

## MEMORANDUM

To: DNREC Wetlands and Subaqueous Lands (WSLS) Staff  
and DNREC Fish and Wildlife Staff

From: Virgil R. Holmes, WSLS Staff

Subject: DNREC WSLS Policy Regarding Foot Bridges

Date: February 23, 2012

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This memorandum is to clarify the DNREC WSLS policy regarding the term foot bridge as related to the statutory exemption of foot bridges in 7 Del. C., Chapter 66. Wetlands.

The WSLS policy is to interpret the term foot bridge strictly and specifically as intended by the exemption in 7 Del. C., Chapter 66. Wetlands. The definition and WSLS policy regarding foot bridges is as follows:

### **Foot Bridge**

“Foot bridge” means a narrow pedestrian bridge that is a simple structure, no more than 3 feet in width that crosses state regulated wetlands for the purpose of transporting pedestrians from one upland location to another upland location or to a structure exempt from regulation. The purpose of a foot bridge is to traverse a wetland with the presumption being that a foot bridge is necessary because the wetland surface is either too soft for foot traffic or would be adversely affected by regular foot traffic. Foot bridges crossing State regulated wetlands cannot exceed 3 feet in width and the length is restricted to the minimum distance necessary to access an upland site or exempt structure. A foot bridge is not a pier and cannot be constructed for the purpose of transporting pedestrians from uplands across wetlands to a water body or dock. Foot bridges are simple structures with no appurtenances such as but not limited to handrails, utilities, or other associated structures. No other uses of a foot bridge are exempt from regulation. Foot bridges for access to movable or floating structures including duck blinds are not exempt from regulation.

### **Conditions for Construction of Foot Bridges**

1. No portion of any structure shall be constructed using creosote treated lumber.
2. Foot bridges shall be constructed with a minimum of 1/2 inch spaces between decking boards.
3. Disturbance of wetlands and/or aquatic vegetation adjacent to structures by burning, cutting, herbicide treatments, traversing with equipment or other methods is prohibited with the exception of controlling Common Reed (*Phragmites australis*) or other invasive plant species.

4. All excess construction material, waste or debris shall be properly disposed of and contained at all times to prevent entry into waters or wetlands. Construction materials shall not be stockpiled in subaqueous lands or wetlands.
5. Construction of any structure requires written approval of the landowner if not being constructed by or for the landowner.
6. Foot bridges shall not be constructed in a manner that impedes navigation.
7. The use of this exemption does not constitute approval for any activity that may require authorization by any other local, state or federal government agency.
8. The use of this exemption does not imply approval of any other part, phase, or portion of any overall project the permittee may be contemplating.
9. This exemption does not allow construction of duck blinds or foot bridges in subaqueous land or over open water.
10. The Department reserves the right to require removal of any foot bridge if it concludes that the foot bridge was constructed or is being used in a manner inconsistent with the explicit intent of the exemption or that it impedes navigation.

#### **Reference Documents**

7 September 1990 Memorandum from Patrick Emory WSLs Staff to William F. Moyer, WSLs Manager and Tracy Skrabal, WSLs Staff. "Walkway and Waterfowl Blind Policy."

21 September 1989 Memorandum from Jeanne L. Langdon, Deputy Attorney General, to William Moyer, WSLs Manager. "Foot Bridges."

11 September 1989 Letter from William F. Moyer, WSLs Manager. "Foot Bridges."