



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

SHANTÉ A. HASTINGS
SECRETARY

April 16, 2025

STIPULATED STATEMENT

ENVIRONMENTAL REQUIREMENTS

FOR

State Contract No. T202007301

Federal Aid No.: EBHOS-S036(03)

Contract Title: BR 3-164 on SR 36 Cedar Beach Road

In accordance with the procedural provisions for implementing the National Environmental Policy Act of 1969, as amended, the referenced project has been processed through the Department's Environmental Review Procedures and has been classified as a Class II Action/Level D

Class II Action / Level D
CE action: **23 CFR 771.117 (d)(13)**

Environmental (NEPA) Approval Date: 1/17/2023

PERMIT REQUIREMENTS:

The proposed construction work for this project requires permit approval from the agencies listed below. It is the responsibility of the contracting agency -- the Delaware Department of Transportation, Division of Transportation Solutions -- to obtain the necessary permits to ensure that the contractor complies with the requirements and conditions established by the regulatory agencies. Written authorization from the permitting agencies is required and paperwork for on-

site posting is anticipated. The proposed work for this project will be authorized under the permits listed below:

REQUIRED PERMITS AND APPROVAL STATUS:

- U.S. Army Corps of Engineers (USACE) – Nationwide Permit #23 NAP-2023-00806. **Expires 3/14/2026**
- U.S Army Corps of Engineers (USACE) Section 408- Permission to replace. **Expires 12/31/2028**
- Delaware Department of Natural Resources and Environmental Control (DNREC) Wetlands & Subaqueous Lands Section (WLSL) – Subaqueous Lands Permit- SP-263/23; Wetlands Permit- WE-263/23. **Expires 2/6/2027**
- Delaware Coastal Zone Management (CZM) – Federal Consistency Certification
- DNREC Water Quality Certification (WQC) - Issued via NWP 23
- United States Coast Guard (USCG)- **PENDING**

SPECIFIC REQUIREMENTS:

Compliance with all requirements of the permits is the responsibility of the contractor, who will follow all special conditions or requirements as stated within those permits. The contractor will be subject to penalties, fines, and the risk of shut down as mandated by laws governing permitting agencies if such conditions and requirements are violated or ignored. Therefore, all special conditions, general requirements, and/or other required provisions specified within the permits must be followed. Those obligations are indicated or listed within the permit package, which can be obtained from the DelDOT Contract Administration Office.

Additional requirements by DelDOT not specified within the permits, but listed below, are also the responsibility of the contractor. Noncompliance with these requirements may result in shut down of the project at the contractor's expense.

1. The contractor shall employ measures during construction to prevent spills of fuels or lubricants. If a spill should occur, efforts shall be undertaken to prevent its entry into wetlands, aquatic, or drainage areas. Any spills entering wetlands, aquatic, or drainage areas shall be removed immediately. The Division of Water Resources (DNREC), Wetlands & Aquatic Protection Branch, 302-739-4691, shall be notified of any spill(s) within six (6) hours of their

occurrence. That office will determine the effectiveness of spill and contamination removal and specify remediation efforts as necessary.

2.All construction debris, excavated material, brush, rocks, and refuse incidental to the work shall be placed either on shore above the influence of flood waters or on some suitable disposal site approved by the department.

3.The disposal of trees, brush, and other debris in any stream corridor, wetland surface water or any drainage ditch is prohibited.

4.There shall be no stockpiling of construction materials or temporary fills in wetlands or subaqueous lands unless otherwise specified on project plans and approved by permitting agencies that govern them. It is the contractor's responsibility to coordinate and secure those additional permits/amendments in deviating from the plan.

5.Construction debris shall be kept from entering adjacent waterways, wetlands, ground cover, or drainage areas. Any debris that enters these areas shall be removed immediately. Netting, mats, or establishing confined work areas in stages may be necessary to address these issues.

6. Refuse material resulting from routine maintenance of worker equipment and heavy machinery is prohibited from being disposed or deposited onto or into the ground. All used oils and filters must be recycled or disposed of properly.

7. Use of harmful chemical wash water to clean equipment or machinery is discouraged. If undertaken, the residue water and/or material must be collected or contained such that it will be disposed of properly. It shall not be deposited or disposed of in waterways, streams, wetlands, or drainage areas.

8. The contractor shall follow all requirements as indicated in the Environmental Compliance Sheet. It is be the contractor's responsibility to ensure that workers also follow this requirement. As part of the restrictions, please note the timetables reflected in the contract for the in-stream/water work for endangered species protection.

9. Fill material shall be free of oil and grease, debris, wood, general refuse, plaster and other pollutants, and shall contain no broken asphalt.

ENVIRONMENTAL COMPLIANCE SHEET:

Construction Restrictions

a) Fisheries – Due to spawning habitat for anadromous species and to allow upstream passage for elders, DNREC requested a TOYR for in-water work from March 1- June 30.

b) Migratory Birds- if bridge work is proposed during the breeding season (April 15th-Aug1), contact DelDOT Environmental studies at DOT_EnvironmentalStudies@delaware.gov no more than 14 days prior to the start of the work for a survey to determine if active nests are present. If the survey dictates nesting activity, the following steps must be taken to avoid nest destruction and take, which is a violation of state law:

1. Only perform construction activities from August 2nd to April 14th;
2. Or if construction cannot be performed from August 2nd to April 14th, a deterrent such as mesh netting must be used to block access to nesting sites on the underside of the bridge(s) in accordance with special provision #763623- netting migratory bird exclusion. The material would need to be in place no later than April 14th, the underside of the bridge(s) would need to be fully encapsulated, and the material must be left in place until construction begins.

