

**STATEWIDE ACTIVITY APPROVAL
FOR THE REPAIR AND/OR REPLACEMENT
OF CERTAIN STRUCTURES IN TIDAL OR NON-TIDAL WATERS
IN THE STATE OF DELAWARE
(REPAIR SAA)**

Authorized Activities:

This SAA authorizes the repair or replacement of existing, previously authorized or grandfathered, fixed or floating docks and piers, boat ramps, boat lifts, davits, modular floating vessel platforms for personal watercraft or larger vessels, support or stand-alone pilings, ladders/steps, dolphins, and bulkheads, with or without stone toe protection.

Unless they are determined to be grandfathered structures, replacement of gazebos, boathouses or other roofed structures is not authorized under this SAA.

Applicability:

Any recreational, residential or other non-commercial facility within tidal or non-tidal waters subject to 7 Del. C., Chapter 72 and the Regulations Governing the Use of Subaqueous Lands (Regulations).

ISSUE DATE: August 23, 2010

EXPIRATION DATE: August 22, 2015

**QUALIFYING CRITERIA FOR PROJECTS
SEEKING TO UTILIZE THE REPAIR SAA**

Projects must meet the following applicable criteria identified below, and must comply with all Permit Conditions, in order to utilize this SAA. Projects which cannot comply with the Criteria or Permit Conditions will require an individual Subaqueous Lands Lease, Permit or Letter of Authorization and must go through the procedure appropriate for that authorization type.

CRITERIA for Docks, Piers, Ramps, Channel Markers and other Vessel Berthing or Launching Facilities:

1. Serviceability:

As required in Section 4.4 of the Regulations, structures to be repaired or replaced must be “*intact and functioning for the original intended design purpose*” (except in the event of a specific and catastrophic water event – See Definitions, below).

2. Navigation and Safety Criteria:

The existing structure(s) cannot currently impair the ability of adjacent property owners to access the water and may not cause a general navigation or safety hazard.

3. Structural Footprint:

All structures approved under this SAA shall be constructed in the structural footprint of the existing structures (except as noted in #5, below).

4. Materials/Design:

Materials can be changed. Creosote-treated wood is prohibited for replacement structures and must be removed from the aquatic environment when it was used for existing structures. Salt-treated wood is acceptable, but recycled plastics, fiberglass, polymer-coated piling, helical screw piling, and other alternatives which minimize the introduction of toxic materials into the aquatic environment are preferred wherever feasible. Fixed docks and piers may be replaced with floating docks or piers provided the floating dock or pier will not be sitting on the bottom. (For tidal waters the floating structures shall not sit on the bottom during the average daily low tide). Floating docks and piers may be wider than the fixed docks or piers they replace provided the dimensions are in compliance with the Department's current "Boat Docking Facilities Guidance Document".

5. Compliance with Existing Authorizations:

If the existing structure is in compliance with its current lease, permit or letter of authorization, or is smaller than originally authorized, the structure(s) authorized by this SAA shall have the same or smaller dimensions than the existing structure. If the existing structure is larger than originally authorized, it shall be brought into compliance with its current lease, permit or letter of authorization.

6. Compliance with Corps of Engineers Statewide Programmatic General Permit 20:

Projects must be able to comply with the requirements of the federal SPGP-20 in order to utilize this SAA.

CRITERIA for Bulkhead Repair/Replacements:**1. Serviceability:**

As required in Section 4.4 of the Regulations, structures to be repaired or replaced must be "*intact and functioning for the original intended design purpose*" (except in the event of a specific and catastrophic water event – See Definitions, below).

2. Structure Size:

This SAA authorizes the repair or replacement of existing bulkheads not to exceed 500 linear feet. Longer structures require a Letter of Authorization or Subaqueous Lands Permit pursuant to 7 Del. C., Chapter 72.

3. Stone Rip-rap Toe Protection

To qualify for this SAA, the installation of stone rip-rap at the base of the replacement bulkhead is required unless site conditions prohibit installation of the rock, as determined by the Department. Such site conditions include a steep drop-off in bottom depths immediately adjacent to the bulkhead, immediate proximity of a navigation channel to the bulkhead, soft sediments that will not support rock, difficult site access issues, presence of wetlands or submerged aquatic vegetation, or existing use of the bulkhead for vessel tie-up where no pier or dock is present as an alternative. In most circumstances, the height of the stone shall extend to the mean high (tidal) or ordinary high (non-tidal) water line, and structure slopes shall be in the range from 1:1 to 1.5:1 in order to minimize stone encroachment into the waterway.

