

**APPLICATION INFORMATION AND PERMIT CONDITIONS FOR THE
STATEWIDE ACTIVITY APPROVAL (SAA)
FOR CONSTRUCTION IN TIDAL ARTIFICIAL LAGOON SYSTEMS
IN THE STATE OF DELAWARE**

Permitting Process

1. Prior to construction, the following shall be submitted to this office:
 - The SAA Request for Authorization form, including 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;
 - Scaled plan and section view drawings of the project;
 - A deed and property survey for the lot where the work is proposed, and
 - A check made out to the State of Delaware for the appropriate amount.

For dock and/or pier replacements, satisfactory evidence shall be provided that a permit from this office was previously issued or that the structure was constructed prior to the adoption of 7 Del. C., Chapter 72 (1969).

2. If approved, the Wetlands and Subaqueous Lands Section will e-mail, fax, or mail the approved SAA request form to the permittee and their designated contractor. **Construction shall not begin until the Permit has been received by the Permittee.**
3. If not 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.
4. Construction must be completed in accordance with the approved plans within one (1) year of issuance.

Fees

1. For projects involving the repair/replacement of existing structures only, the fee is \$150. Projects with both new construction and a repair/replace shall be a \$225 application fee.
2. For all other projects the fee is \$225.
3. Checks should be made payable to the State of Delaware.

Issue Date: March 16, 2016

Expiration Date: March 16, 2021

Authorized Activities:

New construction or repair/replacement of existing fixed or floating docks and piers, boat lifts, davits, modular floating vessel platforms for personal watercraft or larger vessels, pilings, ladders, boat ramps, aids to navigation, bulkheads, gabions, stone rip-rap revetments or vegetative stabilization.

Gazebos, boathouses or other roofed structures, fish cleaning stations and dredging are not authorized under this SAA.

Applicable Location:

Within all tidal artificial lagoon systems as identified on aerial photography maps prepared by the Department. If maps are not yet available for the lagoon in question, a case by case determination of applicability will be made by the Department. Contact the Department at (302) 739-9943 for a determination.

Projects must meet the following Criteria identified in items 1, 2 and 3, 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 Permit and must go through the standard permitting procedure.

CRITERIA:

1. Navigation and Safety Criteria:

The project shall be designed so as not to impair the ability of adjacent property owners to access the water or cause a navigational hazard.

2. Boat Docking and Launching Structure Criteria:

a. Channelward Encroachment Limits (see Definitions, p. 6):

In all lagoons, no part of any dock, pier, boat lift, piling, ramp or other docking structure authorized by this SAA shall extend channelward beyond the mean high water line for a distance greater than 20% of the lagoon width (see Definitions on p. 6, below) at the location where the structure is proposed.

In addition, in lagoons 60 feet wide or less, no part of any fixed or floating dock shall extend channelward beyond the mean high water line more than 4 feet. (Does not Include Modular Docks)

This SAA does not authorize the construction of boat lifts, personal watercraft lifts, or modular docks in lagoons less than 50 feet wide because such structures typically cannot comply with the 20% rule as described in Section 3.03.B.5 of the Regulations Governing the Use of Subaqueous Lands.

b. Maximum Structure Size:

For each residence, this SAA authorizes one fixed dock of a total size no larger than 5 feet wide by 40 feet long, or one floating dock of a total size no larger than 6 feet wide by 40 feet long, and one access pier up to 4 feet wide. However, total dock length shall be the minimum size necessary to accommodate the vessel(s) to be berthed there.

c. Modular Docks (see Definitions, p. 6):

Modular floating vessel platforms shall be the minimum size necessary to properly support the docked personal watercraft or other vessel.

3. Shoreline Stabilizations Structure Criteria:

- a. This SAA does not authorize shoreline stabilization projects unless demonstrable erosion is evident at the project site.
- b. This SAA authorizes the new construction, repair, or replacement of gabions, stone rip-rap revetments, vegetative stabilization or bulkheads, not to exceed 500 linear feet. Longer structures require an individual Subaqueous Lands Permit pursuant to 7 Del. C., Chapter 72. Structures to be repaired or replaced must be currently in existence and functional in order to be re-built utilizing this SAA.
- c. Unless at least 75% of the linear feet of the individual lagoon's shoreline has already been bulkheaded, new shoreline stabilization projects must be constructed using either stone rip-rap revetments, gabions or vegetative stabilization. Vegetative stabilization is encouraged and preferred in all locations where its use is practical and feasible.
- d. This SAA authorizes the repair or replacement of existing bulkheads or rip-rap only if the new structure stays within the footprint of, or behind the old structure. "Stepping out" farther into the lagoon to effect a repair or replacement of a bulkhead or rip-rap structure requires an individual Subaqueous Lands Permit pursuant to 7 Del. C., Chapter 72. When replacing a bulkhead, construction shall be phased in order to minimize the loss of fill from behind the bulkhead. Minor excavation from the lagoon to replace fill which has washed in during construction is authorized by this SAA.