Cultural Resources

- The Delaware State Historic Preservation Office concurred with a finding of No Historic Properties Affected in a letter dated July 27, 2023.
- Contractor access beyond the LOC (as identified on the construction plans) without prior approval from FHWA and DelDOT Environmental Studies staff is prohibited. Should it be necessary to add additional access locations or staging/stockpiling areas, or otherwise modify the project scope, methods, or LOC, DelDOT Environmental Studies staff (DOT_EnvironmentalStudies@delaware.gov and John.Mccarthy.2@delaware.gov, (302) 760-4887) must be contacted.

Protection of Resources

- Keep clearing in wetland areas to a minimum absolutely necessary for construction access. Support all equipment traversing wetlands and subaqueous land on mats. Payment for mats will be made under item 621500 – temporary timber mat. In wetland areas that are cleared, no grubbing except where necessary to construct project components such as foundations and riprap protection is permitted. Cut vegetation flush with the ground (i.e. No disturbance of the root mat). Restore temporarily disturbed wetland areas to grade and seed with item 908017 - temporary grass seeding (annual ryegrass).
- Use silt fence or construction safety fence along the limits of construction in all areas where water/wetlands are being impacted (as shown on environmental compliance sheets), and also in any area where water/wetlands exist within 20 feet of the limit of construction (as shown on construction plan sheets). Any contractor access beyond the limit of construction is strictly prohibited.
- Use sandbags or compost filter log (CFL) to secure silt fence at areas adjacent to wooded uplands/ all wetlands in lieu of trenching unless proper erosion and sediment control cannot be maintained. Remove sandbags and CFLS (and contents) in their entirety when no longer needed. Sandbags/CFLS used to secure the silt fence is incidental to item

905001 - silt fence. The environmental studies section (302-760-2259 or dot_environmentalstudies@delaware.gov) can provide further guidance regarding this method of installation.

- Clearly mark all trees to be removed with paint prior to the erosion and sediment control meeting.

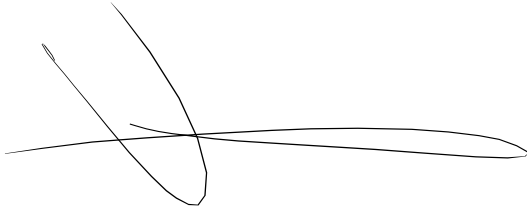
Stream Restoration and Riprap Treatment

- Follow the special provision for item 707500 – channel bed fill in regards to the salvaging of on-site natural stream bottom material or the furnishing of off- site material. If sufficient sources for channel bed fill do not exist on-site, any new material must conform to the requirements of item 707500 – channel bed fill. Recess all riprap in the channel bottom (i.e. Below the water line) one foot below stream bed elevation and choke with borrow type ‘b’ so that all of the voids in the riprap are filled with specified material. Payment under item 209002 – borrow, type b. Cover the riprap with a minimum of 12” channel bed fill. Match the final channel elevations with existing elevations at the upstream and downstream project limits. Through the structure, elevations will be as noted on the plans. Payment under item 707500 – channel bed fill.
- Restore other areas of the channel bottom affected by construction (including, but not limited to, the location of sump pits, stabilized outfalls, temporary pipes and/or sandbag dikes and diversions) to existing conditions. Fill any cavities or scour holes resulting from construction activities with channel bed fill. Payment under item 707500 – channel bed fill.
- When all erosion and sediment control measures are removed and the stream returns to its natural flow conditions, the flow must remain above ground and above the riprap (i.e. The flow cannot be “lost” in the riprap or beneath the structure). If this is not achieved, the contractor will be required to take corrective action at the contractor’s expense.
- Choke all riprap on the stream bank, outside the channel bed, with delaware #57 stone. Place just enough choke material to prevent the loss of channel bed fill or topsoil (depending on location as indicated below) through the riprap.
 - o Beneath the bridge: after placing delaware #57 stone, perform a final choke of channel bed fill so that the riprap peaks are barely visible. Payment under item 707500 – channel bed fill. Delaware #57 stone is incidental to the riprap item.
 - o All other locations: finish filling the voids with topsoil so that the riprap peaks are barely visible. Place an additional 6-inch topsoil layer on top of the riprap. Slope seeding will be done with item 908019 – streambank seed mix, seeding. Following the seeding operation, install item 908020 – erosion control blanket (ECB) mulch, or other blanket as shown on the plans. ECB at toe of slope can be either trenched in or stapled at 6” on center. Complete all work, starting with the initial choking with topsoil through the seeding and mulching prior to any rain event. Delaware #57 stone is incidental to the riprap item. All other items will be paid for under their respective items.

- The topsoil/seed/mulch can be placed before or after the removal of the stream diversion. If the placement occurs after stream diversion removal, use a turbidity curtain to minimize in-stream sedimentation. Payment will be incidental to item 909005 – stream diversion.

The contractor shall pay special attention to specific construction requirements as indicated in the ALL permits as well as the Environmental Compliance (EC) Sheet.

DelDOT Environmental Studies Section must be notified if there are any changes to the project methods, footprint, materials, or designs, to allow the Department to coordinate with the appropriate resource agencies (COE, DNREC, and SHPO), for approval at DOT_EnvironmentalStudies@delaware.gov and/or 302-760-2259.



4/16/2025

Van Adams

Natural Resource Supervisor

Environmental Stewardship Office

Delaware Department of Transportation