

107.02—Permits, Certificates, and Licenses.

General

Permit and certificates obtained by the Department will be included in the contract documents. The Contractor shall conform to the permit and certificate conditions. Construction methods shall confirm to the stipulations of the permit and certificate conditions. The Contractor shall assume all obligations and costs incurred as a result of complying with the terms and conditions of the permits and certificates.

The following permits may be applicable to the project or activity.

- a) **Department of the Army, Corps of Engineers' Nationwide Permits:** A nationwide permit is issued to the Department by the U.S. Army Corps of Engineers to place fill or dredge material in waters of the United States including wetlands.
- b) **The State Program General Permit for Linear Transportation Projects (SPGP- 01 2A & B):** The SPGP-01 2A & B is a permit issued to the Department by the U.S. Army Corps of Engineers to proceed with linear transportation projects involving work, structures and filling both temporary and permanent, in waters of the United States including wetlands.
- c) **Letter of Permission (LOP-1):** The LOP-1 is a regional permit issued to the Department by the U.S. Army Corps of Engineers to proceed with roadway projects involving work, structures and filling, both temporary and permanent, in waters of the United States including wetlands.
- d) **Virginia Marine Resources Commission – Virginia General Permit (VGP-1):** A VGP-1 permit is issued to the Department by the Virginia Marine Resources Commission and is required on projects that cross in, on or over state-owned land which is submerged below low water (channelward of the mean low water line), in tidal areas including tidal wetlands, or below ordinary high water anywhere in the Commonwealth of Virginia.
- e) **Virginia Water Protection Permit (VWPP):** The VWPP is issued to the Department by the Virginia Department of Environmental Quality, Water Division and is required for activities that result in a discharge to surface waters and wetlands. The VWPP is issued as an individual or general permit.
- f) **Virginia Stormwater Management Program General/Stormwater Management Permit (VSMP):** The VSMP permit is issued by the Virginia Department of Conservation and Recreation and is required for construction activities. The Contractor shall control all storm water contamination through the implementation of a storm water pollution prevention plan for all activities that disturb 1 acre or more of land or 2,500 square feet of land in a Chesapeake Bay Preservation Area. The general VSMP permit covers the discharges from the site during construction. The Department will be responsible for acquiring the VSMP permit from the Virginia Department of Conservation and Recreation for the project. The Contractor shall be responsible for acquiring the VSMP permit for any support facilities, construction material, disposal areas, borrow pits, or equipment storage areas, and/or other industrial storm water discharge directly related to the construction process not covered in the Department secured permit.

- g) **Coastal Zone Management (CZM) Consistency Concurrence:** This clearance is issued to the Department by the Virginia Department of Environmental Quality for projects in navigable waters requiring a U.S. Coast Guard bridge permit.
- h) **Tennessee Valley Authority (TVA) Permit:** The TVA Section 26a permit is issued to the Department by the Tennessee Valley Authority and is required for construction activities in or along the Tennessee River or its tributaries.
- i) **U.S. Coast Guard Bridge Permit:** This permit is required for bridge projects over navigable waters.
- j) **Other Permits, Certificates and Licenses:** Except as otherwise specified herein, the Contractor shall procure all necessary permits, certificates or licenses that have not been obtained by the Department. The Contractor shall pay all charges, fees, and taxes and shall comply with all conditions of the permits, certificates or licenses.

Construction or excavation material shall not be stored within the waterway or wetlands. Cofferdams, stream channel retaining structures and all necessary dikes shall be constructed of non-erodible materials or if specified in the permit(s), faced with coarse non-erodible materials. If faced with non-erodible material, filter cloth will be placed between the granular fill and riprap in accordance with Section 245, 204, 303.03 and 414. Temporary structures shall be removed from the waterway with minimal disturbance of the streambed in accordance with Section 104.03. Discharge of dredge or fill material shall be placed in accordance with the best management practices, project permits and all applicable laws and regulations. Disposal of dredged or fill material will be removed to an approved, contained, upland location in accordance with Section 106.04. The disposal area shall be of sufficient size and capacity to properly contain the dredge material, to allow for adequate dewatering and settling out of sediment, and to prevent overtopping. The disposal area shall be stabilized prior to placement of dredge material.

