

107.16 - Environmental Stipulations

By signing the bid, the bidder shall have stipulated (1) that any facility to be used in the performance of the Contract (unless the Contract is exempt under the Clean Air Act as amended [42 U.S.C. 1857, et seq., as amended by P.L. 91-604], the Federal Water Pollution Control Act as amended [33 U.S.C. 1251 et seq. as amended by P.L. 92-500], and Executive Order 11738 and regulations in implementation thereof [40 C.F.R., Part 15]) is not listed on the EPA's List of Violating Facilities pursuant to 40 C.F.R. 15.20; and (2) that the Department will be promptly notified prior to the award of the Contract if the bidder receives any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be used for the Contract is under consideration to be listed on the EPA's List of Violating Facilities.

No separate payment will be made for the work or precautions described herein except where provided for as a specific item in the Contract or except where provision has been made for such payment in these Specifications.

- (a) **Erosion and Siltation:** The Contractor shall exercise every reasonable precaution, including temporary and permanent measures, throughout the duration of the project to control erosion and prevent siltation of adjacent lands, rivers, streams, wetlands, lakes, and impoundments. Siltation control measures shall be applied to erodible material exposed by any activity associated with construction, including clearing or grubbing, but not limited to local material sources, stockpiles, disposal areas, and haul roads and shall be functional before land-disturbing activities take place.

The Contractor shall comply with the requirements of Sections 301.02 and 303.03. Should the Contractor as a result of negligence or noncompliance leave an area exposed more than 15 days, the cost of temporary seeding and or mulching shall be at Contractor's own expense. If the delay is due to circumstances beyond the Contractor's control, the Department will be responsible for the expense.

Temporary measures shall be coordinated with the work to ensure effective, and continuous erosion and siltation control. Permanent erosion control measures and drainage facilities shall be installed as the work progresses.

The Contractor shall have, within the limits of the project, an employee certified by the Department of Conservation and Recreation in Erosion and Sediment Control who shall inspect erosion and siltation control devices and measures for proper installation and deficiencies immediately after each rainfall, at least daily during periods of prolonged rainfall, and weekly when no rainfall event occurs and promptly document and report his findings to the Inspector. Failure of the Contractor to maintain a certified employee within the limits of the project will result in the Engineer suspending work related to any land-disturbing activity until such time as a certified employee is present on the project and functioning as described herein. The Contractor's failure to maintain appropriate erosion and siltation control devices in a functioning condition may result in the Engineer notifying the Contractor in writing of specific deficiencies. Deficiencies shall be corrected immediately. If the Contractor fails to correct or take appropriate actions to correct the specified deficiencies within 24 hours after receipt of such notification, the Department may do one or more of the following: require the Contractor to suspend work in other areas and concentrate efforts toward correcting the specified deficiencies, hold progress estimates, or proceed to correct the specified deficiencies and deduct the entire cost of such work from monies due the Contractor.

- (b) **Pollution:**

1. **Water:** The Contractor shall exercise every reasonable precaution throughout the duration of the project to prevent pollution of rivers, streams, and impoundments.

Pollutants such as, but not limited to, chemicals, fuels, lubricants, bitumens, raw sewage, paints, sedimentation, and other harmful material shall not be discharged into or alongside rivers, streams, or impoundments or into channels leading to them. The Contractor shall provide the Engineer a contingency plan for reporting and immediate actions to be taken in the event of a dump, discharge, or spill within 8 hours after he has mobilized to the project site.

Construction discharge water shall be filtered to remove deleterious materials prior to discharge into state waters. Filtering shall be accomplished by the use of a standard dewatering basin or a dewatering bag. Dewatering bags shall conform to the requirements of Section 245. During specified spawning seasons, discharges and construction activities in spawning areas of state waters shall be restricted so as not to disturb or inhibit aquatic species that are indigenous to the waters. Neither water nor other effluence shall be discharged onto wetlands or breeding or nesting areas of migratory waterfowl. When used extensively in wetlands, heavy equipment shall be placed on mats. Temporary construction fills and mats in wetlands and flood plains shall be constructed of approved nonerodible materials and shall be removed by the Contractor to natural ground when the Engineer so directs.

If the Contractor dumps, discharges, or spills any oil or chemical that reaches or has the potential to reach a waterway, he shall immediately notify all appropriate jurisdictional state and federal agencies in accordance with the requirements of Section 107.01 and shall take immediate actions to contain, remove, and properly dispose of the oil or chemical.

Excavation material shall be disposed of in approved areas above the mean high water mark shown on the plans in a manner that will prevent the return of solid or suspended materials to state waters. If the mark is not shown on the plans, the mean high water mark shall be considered the elevation of the top of stream banks.

