

(V) THE PROJECT IS LOCATED IN AN AREA THAT HAS BEEN EXCLUDED FROM A LOCAL CRITICAL AREA PROGRAM ADOPTED OR APPROVED BY THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS UNDER § 8-1807(C)(1)(I)1 OF THE NATURAL RESOURCES ARTICLE.

~~(2)~~ (3) The Secretary may issue a permit for a project involving the construction of a dwelling unit or other non-water dependent structure on a pier located on private wetlands if:

(i) The project is constructed on a pier in existence as of December 1, 1985 that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area;

(ii) The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface area of a pier to be removed is not intact but the remaining pilings identify its previous size, that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed;

(iii) The project is approved by local planning and zoning authorities;

(iv) The project is located in an intensely developed area, as designated in programs adopted or approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays under Title 8, Subtitle 18 of the Natural Resources Article; and

(v) The project allows public access to tidal waters, if appropriate.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008.

Approved by the Governor, April 24, 2008.