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SECTION 1 LOCAL PERMITS

1.1 INTRODUCTION

Construction of flood control or stormwater management facilities typically requires permits from local, state and federal agencies. Local governments may be the city or county where the project is located, but may also include a special district with authority over flood control or stormwater management activities. The types of permits required are often similar from one jurisdiction to another, but may be designated differently. The information required to obtain necessary permits and the level of detail can also vary significantly from one jurisdiction to another. A review of local regulations and consultation with applicable local agencies is recommended to determine specific requirements for each jurisdiction. Applicable local agencies may include the planning and zoning department, public works department or other city or county department.

Permitting requirements can vary significantly from one jurisdiction to another. Consultation with the local planning & zoning department, public works department or other applicable agency is recommended to determine specific requirements.

This section of the Statewide Manual discusses the types of permits commonly required on a local level for construction of flood control or stormwater management facilities. Some jurisdictions may not use all of the permits described or they may be combined into one approval process. Depending on the nature of a particular project, not all permits may be necessary.

1.2 FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit is typically required for construction or development activities that occur within 100-year flood hazard areas. These activities include, but are not limited to, building or enlarging a structure, remodeling or improving a structure, placing a manufactured home, mining, dredging, filling, grading, paving, excavating, and drilling within the 100-year flood hazard areas. In other words, any structural or non-structural activity that may affect flooding or flood damage may require a permit. A 100-year flood hazard area may include areas recognized as flood hazards by a local agency and designated by the CWCB and are not limited to flood hazards recognized by the Federal Emergency Management Agency.

Information normally required for a Floodplain Development Permit includes a hydraulic analysis to :

1. Determine the effects of proposed improvements on the 100-year flood elevation.
2. Document any necessary revisions to the floodplain delineation.
3. Compare pre-project and post-project conditions.



The hydraulic analysis can be presented in a stand-alone report or included in a drainage study subject to jurisdictional requirements. Floodplain Development Permits are sometimes referred to as floodplain permits. Some jurisdictions have additional requirements that apply to floodways in addition to 100-year flood hazard areas.

1.3 GRADING PERMIT

Grading Permits are typically required when development or construction activities require regrading or modification of existing ground surfaces. These activities are often defined as disturbance of an area equal to or greater than a defined area in acres or excavation or earth fill greater than or equal to a defined volume in cubic yards.

Information required for a grading permit usually requires a grading plan designating existing and proposed ground contours. In some jurisdictions or in unusual situations, a geotechnical engineering or geologic evaluation may be required.

1.4 BUILDING PERMIT/CONSTRUCTION PERMIT

In some jurisdictions, construction of flood control or stormwater management facilities may require a Building Permit or Construction Permit common to all types of construction in the jurisdiction. A Building Permit may also be necessary in cases where a stormwater pump station or other structural elements fall within applicable portions of the Uniform Building Code.

Requirements to obtain a Building Permit or Construction Permit can vary widely based on the nature of the project and the jurisdiction involved. Engineering drawings are typically required and design reports may be necessary in many situations.

1.5 EROSION CONTROL PERMIT

An Erosion Control Permit is typically required in conjunction with site grading and is often necessary for construction of flood control or stormwater management facilities. The purpose of an erosion control permit is to provide assurance that adequate erosion control measures or "Best Management Practices" are used during construction and for post-construction conditions.

Requirements for obtaining an Erosion Control Permit typically include preparation of a grading plan and an erosion control plan that designates the type and locations of erosion control measures to be employed. Erosion control measures normally address water erosion but may also be required for wind erosion in some jurisdictions. Erosion control plans include both structural measures such as utilization of silt fence, straw bales or other measures and non-structural measures such as temporary and permanent seeding requirements and limitations on the maximum extent of exposed ground surfaces at any given time. An Erosion Control Permit may also be referred to as a Sediment Control Permit or Erosion and Sediment Control Permit in some jurisdictions.



1.6 WETLAND PERMIT

Construction of flood control or stormwater management facilities often occurs in or near wetlands. These activities are regulated by the U.S. Army Corps of Engineers in accordance with Section 404 of the Clean Water Act (See Chapter 4, Section 3 for additional information). A wetland permit is also required by some local jurisdictions when a Section 404 permit is not required, or in addition to a Section 404 permit.

