

Most piers need no change under proposed rules

December 7, 2005

Legislation passed in February 2004 which aimed at streamlining the state's waterway permitting system exempted piers from needing a permit if the piers met certain size requirements. The Department of Natural Resources convened a citizen stakeholder group to update administrative rules to implement the law and conducted public hearings on the group's proposal in late 2004. After 6 public hearings, 300 public comments and several Wisconsin studies on pier sizes and impacts, a final rule package was developed and adopted by the Natural Resources Board on December 7, 2005. The final proposal for revisions to NR 326 – summarized below – achieves the 2004 law's aim to provide clear simple requirements for waterfront owners to place piers in aid of navigation, while protecting critical fish habitat and assuring each citizen's right to boat, fish and enjoy other recreation in Wisconsin's public waters.

99 percent of piers will need no permit or will be grandfathered

Under the proposed rules, most of the nearly 187,000 existing piers in Wisconsin will continue to be exempt from permitting, as has been the case under guidelines in effect since the early 1990s. New piers can also be placed in any waterway without a permit [unless they're proposed to be located in "sensitive areas," that have been formally designated on a very small number of lakes (see below)]. To be exempt, property owners simply need to follow the size limits established by the law, along with a few other requirements. Piers that already have a permit are not affected by the proposal. Virtually all other larger piers will be "grandfathered" through a one-time, free registration that allows owners to keep what they have, with just a few limitations. Five other categories of general permits are created for specific piers or boat shelters that aren't exempt. Larger piers not qualifying for any of these categories -- less than 1 percent of existing piers -- will need to obtain an individual permit with a more comprehensive review. These very large structures have the greatest potential to harm fish habitat and interfere with boating, swimming and other recreation in public waters.

Exemption for piers that meet size limits

The proposed revisions to Chapter NR 326 of the Wisconsin Administrative Code, establish size requirements that a pier or wharf must meet to be exempt, meaning no permit or fee is required. The size limits to qualify for an exemption mirror the dimensions established in the 2004 law:

- Length – a pier can extend in the water to the length needed to moor a boat or use a boat hoist/lift, or to the 3-foot water depth, whichever is greater
- Width – a pier or wharf can be a maximum 6-foot wide
- Number of boats – a waterfront owner can have up to 2 boat slips for the first 50-feet of shoreline, and 1 more for each additional full 50-feet



The rule includes other key requirements for a pier or wharf to be exempt from a permit, including:

- A pier may extend to the pierhead line if one is established by local ordinance
- A pier may not extend more than 25% across a river, stream or channel
- A pier may not be a solid structure or on rock-filled cribs*
- A pier must not be located in a "Sensitive Area" formally designated under NR 107. There are currently 138 lakes where sensitive area studies have designated these critical habitat areas.
- A pier must not block water movement, cause sedimentation, or accumulate debris

*In response to public comment, the rule proposal contains several other exemptions for specific situations, including older solid piers, structures designated as historic property, and piers shared by adjacent property owners.



Larger piers grandfathered under a one-time process

The new law did not address existing piers too large to qualify for an exemption, leaving them in limbo. The proposed rules allow virtually all existing larger piers to be “grandfathered” under a quick-and-easy free process. This one-time registration documents the existing non-exempt pier and guarantees that pier owners can keep their pier, maintain and replace it in the future, and transfer the permit to future property owners. Qualifying piers can be up to 8 feet wide and have a loading platform or deck at the end of the pier of up to 200 square feet in size; the existing length and number of boat slips are grandfathered.

Other non-exempt piers may qualify for four other categories of one-time, \$50 general permits available, including piers in Lake Geneva or on the St. Croix River, where the water depths, waves and other factors require a slightly larger pier and proper design. The proposed rule’s other categories of general permits are:

- 8-foot wide pier on rock-filled cribs in Lake Geneva, Walworth County
- 8-foot wide pier on the Lower St. Croix River, Pierce and St. Croix counties
- Pier in a mapped sensitive area designated by DNR under NR 107
- Public pier for fishing, swimming or transient docking

Largest facilities require an individual permit for detailed review

For existing piers that don’t qualify for an exemption or general permit, the rule allows larger facilities or different types of pier design through an individual, site-specific application and a comprehensive review. Individual permits are available for categories of piers including:

- Solid piers—allowed in specific waters including the Great Lakes; permit is for either maintenance, repair or modification of existing solid piers, or for new solid piers that are for public or commercial purposes
- Piers on rock-filled cribs—in Lakes Michigan, Superior and Geneva
- Commercial and municipal marinas – greater boat slips and width allowed
- Piers and wharves in sensitive areas

Other piers and wharves that are not exempt can be considered for an individual permit where different design or dimensions may be allowed for preexisting facilities, specific navigational need, or to accommodate a disability.



Boat shelters, hoists and lifts exempt if they meet requirements

The proposed rules also include standards for boat shelters, hoists and lifts. Boat hoists, lifts or seasonally-placed shelters are generally exempt, with requirements similar to those for piers and wharves. These include dimensional and design requirements, and the structures must be placed adjacent to a pier, wharf or shoreline. The rule revisions also contain a general permit for permanent boat shelters, using standards that are in the existing NR 326, with the exception that the standard for “developed shoreline” has been revised to be more objective. These structures are allowed on specific waters.

Swimming rafts need no permit if they meet size and location requirements

Swimming rafts and water trampolines are allowed consistent with the standards now in NR 326. To qualify for an exemption, a swimming raft must meet several requirements, including:

- shall be placed within 200 feet of shore (statutory requirement)
- may be up to 200 square feet or 38” in height, except that size and height restrictions do not apply to rafts removed from the water daily or placed in marked swim areas.
- shall be seasonally placed (removed between December 1 and April 1)

For a swimming raft that doesn’t qualify for an exemption, the rule proposal outlines factors for permit evaluation.

Timeline

The rules adopted by the Natural Resources Board will be forwarded to the legislature for committee review. New rules only go into effect after the Board adopts the rule and legislative review is complete, so NR 326 revisions should be in effect by early 2006.

