

in accordance with standards established by the local jurisdiction's critical areas program.

(c) (1) Except as provided in paragraph (2) of this subsection, notwithstanding any other provision of law, the Secretary may not issue a permit under this title for any project involving the construction of a dwelling unit or other [non-water] NONWATER dependent structure on a pier located on private wetlands.

(2) The Secretary may issue a permit for a project involving the construction of a dwelling unit or other [non-water] NONWATER 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 [percent] % of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10 [percent] % 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. [In no case shall the] THE total expansion MAY NOT exceed 35 [percent] % 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 CHESAPEAKE BAY Critical Area Commission under Title 8, Subtitle 18 of this article; and

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

9-201.

(a) A person who is the owner of land bounding on navigable water is entitled to any natural accretion to [his] THE PERSON'S land, to reclaim fast land lost by erosion or avulsion during [his] THE PERSON'S ownership of the land to the extent of provable existing boundaries. The person may make improvements into the water in front of the land to preserve that person's access to the navigable water or protect the shore of that person against erosion. After an improvement has been constructed, [it] THE IMPROVEMENT is the property of the owner of the land to which [it] THE IMPROVEMENT is attached. A right covered in this subtitle does not preclude the owner from developing any other use approved by the Board. The right to reclaim lost fast land relates only to fast land lost after January 1, 1972, and the burden of proof that the loss occurred after this date is on the owner of the land.

(b) The rights of any person, as defined in this subtitle, which existed prior to July 1, 1973[,] in relation to natural accretion of land are deemed to have continued to