Requirements for obtaining a Wetland Permit typically include preparation of a grading plan or other construction drawings that indicate the wetland areas impacted and the proposed modifications. Wetland delineation areas can be mapped by qualified individuals for the project or may be available on wetland maps maintained by the local jurisdiction. Where impacts to the wetland areas are not acceptable based on regulations of the local jurisdiction, a wetland mitigation plan will typically be required to designate measures to offset negative effects of the project or create wetland areas at other locations of the project.



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CHAPTER 4 PERMIT REQUIREMENTS

SECTION 2 STATE PERMITS

2.1 INTRODUCTION

Within the state of Colorado, numerous agencies govern the aspects of stormwater and flood control facility design and construction. These agencies are responsible for providing the necessary permits to effectively manage impacts from construction projects. Throughout construction, environmental matters such as air and water pollution, soil contamination, and habitat protection are all regulated by permits. Legal matters such as rights-of-way and water rights must be considered during design.

This section outlines the permits that the various state agencies manage and what actions must be performed as a possessor of such permits. It is important to point out that the permits are regularly revised and therefore it is best to contact the necessary agency to ensure the most current guidelines for submitting a permit application are being followed.

2.2 COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

The Colorado Department of Public Health and Environment (CDPHE) issues various types of permits that pertain to adequately controlling construction pollutants. The three types of permits discussed below are Stormwater Discharge, Dewatering and Land Development Air Pollution Emission. The Stormwater Discharge permit is designed to ensure stormwater does not pass through or leave the construction site without being adequately treated. The Dewatering permit is designed to ensure water quality standards are met during construction. The Land Development Air Pollution Emission permit is designed to minimize the impacts of dust generated during construction.

2.2.1 CONSTRUCTION STORMWATER DISCHARGE PERMIT

General

This permit is necessary for use by all stormwater dischargers engaged in construction activities. With this permit the construction activities, which include clearing, grading, and excavation are granted authorization to discharge all new and existing stormwater associated with construction activities into waters of the State of Colorado. The permit application covers both Large Construction Sites (disturbing 5 or more acres) and Small Construction Sites (disturbing at least 1 acre but less than 5 acres).

In certain circumstances construction activities can receive permit coverage without submitting a Construction Stormwater Discharge Permit application. A Qualifying Local Program is a municipal stormwater program for stormwater discharges associated with small construction activity that has been formally approved by the CDPHE Water Quality Control Division (Division). In the event that a small construction site is within the jurisdiction



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of a Qualifying Local Program, the operator of the construction activity is authorized to discharge stormwater associated with small construction activity under this general permit without the submittal of an application to the Division.

Permit Application Requirements

The Construction Stormwater Discharge Permit application includes, at a minimum, the following:

- 1.) The operator's name, address, telephone number, tax payer identification number (or employers identification number), and the status as Federal, State, private, public or other entity;
- 2.) Name, county and location of the construction site, including the latitude and longitude to the nearest 15 seconds of the approximate center of the construction activity;
- 3.) A brief description of the nature of the construction activity;
- 4.) The anticipated starting date of the project and the anticipated schedule of completion;
- 5.) Estimates of the total area of the site, the area of the site that is expected to be disturbed and the total area of the larger common plan of development or sale to undergo disturbance;
- 6.) The name of the receiving water(s), or the municipal separate storm sewer system and the ultimate (i.e., named) receiving water(s);
- 7.) Certification that the SWMP for the construction site is complete; and
- 8.) The signature of the applicant signed in accordance with the permit.

Stormwater Management Plan

Construction activities produce many different kinds of pollutants which may cause stormwater contamination problems. The main pollutant of concern at construction sites is sediment. Grading activities remove grass, rocks, pavement and other protective ground covers, resulting in the exposure of underlying soil to the elements. The soil is then easily picked up by wind and/or washed away by rain or snow melt. When the water carrying these particles reaches a lake or stream and slows down, the particles fall out of suspension and build up layers of sediment in the stream beds. This chokes the river channel and covers the areas where fish spawn and plants grow. These particles also cloud waters, causing aquatic respiration problems, and can kill fish and plants growing in the river. In addition, the construction of buildings and roads may require the use of toxic or hazardous materials such as petroleum products, fertilizers, pesticides and herbicides, and building materials such as asphalt, sealants and concrete, which may pollute stormwater. These materials can be harmful to human, plants and aquatic life.

