

## Article - Environment

[Previous][Next]

§16–104.

(a) This section does not apply to a nonwater–dependent project located on State or private wetlands in Prince George’s County.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection and notwithstanding any other provision of law, the Board of Public Works may not issue a license to authorize a nonwater–dependent project located on State wetlands.

(2) The Board of Public Works may issue a license to authorize a nonwater–dependent project located on State wetlands if the project:

(i) 1. Involves a commercial activity that is permitted as a secondary or accessory use to a permitted primary commercial use;

2. Is not located on a pier that is attached to residentially, institutionally, or industrially used property;

3. Avoids and minimizes impacts to State or private wetlands and other aquatic resources;

4. Is located in:

A. An intensely developed area and the project is authorized under a program amendment to a local jurisdiction’s critical area program approved on or after July 1, 2013, if the approved program amendment includes necessary changes to the local jurisdiction’s zoning, subdivision, and other ordinances so as to be consistent with or more restrictive than the requirements provided under this paragraph; or

B. An area that has been excluded from a local critical area program if the exclusion has been adopted or approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays;

5. Is approved by the local planning and zoning authorities after the local jurisdiction’s program amendment under item 4A of this item, if applicable, has been approved;

6. Allows or enhances public access to State wetlands;

7. Does not expand beyond the length, width, or channelward encroachment of the pier on which the project is constructed;

8. Has a height of up to 18 feet unless the project is located at a marina and the Secretary recommends additional height;

9. Is up to 1,000 square feet in total area;

10. Is not located in, on, or over vegetated tidal wetlands, submerged aquatic vegetation, a natural oyster bar, a public shellfish fishery area, a Yates Bar, or an area with rare, threatened, or endangered species or species in need of conservation; and

11. Does not adversely impact a fish spawning or nursery area or an historic waterfowl staging area; or

(ii) 1. Is located on a pier that was in existence on or before December 31, 2012;

2. Satisfies all of the requirements under item (i)1 through 8 of this paragraph; and

3. If applicable, has a temporary or permanent roof or covering that is up to 1,000 square feet in total area.

(3) (i) The Board of Public Works may issue a license to authorize a nonwater-dependent project for a small-scale renewable energy system on a pier located on State wetlands if the project:

1. Involves the installation or placement of a small-scale renewable energy system that is permitted as a secondary or accessory use on a pier that is authorized under this title;

2. Avoids and minimizes impacts to State or private wetlands and other aquatic resources;

3. Is located in:

A. The Chesapeake and Atlantic Coastal Bays Critical Area and the project is authorized under a program amendment to a local jurisdiction's critical area program approved on or after July 1, 2013, if the approved program amendment includes necessary changes to the local jurisdiction's zoning, subdivision, and other ordinances so as to be consistent with or more restrictive than the requirements provided under this paragraph; or

B. An area that has been excluded from a local critical area program if the exclusion has been adopted or approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays;

4. Is approved by the local planning and zoning authorities after the local jurisdiction's program amendment under item 3A of this subparagraph, if applicable, has been approved;

5. Is not located in, on, or over vegetated tidal wetlands,

submerged aquatic vegetation, a natural oyster bar, a public shellfish fishery area, a Yates Bar, or an area with rare, threatened, or endangered species or species in need of conservation; and

6. Does not adversely impact a fish spawning or nursery area or an historic waterfowl staging area.

(ii) A license issued under subparagraph (i) of this paragraph may include the installation or placement of:

1. A solar energy system attached to a pier if the device or equipment associated with that system does not extend more than:

A. 4 feet above or 18 inches below the deck of the pier; or

B. 1 foot beyond the length or width of the pier;

2. A solar energy system attached to a piling if there is only one solar panel per boat slip;

3. A solar energy system attached to a boathouse roof if the device or equipment associated with that system does not extend beyond the length, width, or height of the boathouse roof;

4. A closed-loop geothermal heat exchanger under a pier if the geothermal heat exchanger or any associated devices or equipment do not:

A. Extend beyond the length, width, or channelward encroachment of the pier;

B. Deleteriously alter long shore drift; or

C. Cause significant individual or cumulative thermal impacts to aquatic resources; or

5. A wind energy system attached to a pier if there is only one wind energy system per pier for which:

A. The height from the deck of the pier to the blade extended at its highest point is up to 12 feet;

B. The rotor diameter of the wind turbine is up to 4 feet; and

C. The setbacks of the wind energy system from the nearest property line and from the channelward edge of the pier to which that system is attached are at least 1.5 times the total height of the system from its base to the blade extended at its highest point.

(c) (1) Except as provided in paragraph (2) of this subsection and

notwithstanding any other provision of law, the Secretary may not issue a permit to authorize a nonwater-dependent project located on private wetlands.

(2) Except for the public access requirement under subsection (b)(2)(i)6 of this section, the Secretary may issue a permit to authorize a nonwater-dependent project located on private wetlands if the project satisfies all of the requirements under subsection (b)(2) or (3) of this section.

[Previous][Next]