The Contractor activities shall not substantially disrupt the movement of those species of aquatic life indigenous to the water body including those species that normally migrate through the area. The Contractor to the maximum extent practicable must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water, unless authorized by the permit. The Contractor shall avoid and minimize all temporary disturbances to surface waters during construction. The Contractor shall remove any temporary fill in its entirety and the affected areas returned to their preexisting elevation within 30 days of completing work, which shall include re-establishing pre-construction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested). The Contractor to maximum extent practicable shall perform all work activities during low-flow conditions, and shall isolate the construction area via the implementation of non-erodible cofferdams, sheetpiling, stream diversions or similar structures.

The Contractor shall accomplish all construction, construction access (e.g., cofferdams, sheetpiling, and causeways) and demolition activities in a manner that minimizes construction or waste materials from entering surface waters. The access roads and associated bridges or culverts shall be constructed to minimize the adverse effects on surface waters. Access roads constructed above preconstruction contours and elevations in surface waters must be bridged or culverted to maintain surface flows. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its original contours and restored within 30 days of completing work in the area.

The Contractor shall adhere to an erosion and sediment control plan prepared in compliance with the Erosion and Sediment Control Law, the Erosion and Sediment Control Regulations, and the annual erosion and sediment control standards and specifications approved by the Department of Conservation and Recreation.

The Contractor shall be in compliance with the Stormwater Management Act, the Stormwater Management Regulations, and the annual storm water management standards, and specifications approved by the Department of Conservation and Recreation.

The Contractor shall provide fill material that is clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations. The Contractor shall be in compliance with all applicable FEMA-approved state or local floodplain management requirements. The Contractor shall stockpile excavated material in a manner that prevents reentry into the stream.

The Contractor will adhere to any time-of-year restriction conditions as required by state and federal permitting agencies. No in-stream work during time-of-year restriction.

The Contractor shall prohibit wet or uncured concrete from entry into flowing surface waters. The Contractor shall not dispose of excess or waste concrete in surface waters and prevent wash water from discharging into surface waters. The contractor shall employ measures to prevent spills of fuels or lubricants into state waters.

The Contractor shall not violate the water quality standards as a result of the construction activities. The Contractor shall not alter the physical, chemical, or biological properties of surface waters and wetlands or make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses.

The Contractor shall not proceed with work covered by the permit until the work is released in writing by the Engineer. The Engineer may release a portion or all of such work but may order a suspension of the same work after its release.

If the Department has not released work covered by the permit and the Contractor has completed all other work within the limits of the project, the Contractor shall so advise the Engineer in writing. Upon receipt of the notification, the Engineer will evaluate the status of the project and advise the Contractor within 45 days of the portion of the project that is acceptable under Section 108.09. If the Engineer determines that all of the work except that encumbered by the permit application is acceptable under Section 108.09, the Contractor will be notified accordingly. The Department or Contractor may then elect to continue or terminate the remaining portion of the Contract.

The party electing to terminate the Contract shall so advise the other party in writing after the 45-day period. The terms of contract termination will be in accordance with the requirements of Section 108.08. No compensation will be made for delays encountered or for work not performed except for an extension of time as determined in accordance with the requirements of Section 108.04.

The Contractor shall submit a request to the Engineer in writing if he wants to deviate from the plans or change his proposed method(s) regarding any proposed work located in waterways or wetlands. Such work may require additional environmental permits. If the Department determines that the proposed changed activities are necessary for completion of the work, the Contractor shall furnish the Engineer all necessary information pertaining to the activity. The Contractor shall be responsible for designing and supplying all sketches, notes, and compensatory mitigation necessary to acquire any permit modification required for changes in the proposed construction methods. The District Environmental Manager can apply for the necessary permits modifications to the permits obtained by the Department. Such information shall be furnished at least 180 days prior to the date the proposed changed activity is to begin. The Contractor shall not begin the activity until directed to do so by the Engineer. Additional compensation will not be made for delay to the work or change in the Contractor's proposed methods that result from jurisdiction agency review or disapproval of Contractor's proposed methods.

If additional permits are required to perform dredging for flotation of construction equipment or for other permanent or temporary work as indicated in the Contractor's accepted plan of operation, but have not been obtained by the Department, the Contractor shall furnish the Engineer, at least 75 days prior to the proposed activity, all necessary information pertaining to the proposed activity in order for the Department to make application for the permits. The Contractor shall not begin the proposed activity until the additional permits have been secured and the Engineer has advised the Contractor that the proposed activity may proceed.

The Contractor shall permit representatives of state and federal environmental regulatory agencies to make periodic inspections at any time in order to insure that the activity being performed under authority of the permit(s) is in accordance with the terms and conditions prescribed herein.