Constructing new bridge(s) and dismantling and removing existing bridge(s) shall be accomplished in a manner that will prevent the dumping or discharge of construction or disposable materials into rivers, streams, or impoundments.

Construction operations in rivers, streams, or impoundments shall be restricted to those areas where channel changes are shown on the plans and to those that must be entered for the construction of structures. Rivers, streams, and impoundments shall be cleared of falsework, piling, debris, or other obstructions placed therein or caused by construction operations. Stabilization of the streambed and banks shall occur immediately upon completion of work or if work is suspended for more than 15 days.

The Contractor shall prevent stream constriction that would reduce stream flows below the minimum, as defined by the State Water Control Board, during construction operations.

If it is necessary to relocate an existing stream or drainage facility temporarily to facilitate construction, the Contractor shall design and provide temporary channels or culverts of adequate size to carry the normal flow of the stream or drainage facility. The Contractor shall submit a temporary relocation design to the Engineer for review and acceptance in sufficient time to allow for discussion and correction prior to beginning the work the design covers. Costs for the temporary relocation of the stream or drainage facility shall be included in the Contract price for the related pipe or box culvert. Stabilization of the streambed and banks shall occur immediately upon completion of work or if work is suspended for more than 15 days.

Temporary bridges or other minimally invasive structures shall be used wherever the Contractor finds it necessary to cross a stream more than twice in a 6 month period, unless otherwise authorized by water quality permits issued by the Army Corps of Engineers, Virginia Marine Resources Commission or the Virginia Department of Environmental Quality for the contract.

2. **Air:** The Contractor shall comply with the provisions of Section 107.01 and the State Air Pollution Control Law and Rules of the State Air Pollution Control Board, including notifications required therein.

Burning shall be performed in accordance with all applicable local laws and ordinances and under the constant surveillance of watchpersons. Care shall be taken so that the burning of materials does not destroy or damage property or cause excessive air pollution. The Contractor shall not burn rubber tires, asphalt, used crankcase oil, or other materials that produce dense smoke. Burning shall not be initiated when atmospheric conditions are such that smoke will create a hazard to the motoring public or airport operations. Provisions shall be made for flagging vehicular traffic if visibility is obstructed or impaired by smoke. At no time shall a fire be left unattended.

Asphalt mixing plants shall be designed, equipped, and operated so that the amount and quality of air pollutants emitted will conform to the Rules of the State Air Pollution Control Board.

Emission standards for asbestos incorporated in the EPA's National Emission Standards for Hazardous Air Pollutants apply to the demolition or renovation of any institutional, commercial, or industrial building, structure, facility, installation, or portion thereof that contains friable asbestos or where the Contractor's methods for such actions will produce friable asbestos.

3. **Noise:** The Contractor's operations shall be performed so that exterior noise levels measured during a noise-sensitive activity shall not exceed 80 decibels. A *noise-sensitive activity* is any activity for which lowered noise levels are essential if the activity is to serve its intended purpose and not present an unreasonable public nuisance. Such activities include, but are not limited to, those associated with residences, hospitals, nursing homes, churches, schools, libraries, parks, and recreational areas.

The Department may monitor construction-related noise. If construction noise levels exceed 80 decibels, the Contractor shall take corrective action before proceeding with operations. The Contractor shall be responsible for costs associated with the abatement of construction noise and the delay of operations attributable to noncompliance with these requirements.

The Department may prohibit or restrict to certain portions of the project any work that produces objectionable noise between 10 P.M. and 6 A.M. If other hours are established by local ordinance, the local ordinance shall govern.

Equipment shall in no way be altered so as to result in noise levels that are greater than those produced by the original equipment.

When feasible, the Contractor shall establish haul routes that direct his vehicles away from developed areas and ensure that noise from hauling operations is kept to a minimum.

These requirements are not applicable if the noise produced by sources other than the Contractor's operation at the point of reception is greater than the noise from the Contractor's operation at the same point.

- (c) **Forests:** The Contractor shall take all reasonable precautions to prevent and suppress forest fires in any area involved in construction operations or occupied by him as a result of such operations. The Contractor shall cooperate with the proper authorities of the state and federal governments in reporting, preventing, and suppressing forest fires. Labor, tools, or equipment furnished by the Contractor upon the order of any forest official issued under authority granted the official by law shall not be considered a part of the Contract. The Contractor shall negotiate with the proper forest official for compensation for such labor, tools, or equipment.
- (d) **Archeological, Paleontological, and Rare Mineralogical Findings:** In the event of the discovery of prehistoric ruins, Indian or early settler sites, burial grounds, relics, fossils, meteorites, or other articles of archeological, paleontological, or rare mineralogical interest during the prosecution of work, the Contractor shall act immediately to suspend work at the site of the discovery and notify the Engineer. The Engineer will immediately notify the proper state authority charged with the responsibility of investigating and evaluating such finds. The Contractor shall cooperate and, upon request by the Engineer, assist in protecting, mapping, and removing the findings. Labor, tools, or equipment furnished by the Contractor for such work will be paid for in accordance with the requirements of Section 104.03. Findings shall become the property of the State unless they are located on federal lands, in which event they shall become the property of the U.S. government.