As part of the Construction Stormwater Discharge Permit application a Stormwater Management Plan (SWMP) is required. The SWMP goal is to improve water quality by reducing pollutants in stormwater discharges. The SWMP is based on the use of several Best Management Practices (BMPs) for construction sites. The common construction BMPs include those that prevent erosion, those which prevent pollutants from the construction materials from mixing with stormwater, and those which trap pollutants before they can be discharged. The SWMP focuses on controls used during earth disturbing activities, this means that haybales, silt fences, etc. should be in



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place before grading begins. Typical sediment control activities include: minimizing the amount of disturbed soil, preventing runoff from off-site areas from flowing across disturbed areas, slowing down the runoff flowing across site, and removing sediment from on-site runoff before it leaves the site.

Application Submittal

At least ten days prior to the commencement of construction activities, one original permit application must be completed and hand delivered or mailed to:

Colorado Department of Public Health and Environment
Water Quality Control Division
WQCD-P-B2
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Permit application forms are available at the above address or at the CDPHE website.

2.2.2 CONSTRUCTION DEWATERING PERMIT

General

This permit is necessary for use by all dischargers engaged in the dewatering of groundwater from a construction site. This permit requires that representative samples and measurements of the volume and nature of the discharge be taken and reported to the CDPHE Water Quality Control Division.

Permit Application Requirements

The Construction Stormwater Discharge Permit application includes, at a minimum, the following:

- 1.) Name, address, and descriptive location of the facility;
- 2.) Name of principal in charge of operation of the facility;
- 3.) Name of water(s) receiving the discharges(s);
- 4.) Description of the type of activity resulting in the discharge including the anticipated duration of activity and/or the discharge, anticipated volume, and rate of discharge, and the source of water which is to be discharged;
- 5.) Description of any waste water treatment system and recycle/reuse utilized;
- 6.) A detailed site map that identifies all discharge points, and a schematic diagram showing the general area and/or routing of the activity;
- 7.) Analysis of the water to be discharged; and
- 8.) Storage of petroleum or chemicals on site.

Application Submittal

At least thirty days prior to the anticipated date of discharge, two copies of the permit application must be completed and hand delivered or mailed to:

Colorado Department of Public Health and Environment
Water Quality Control Division



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WQCD-P-B2
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Permit application forms are available at the above address or at the CDPHE website.

Additional Information Submittal

In association with dewatering permits, the State Engineers Office (SEO) has indicated that any discharge that does not return water directly to surface waters (i.e. land application, rapid infiltration basins, etc.) has the potential for material injury to a water right. As a result, the SEO needs to determine that material injury to a water right will not occur from such activities. To make this judgment, the SEO requests that a copy of all documentation demonstrating that the requirements of Colorado water law have been met, be submitted to their office for review. The submittal should be made as soon as possible to the following address:

Colorado Division of Water Resources
1313 Sherman St. Rm 818
Denver, CO 80203

It is important to understand that any dewatering permit issued by the Water Quality Control Division does not constitute a water right. Issuance of a dewatering permit does not negate the need to also have the necessary water rights in place.

2.2.3 LAND DEVELOPMENT AIR POLLUTANT EMISSION PERMIT

General

Land development construction projects are frequently associated with the release of fugitive dust or particulate matter when native soil is disturbed, soil is stockpiled, as project vehicles travel on unpaved roads or when mud/dirt is carried out onto paved roadways. Particulate matter is regulated as an "Air Pollutant" by the Colorado Department of Public Health and Environment, Air Pollution Control Division (Division). An Emission Permit for land development is required when the project is over 25 acres or takes more than six months to reach completion.

