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For Release: December 7, 2005

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NRB approves rules that grandfather 99 percent of piers for free

MADISON, Wis. – Ninety-nine percent of the owners of the estimated 187,000 piers on Wisconsin waters would see no change to their piers under rules approved Dec. 7 by the Natural Resources Board.

The remaining 1 percent of existing piers – the very largest structures which have a deck exceeding 200 square feet attached to them -- would have three years to get the DNR review and permit required under laws dating back 70 years.

DNR is updating pier rules to carry out a 2004 law, 2003 Wisconsin Act 118, often called the Job Creation Act, which sought to streamline the state's waterway project permitting system. Todd Ambs, the Department of Natural Resources' top water official, told board members the rules meet four goals: they set clear standards that make it easy for people to know if they need a permit and they assure that new piers will be reasonably sized to protect Wisconsin waters in the future while allowing people to dock their boats and get into them, the use recognized by state law.

The rules also meet the goal of grandfathering in all existing larger piers that don't harm lakes and rivers, fisheries and boaters and providing them protection against neighbors or others questioning their pier size in the future, Ambs said. And finally, the rules provide a mechanism to analyze the largest structures to assure they do not harm the public's interest in public waters, he said.

The state Constitution declares that all navigable waters belong to all citizens, and collectively, the Constitution, court decisions and laws have defined the public interest as including but not limited to boating, fishing and hunting, enjoying natural beauty and clean water and habitat protection.

The rules the Natural Resources Board unanimously approved Dec. 7 call for:

- All new and existing piers to qualify for an exemption from permitting if they met size requirements that were formalized in the 2004 law and which mirror size guidelines DNR has used since 1991. If the pier was a maximum of six feet wide, had up to two boats moored for the first 50 feet of shoreline frontage and one for each 50 feet thereafter, and extended out as far as needed to moor the owner's boats or to the 3 foot

water depth, whatever was greater, the pier would need no permit.

Based on a summer 2005 study the DNR completed, 85 percent of existing piers will qualify for this exemption.

- All existing piers too big to qualify for an exemption can be grandfathered in if they are no wider than 8 feet and have a deck attached to it that's 200 square feet or less. Owners of these piers will not have to change their pier but have three years to go through a free registration process (technically known as a "general permit") to document that their pier existed before the 2004 law change. Based on the study, about 14 percent of existing piers will fall into this category.
- All existing piers with a deck that exceeds 200 square feet will be required to get an individual review by DNR and \$300 permit. The review would take into account such issues as whether a larger structure is necessary to serve disabled users or how long the structure's been on the water, and whether the pier impacts fish and wildlife habitat or interferes with boating or other public interests. The result of the DNR review is the owner would get a \$300 permit to keep the pier he had or be required to downsize or otherwise modify the pier to avoid damage to habitat, interference with boating or impacts to other public interests. One percent of existing piers fall into this category.
- Existing piers with the proper permit are not affected.

The rules differ from the version the Natural Resources Board approved in September in allowing many more existing large piers to be grandfathered in through a registration system that will be free. The previous proposal required a \$50 charge to cover administrative costs associated with the registration system, and gave people less time to register their pier, according to Mike Staggs, Wisconsin's fisheries director.

The rules approved today also mirror the exemption size standards set in the 2004 law instead of allowing a pier with a 120-square foot deck to be exempt. And finally, they correct a minor error to assure a provision concerning the St. Croix River is consistent with state and federal policy.

Staggs said the rules are necessary because lakes and rivers are public resources and thousands of changes are made every year to shorelines and shallow water areas that can harm the public's rights in these waters. Piers are among the most common changes.

Studies have long shown that the shallow water areas where property owners want to place piers, riprap, seawalls and boathouses are the same areas that provide critical spawning, nursery and foraging areas for fish. Structures and other activities that displace or destroy aquatic plants, downed trees and other natural habitat in these areas can impact fish and fishing and water quality, he said.

Recent studies looking specifically at piers in Wisconsin have corroborated earlier findings in other states, Staggs says. Piers and their associated boats shade out aquatic plants that are critical habitat for the insects and other invertebrates that are important components of aquatic ecosystems, including as food for fish. These same plants also provide habitat for fish, and they positively influence water quality in several ways, including taking up nutrients that algae would otherwise take up.

Piers with large decks exacerbate the shading and cascade of effects, so that the area underneath them is "basically a dead zone," Staggs says.

He told board members the revised proposal protects the Wisconsin lakes and rivers that belong to all Wisconsin citizens while respecting the rights of people who own land along these waters.

Find more information about the approved [pier rules](#) on the DNR Web site.

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Last Revised: Wednesday December 07 2005



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