When such work delays the progress of the work, the Engineer will give consideration to adjustments in the Contract time limit in accordance with the requirements of Section 108.04.

(e) Storm Water Pollution Prevention Plan

General

The Storm Water Pollution Prevention (SWPP) Plan, also referred to as the Erosion and Sediment Control (ESC) Plan, Storm Water Management (SWM) Plan and related Specifications and Standards contained within all contract documents, ~~are~~ shall be required for all land-disturbing activity of 10,000 square feet or greater and 2,500 square feet or greater in Tidewater Virginia.

For land-disturbing activities of 1 acre or greater in scope, a VSMP Construction Permit ~~is~~ shall also be ~~required~~. The requirements of this permit will be satisfied by the Contractor's compliance with the SWPP Plan terms and conditions.

The Contractor shall be responsible for reading, understanding, and complying with the terms and conditions of the SWPP Plan as follows:

1. Project Implementation Responsibilities

The Contractor shall be responsible for the installation, maintenance, inspection, and ensuring the functionality of all erosion and sediment control measures on a daily basis and all other stormwater and pollutant runoff control measures identified within the plans, Specifications, permits, and other contract documents.

The Contractor shall take all reasonable steps to minimize or prevent any stormwater or non-stormwater discharge that will have a reasonable likelihood of adversely affecting human health or public and/or private properties.

2. Certification Requirements

In addition to satisfying the personnel certification requirements contained herein, the Contractor shall each certify their activities by adequately completing, signing, and submitting Form C-45 VDOT SWPP Plan Contractor Certification Statement to the Engineer at least 7 days prior to commencing any project related land-disturbing activities, both on-site and off-site.

3. Off Site Requirements

The Contractor shall develop erosion and sediment control plan(s) and stormwater management plan(s) for submission and acceptance by the Engineer prior to usage of any support facilities, off-site borrow and disposal areas, construction materials or equipment storage areas, and other industrial storm water discharge directly related to the construction process. Such plans, upon acceptance, shall become a part of and subject to the overall project plan, VSMP Construction Permit, and contract requirements.

4. Reporting Procedures

a. Inspection Requirements

The Contractor shall be responsible for conducting inspections in accordance with the requirements herein. The Contractor shall document such inspections by completion of Form C-107 (a) and (b), Construction Runoff Control Inspection Form and Continuation Sheet, in strict accordance with the directions contained within the form.

b. Unauthorized Discharge Requirements

The Contractor shall not discharge into state waters sewage, industrial wastes, other wastes or any noxious or deleterious substances or otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, animal or aquatic life, the use of such waters for domestic or industrial consumption, for recreation or for other uses.

(1). Notification of discharges or noncompliance

The Contractor shall quickly notify the Engineer upon the discovery of or potential of any unauthorized, unusual, extraordinary, or non-compliant discharge from the construction activity not later than 24 hours after said discovery.

(2). Detailed report requirements for discharges or noncompliance

The Contractor shall submit to the Engineer within 5 days of the discovery of the any stormwater or non-stormwater discharge a written report describing details of the discharge to include its volume, location, cause, and any apparent or potential effects on private and/or public properties or endangerment to public health, as well as steps being taken to eliminate the discharge. A completed Form C-107 (a) and (b) shall be used for such reports.

C. Plans, Changes, and Deficiencies

(1.) Contractor SWPP Plans

The Contractor shall provide a SWPP Plan that documents the location and description of potential pollutant sources such as vehicle fueling, storage of fertilizers or chemicals, sanitary waste facilities, construction and waste materials etc. prior to any such pollutant sources being brought onto the project site. Such documentation shall include a description of the controls to reduce, prevent and control pollutants from these sources including spill prevention and response. The Contractor shall submit such documentation specified herein to the Engineer and, thereby, immediately becoming a component of the project SWPP Plan and subject to all corresponding requirements contained therein.

The Contractor shall ensure that the plan is kept at the project site at all times in accordance with the provisions of Section 105.10.

(2.) Changes and Deficiencies

The Contractor shall report to the Engineer when any planned physical alterations or additions are made to the construction activity or deficiencies in the project plans or contract documents are discovered that could significantly change the nature or increase the quantity of the storm water pollutants discharged from the construction activity.

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