Geographical Areas of Concern

The State of Colorado is divided into attainment and nonattainment areas. Attainment means that the area is in compliance with the Federal Clean Air Act. Nonattainment is an area that has exceeded the National Ambient Air Quality Standard for a regulated pollutant. Nonattainment areas have more strict air pollution requirements than attainment areas.

Permit Application Requirements

The Air Pollutant Emission Permit application includes, at a minimum, the following:

- 1.) Name, address, and descriptive location of the facility;
- 2.) Total area of land in the project;
- 3.) Date earthmoving will begin and end;



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- 4.) Total area subject to earthmoving;
- 5.) Total disturbed area at any one time;
- 6.) Area to be paved;
- 7.) Date paving will be completed;
- 8.) Estimated time to complete entire project (includes structures);
- 9.) List of any known or suspected contaminants in the soil; and
- 10.) Brief description of how the project development will occur.

Fugitive Dust Control Plan

As part of the Land Development Air Pollution Permit application a Fugitive Dust Control Plan is required. The Fugitive Dust Control Plan's goal is to address how dust will be kept to a minimum at the site. The Fugitive Dust Control Plan is based on the use of several Best Management Practices (BMPs) for construction sites. The most common BMPs include those that minimize dust from unpaved roadways, those that minimize dust from disturbed surface areas, and those that minimize mud and dirt carry-out onto paved surfaces. Typical unpaved roadway controls include: watering, gravelling, and controlling vehicle speeds. Typical disturbed surface area controls include: watering, revegetation, compaction, wind breaks, and minimizing the areas of disturbance. Typical mud and dirt carry-out controls include: gravel entry ways, covering the load, washing vehicle wheels, and not overfilling the trucks.

Land development projects that are less than 25 acres and less than 6 months in duration but more than one acre in nonattainment areas or more than five acres in attainment areas need to use appropriate control measures and may also be required to file a fugitive dust control plan.

Application Submittal

The original copy of the permit application must be completed and hand delivered or mailed to:

Colorado Department of Public Health and Environment
Air Pollution Control Division
APCD-SS-B1
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Permit application forms are available at the above address or at the CDPHE website.

2.3 COLORADO DEPARTMENT OF TRANSPORTATION

The Colorado Department of Transportation (CDOT) issues permits for all utility work within rights-of-way for state highways and will be required where drainage improvements are within or cross highway rights-of-way.

Permit Application Requirements

All applications must conform to the CDOT "Standard Provisions for Utility Permit Operations." The applicant must generally provide copies of construction drawings, a traffic control plan if construction activities will impact traffic flow and evidence of insurance in accordance with permit



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requirements. Application forms are available at CDOT Regional Offices or from the CDOT website.

2.4 COLORADO DIVISION OF WILDLIFE

Conservation of threatened or endangered species within the State of Colorado can be an important consideration in the design and construction of stormwater facilities. The Colorado Division of Wildlife (DOW) has identified the threatened or endangered species throughout the state (See Table CH4-T201 (A through D)). In the event that any threatened or endangered species are affected by proposed, as of the date of publication of this Manual, drainage or stormwater management facilities, the Colorado Division of Wildlife should be consulted to assess the impact of the proposed facility and potential alternatives. By doing so, a design that benefits the local species can be pursued.

2.5 COLORADO SEO - DAM SAFETY REQUIREMENTS

Although not strictly a permit, drainage facilities (particularly stormwater detention facilities) may fall within the classification of "Jurisdictional Dams" and require approval by the Colorado State Engineer's Office (SEO).

Dams within the State of Colorado are classified as either "Jurisdictional Dams" or "Non-jurisdictional Dams" by the State Engineer's office based on the height of the embankment above the natural ground, the surface area of the reservoir, or the total reservoir storage capacity. All existing and new dams meeting the criteria outlined below are classified as "Jurisdictional Dams" and those that don't meet the criteria are classified as "Non-jurisdictional Dams".