PERMIT CONDITIONS:

1. The structures authorized herein shall be constructed in accordance with the approved plan.
2. A copy of the Approved Permit, the Approved Plans and the Permit Conditions shall be available on-site during all phases of construction.
3. Construction of the structures authorized herein shall be completed within one (1) year from the date of issuance.
4. The structures authorized by this SAA shall not result in a navigational hazard within the artificial lagoon system nor interfere with navigable access to adjacent properties.
5. New docks, piers, boat lifts, modular docks, and pilings shall be installed a minimum of ten (10) feet from the adjacent property lines unless the written permission of the adjacent property owner(s) has been obtained and provided to the Department.
6. No portion of the decking on any dock or pier authorized by this SAA shall exceed the width dimensions for that structure identified on Page One of this Permit.
7. The use of creosote treated timber or asphalt for any project is strictly prohibited. The use of vinyl recycled plastic lumber, polymer coatings or other alternative construction materials rather than CCA or ACQ treated lumber is encouraged and preferred.
8. The location of the bulkhead, gabions and/or stone rip-rap revetment shall connect and align with adjacent shoreline erosion control measures wherever possible. Where there is no adjacent protective structure, a return shall be installed.
9. Filter cloth shall be used behind the bulkhead, gabions and/or stone rip-rap revetment to prevent the loss of soil into the waterway.
10. Construction shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, "Surface Water Quality Standards" in effect at the date of issuance.
11. All construction debris, excavated material, brush, rock, and refuse incidental to such work shall be placed above the influence of surface waters.
12. Erosion and sediment control measures shall be implemented in accordance with the specifications and criteria in the Delaware Erosion and Sediment Control Handbook in effect at the date of issuance, so as to minimize entry and dispersal of sediment and other contaminants in surface waters.
13. Prior to commencing any work authorized by this SAA, the permittee shall contact the various utility authorities and companies (i.e. electric, gas, water, sewage, etc.) in order to prevent personal injury and /or damage to property during project construction.

14. Design and construction of any structure authorized by this SAA shall conform to generally accepted engineering practices and principles for marine construction.
15. The conditions contained herein shall be included as part of the main body of the construction contract and other ancillary documents associated with earth disturbance and any other activities directly or indirectly associated with construction that may impact subaqueous lands associated with this project. The permittee is responsible for ensuring that the contractor and/or workers executing the activities authorized by this SAA have full knowledge of the terms and conditions of this SAA.
16. If the upland property associated with this SAA is sold prior to completion of the construction phase of the project, the signature of the new owner must be obtained in the space provided and a copy of the SAA forwarded to this office to validate its transfer.
17. The structures authorized herein shall be maintained in good condition and in conformity with the terms and conditions of this SAA. The permittee shall not be relieved of this requirement unless the SAA is transferred to a new landowner under the terms prescribed in Condition # 16.
18. The permittee and contractor shall comply with all applicable federal, State and local laws and regulations, including Section 10 of the Rivers and Harbors Act, Section 404 of the Clean Water Act, State of Delaware Title 7, Chapter 72 (Subaqueous Lands Act) and the Regulations Governing the Use of Subaqueous Lands.
19. Any work in tidal, artificial lagoons authorized by this SAA is subject to the terms and conditions of the attached Department of the Army Permit number CENAP-OP-R-Delaware SPGP-18 or CENAP-OP-R-Delaware SPGP-20, as appropriate.
20. This authorization does not relieve the permittee of the responsibility to obtain all necessary permits, approvals or authorizations required by local codes or ordinances, or to comply with any local requirements that may exceed those contained in this SAA.
21. Representatives from this office shall be allowed to inspect the authorized activity at any time deemed necessary to ensure that it is being, or has been, constructed in accordance with the terms and conditions of this SAA. The permittee(s) are responsible for any corrective action that may be necessary to bring a structure into compliance with this SAA, 7 Del. C., Chapter 72 or the Regulations Governing the Use of Subaqueous Lands, including complete removal if necessary.
22. This SAA is granted in accordance with the plans and specifications submitted to this office. This SAA may be revoked if the project(s) authorized herein are not constructed in accordance with the stamped approved plans, or if the plans or specifications are found to be false or inaccurate.
23. The authorization to construct by utilizing this SAA may be revoked upon violation of any of the above conditions. If a violation is found during or after construction, the permittee will be required to take whatever steps are necessary to ensure that the structure(s) conform to the approved plans and that all Permit Conditions are satisfied, and fines may be assessed.

Definitions:

Channelward Encroachment: The distance measured from the mean high water line toward the centerline of the lagoon to the point which represents the part of any structure which is farthest from shore.

Dock: Any fixed or floating structure for berthing vessels.

Lagoon Width: The width of the water in a lagoon measured on a mean (average) high tide at the site of the proposed project. In cases where vertical bulkheads or gabions are present, the measurement shall be to the face of the bulkhead (face of support pilings) or gabion. In cases where rip-rap is present, or where there are no shoreline stabilization structures, the measurement shall be to the mean high water line.

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

Pier: Any fixed or floating structure for berthing vessels or gaining access to a dock that is oriented perpendicular to the shoreline.