4. Structural Footprint

Bulkheads repaired or replaced utilizing this SAA must be constructed within the footprint of, or behind, the existing structure. Any proposed changes to structure height must be noted on the plans.

5. Creosote-Treated Wood

When the existing bulkhead to be repaired or replaced is constructed of creosote-treated lumber, the creosote-treated wood must be removed from the environment as completely as possible, and must be properly disposed of.

6. Compliance with Corps of Engineers Statewide Programmatic General Permit 20:

Projects must be able to comply with the requirements of the federal SPGP-20 in order to utilize this SAA.

If you are unsure whether your project qualifies to utilize this SAA, please contact the Department at (302) 739-9943 for assistance.

Permitting Process for “Repair SAA”

STEP 1: Prior to construction, the following items shall be submitted to the Wetlands and Subaqueous Lands Section (WSLS):

For all projects:

- The Repair SAA Authorization Form which includes: a) evidence that a permit, letter of authorization or subaqueous lands lease from this office was previously issued, **OR** b) evidence that the structure is grandfathered (i.e. was originally constructed prior to the adoption of the Subaqueous Lands Act (7 Del. C., Chapter 72) in 1969).
- A site location map; a scaled plan view drawing of the structure and property with property boundaries indicated; and a section view drawing of the project;
- A deed for the lot where the work is proposed; A property survey, if available;
- A check made out to the State of Delaware for \$150.

For certain projects as appropriate:

- For repair/replacement projects in private subaqueous lands only (i.e. ponds or other non-tidal waters), written approval from the owner of the underwater lands upon which the project will be constructed, or irrefutable evidence that the applicant is the owner of said subaqueous lands; Individual written approval is not required for structures in any of the communities or waterways for which we have “Blanket Approvals”. (The Department will maintain a list of these blanket approvals which can be provided upon request).
- For projects which require any work on a neighbor’s property (for example: bulkhead tie-ins or bulkhead returns), the written permission of the adjacent property owner.
- For structures damaged by a storm or other catastrophic event – camera-dated or aerial photographic evidence that the structure was “serviceable” within the previous six months, as required in Section 4.4 of the Regulations Governing the Use of Subaqueous Lands. Copies of an existing subaqueous lands lease or permit may also be submitted.

STEP 2: If the project does not require authorization by the Army Corps of Engineers, move to Step 3. If federal authorization is required, the applicant must ensure that the project can be authorized by SPGP-20 by carefully checking the requirements and limitations of this federal general permit which is reauthorized every five years. Copies of the current SPGP-20 can be obtained by contacting the Wetlands and Subaqueous Lands Section.

STEP 3: WSLS staff will conduct a site inspection.

STEP 4: If approved, the WSLS will hand deliver the approved SAA permit, permit conditions and plans during the site inspection whenever possible, or will contact the permittee and/or contractor and will fax, e:mail, or mail the approved SAA to the permittee and their designated contractor.

Construction shall not begin until the SAA Permit has been received by the permittee and/or contractor.

If the project cannot be approved, the applicant will be contacted regarding any project modifications that could allow the use of this SAA, or a full permit application will be sent to the applicant to apply for a new permit or supplemental lease approval.

STEP 5: Construction must be completed in accordance with the approved plans within one (1) year of issuance of the SAA.

The contractor must have a copy of the approved SAA permit, permit conditions and plans on site at all times during construction.

STEP 6: Within one week of finishing construction, the contractor and/or permittee must notify the WSLs that the work has been completed.

If you have any questions regarding this process or the SAA requirements, please contact the Wetlands and Subaqueous Lands Section at 302/739-9943.

Definitions:

Commercial Facility: A facility whose primary purpose is for the exchange of goods or services for revenue generating purposes.

Grandfathered Structure: Structures originally built prior to adoption of The Subaqueous Lands Act in 1969.

Recreational Facility: A facility which is primarily used for recreation, including public and private clubs.

Residential Facility: A facility which consists primarily of private homes and the non-commercial amenities associated with those homes.

Dock: Any fixed or floating structure for berthing vessels that is oriented parallel to the shoreline.

Modular Floating Vessel Platform: Any pre-fabricated plastic flotation device designed to support personal watercraft or larger vessels.

Pier: Any fixed or floating structure that is oriented perpendicular to the shoreline.

Serviceable Structure: Includes existing structures which are intact and functioning for the original intended design purpose, as determined by the Department.

Structure Width: For piers and docks, the decking width shall be considered the full width for compliance purposes.