" A "Jurisdictional Dam" is a dam which impounds water above the elevation of the natural surface of the ground creating a reservoir with a capacity of more than 100 acre-feet, or creates a reservoir with a surface area in excess of 20 acres at the high-water line, or exceeds 10 feet in height measured vertically from the elevation of the lowest point of the natural surface of the ground where that point occurs along the longitudinal centerline of the dam up to the flowline crest of the emergency spillway of the dam. (Dam Safety Rule 4.A. (6))"

Additional information regarding "jurisdictional Dams" or reservoirs is included in Chapter 13 – Section 3 of the Manual.



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Colorado Listing of Endangered, Threatened, and Wildlife Species of Special Concern

COMMON NAME	SCIENTIFIC NAME	STATUS ¹
Fish		
Bonytail Profile [REDACTED]	Gila Elegans	FE, SE
Razorback Sucker [REDACTED]	Xyrauchen Texanus	FE, SE
Humpback Chub [REDACTED]	Gila Cypha	FE, ST
Colorado Pikeminnow [REDACTED]	Ptychocheilus Lucius	FE, ST
Greenback Cutthroat Trout [REDACTED]	Oncorhynchus Clarki Stomias	FT, ST
Rio Grande Sucker	Catostomus Plebeius	SE
Lake Chub	Couesius Plumbeus	SE
Plains Minnow	Hybognathus Placitus	SE
Suckermouth Minnow	Phenacobius Mirabilis	SE
Northern Redbelly Dace	Phenacobius Mirabilis	SE
Southern Redbelly Dace	Phoxinus Eos	SE
Brassy Minnow	Hybognathus Hankinsoni	ST
Common Shiner	Luxilus Cornutus	ST
Arkansas Darter	Etheostoma Cragini	ST
Mountain Sucker	Catostomus Playtrhynchus	SC
Plains Orangethroat Darter	Etheostoma Spectabile	SC
Iowa Darter	Etheostoma Exile	SC
Rio Grande Chub	Gila Pandora	SC
Colorado Roundtail Chub	Gila Robusta	SC
Stonecat	Noturus Flavus	SC
Colorado River Cutthroat Trout	Oncorhynchus Clarki Pleuriticus	SC
Rio Grande Cutthroat Trout	Oncorhynchus Clarki Virginalis	SC
Flathead Chub	Platygio Gracilus	SC

¹Status Codes:

- FE=Federally Endangered
- FT=Federally Threatened
- SE=State Endangered
- ST=State Threatened
- SC=State Special Concern (not a statutory category)

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COLORADO DIVISION OF WILDLIFE

TABLE CH4-T201A

COLORADO LISTING OF ENDANGERED,
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COMMON NAME	SCIENTIFIC NAME	STATUS ¹
Amphibians		
Boreal Toad	Bufo Boreas Boreas	SE
Northern Cricket Frog	Acris Crepitans	SC
Great Plains Narrowmouth Toad	Gastrophryne Olivacea	SC
Northern Leopard Frog	Rana Pipiens	SC
Wood Frog	Rana Sylvatica	SC
Plains Leopard Frog	Rana Blairi	SC
Couch's Spadefoot	Scaphiopus Couchii	SC
Reptiles		
Triploid Checkered Whiptail	Cnemidophorus Neotesselatus	SC
Midget Faded Rattlesnake	Crotalus Viridis Concolor	SC
Longnose Leopard Lizard	Gambelia Wislinzenii	SC
Yellow Mud Turtle	Kinosternon Flavescens	SC
Common Kingsnake	Lampropeltis Getula	SC
Texas Blind Snake	Leptotyphlops Dulcis	SC
Texas Horned Lizard	Phrynosoma Cornutum	SC
Roundtail Horned Lizard	Phrynosoma Modestum	SC
Massasauga	Sistrurus Catenatus	SC
Common Garter Snake	Thamnophis Sirtalis	SC
Mollusks		
Rocky Mountain Capshell	Acroloxus Coloradensis	SC
Cylindrical papershell	Anodontoides Ferussacianus	SC

¹Status Codes:

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- FT=Federally Threatened
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- ST=State Threatened
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TABLE CH4-T201B

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COMMON NAME	SCIENTIFIC NAME	STATUS ¹
Birds		
Whooping Crane	Grus Americana	FE, SE
Least Tern	Sterna Antillarum	FE, SE
Southwestern Willow Flycatcher	Empidonax Traillii Extimus	FE, SE
Plains Sharp-Tailed Grouse	Tympanuchus Phasianellus Jamesii	SE
Piping Plover	Charadrius Melodus Circumcinctus	FT, ST
Bald Eagle	Haliaeetus Leucocephalus	FT, ST
Mexican Spotted Owl	Strix Occidentalis Lucida	FT, ST
Burrowing Owl	Athene Cuniculatia	ST
Lesser Prairie-Chicken	Tympanuchus Pallidicinctus	ST
Western Yellow-Billed Cuckoo	Coccyzus Americanus	SC
Greater Sandhill Crane	Grus Canadensis Tabida	SC
Ferruginous Hawk	Buteo Regalis	SC
Gunnison Sage-Grouse Profile and Rangewide Conservation Plan	Centrocercus Minimus	SC
American Peregrine Falcon	Falco Peregrinus Anatum	SC
Greater Sage Grouse	Centrocercus Urophasianus	SC
Western Snowy Plover	Charadrius Alexandrinus	SC
Mountain Plover	Charadrius Montanus	SC
Long-Billed Curlew	Numenius Americanus	SC
Columbian Sharp-Tailed Grouse	Tympanuchus Phasianellus Columbianus	SC

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- SE=State Endangered
- ST=State Threatened
- SC=State Special Concern (not a statutory category)

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TABLE CH4-T201C

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COMMON NAME	SCIENTIFIC NAME	STATUS ¹
Mammals		
Gray Wolf	Canis Lupus	FE, SE
Black-Footed Ferret	Mustela Nigripes	FE, SE
Grizzly Bear	Ursus Arctos	FT, SE
Preble's Meadow Jumping Mouse	Zapus Hudsonius Preblei	FT, ST
Lynx	Lynx Canadensis	FT, SE
Wolverine	Gulo Gulo	SE
River Otter	Lontra Canadensis	ST
Kit Fox	Vulpes Macrotis	SE
Townsend's Big-Eared Bat (Pale ssp)	Corynorhinus Townsendii Pallescens	SC
Black-Tailed Prairie Dog	Cynomys Ludovicianus	SC
Botta's Pocket Gopher (Rubidus ssp)	Thomomy Bottae Rubidus	SC
Northern Pocket Gopher (Macrotis ssp)	Thomomys Talpoides Macrotis	SC
Swift Fox	Vulpes Velox	SC

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TABLE CH4-T201D

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SECTION 3 FEDERAL PERMITS

3.1 INTRODUCTION

Many national programs have been developed to help establish criteria for allowable construction in and around U.S. waters. Ranging from regulations for protecting waterways to preserving natural floodplains, these guidelines are upheld by federal permits. While these federal permits are often administered by regional or even local offices, consistency and effectiveness across the nation is still achieved through the development of these programs and their permits.

3.2 FEMA MAP REVISIONS

When structurally modifying any area within a floodplain designated by FEMA, it is necessary to provide FEMA with the necessary documents to verify that proposed modifications do not result in unacceptable changes to the floodplain or flood elevations along a drainageway. There are two documents, the CLOMR (Conditional Letter of Map Revision) and the CLOMR-F (Conditional Letter of Map Revision based on Fill), that when submitted to FEMA provide technical documentation of why the proposed development may be allowed within the floodplain boundaries. Additional information regarding FEMA Map Revisions and requirements are discussed in detail in Chapter 5 Section 1.4.

3.3 U.S. ARMY CORPS OF ENGINEERS

The U.S. Army Corps of Engineers (USACE) has been regulating activities to protect navigation in the nation's waters since 1890. In the 1960's the purpose of the program was increased so that it would consider the full public interest for the protection and utilization of water resources.

In Colorado, the regulatory authorities and responsibilities of the USACE are primarily based on the two following laws: Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (33 U.S.C. 1344).

Other laws that may also affect the processing of applications for USACE permits are: the Fish and Wildlife Coordination Act, the National Environmental Policy Act, the Endangered Species Act, the Coastal Zone Management Act, the National Historic Preservation Act, the Marine Mammal Protection Act, the Wild and Scenic Rivers Act, the National Fishing Enhancement Act of 1984, and the Federal Power Act.

Three different districts of the U.S. Army Corps of Engineers have jurisdiction in Colorado. The Omaha District of the Northwestern Division regulates the Platte River Basin in the northeast portion of the state. The Albuquerque District of the South Pacific Division regulates the central to southeast portions of the state. The Sacramento District of the South Pacific Division regulates the western portions of the



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state. See Figure CH4-F301 for a map of the Division and District boundaries and contact information.

3.3.1 SECTION 404 - CLEAN WATER ACT

Section 404 of the Clean Water Act establishes a program to regulate the discharge of dredged and fill material into the waters and wetlands of the United States. The basic premise of the program is that no discharge of dredged or fill material can be permitted if a practicable alternative exists that is less damaging to the aquatic environment or if the nation's waters would be significantly degraded. When applying for a permit, it is necessary to show that you have:

- 1.) Taken steps to avoid wetland impacts where practicable.
- 2.) Minimized potential impacts to wetlands.
- 3.) Provided compensation for any remaining, unavoidable impacts through activities to restore or create wetlands.

Regulated activities are controlled by a permit review process. There are two major categories of permits, individual and general. An individual permit is usually required for potentially significant impacts to wetlands. The general permits are often granted whenever discharges will only create minimal adverse effects. In Colorado, these general permits may be granted on a nationwide or regional basis for particular categories of activities (for example, streambank stabilization, stormwater management facilities, minor road crossings, utility line backfill, and bedding etc.) to accelerate the permitting process. The appropriate Corps of Engineers Regulatory Offices or wetland consultants can be consulted for additional information regarding nationwide or other permit conditions and requirements.

Activities in wetlands for which permits may be required include, but are not limited to:

- 1.) Placement of fill material.
- 2.) Ditching activities where the excavated material is sidecast.
- 3.) Levee and dike construction.
- 4.) Mechanized land clearing.
- 5.) Land leveling.
- 6.) Most road construction.
- 7.) Dam construction.

Section 404(f) exempts some activities from regulation under Section 404. These activities include many ongoing farming, ranching, and silviculture practices.

Obtaining a Section 404 permit typically requires mapping of wetland areas by a qualified individual, preparation of a grading plan or other construction drawings that indicate the wetland areas impacted and the proposed modifications. Alternatives to minimize impacts must also be considered. Where impacts to the wetland areas are not acceptable, a wetland mitigation plan will typically be required to designate measures to offset negative effects of the project or create wetland areas at other locations of the project. The



appropriate Corps District Office must make the final determination of whether an area is a wetland and whether the activity requires a permit.

3.3.2 RIVERS AND HARBORS ACT

Section 10 of the Rivers and Harbors Act establishes a program to prohibit the obstruction or alteration of navigable waters of the United States without a permit from USACE. Navigable waters of the United States are defined as waters that have been used in the past, are now used or susceptible to use as a means to transport interstate or foreign commerce. Any obstruction or alteration of navigable waters of the United States requires a permit from the Corps of Engineers.

3.4 U.S. FISH AND WILDLIFE SERVICE

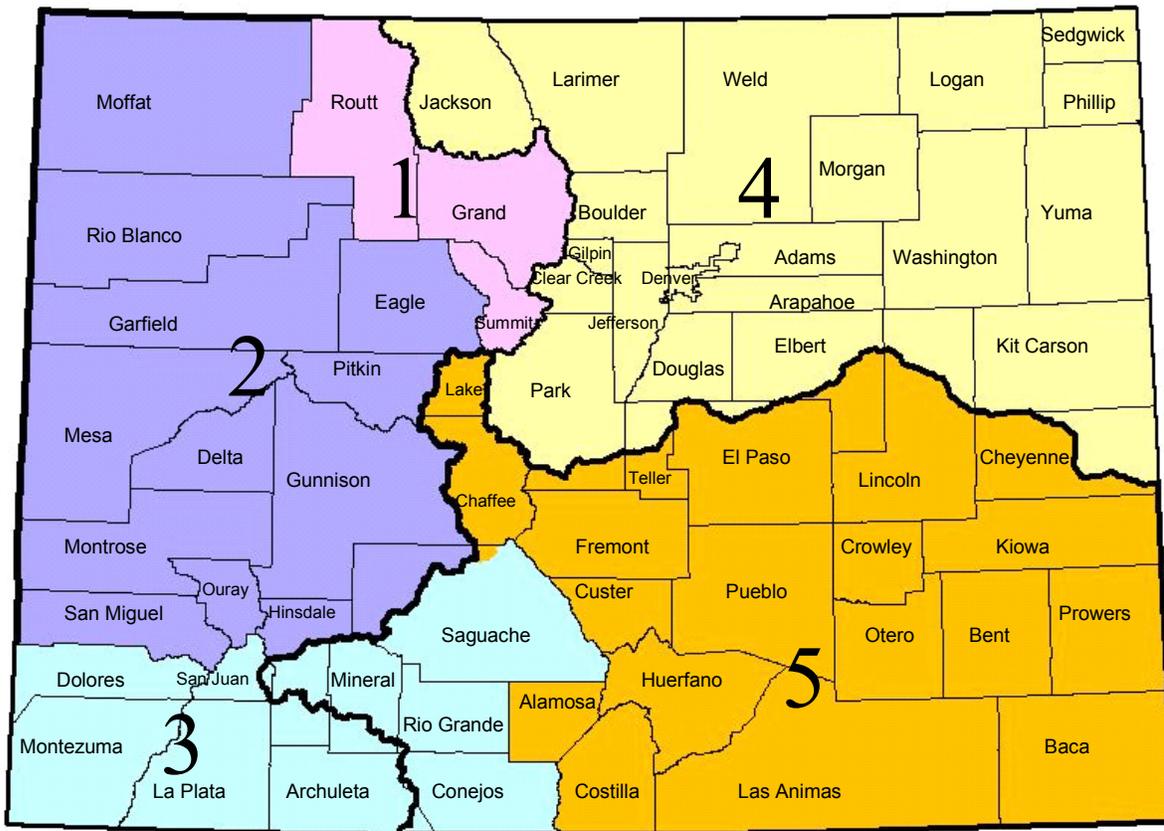
The U.S. Fish and Wildlife Service is responsible for administering requirements of the federal Endangered Species Act (ESA). The Endangered Species Act prohibits activities affecting threatened and endangered species unless authorized by a permit from the U.S. Fish and Wildlife Service. Where federal funding or permitting (including Corps of Engineers permits) is utilized, Federal agencies are required to consult with the U.S. Fish and Wildlife Service to ensure that any actions will not jeopardize listed species or adversely affect critical habitat.



COLORADO

FLOODPLAIN AND STORMWATER CRITERIA MANUAL

U. S. Army Corps of Engineers Colorado Regulatory Field Offices



1 Frisco Regulatory Office
Sacramento District
301 West Main, Suite 202
P. O. Box 607
Frisco, CO 80443-0606
Phone: (970) 668-9676

4 Denver Regulatory Office
Omaha District
9307 South Wadsworth Blvd.
Littleton, CO 80128-6901
Phone: (303) 979-4120
Fax: (303) 979-0602

2 Western Colorado Regulatory Office
Sacramento District
402 Rood Ave, Room 142
Grand Junction, CO 81501-2563
Phone: (970) 243-1199
Fax: (970) 241-2358
Durango Regulatory Office

5 Southern Colorado Regulatory Office
Albuquerque District
720 Main Street, Suite 205
Pueblo, CO 81003
Phone: (719) 543-9459
Fax: (719) 543-9475

3 Sacramento/Albuquerque Districts
278 Sawyer Drive, Suite 1
Durango, CO 81303
Phone: (970) 375-9452 (Sacramento District)
Phone: (970) 375-9509 (Albuquerque District)
Fax: (970) 375-9531

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REFERENCE:
U.S. ARMY CORPS OF ENGINEERS
OMAHA DISTRICT

FIGURE CH4-F301
USACE COLORADO
REGULATORY FIELD OFFICES