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TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #04-94(F)

DIGEST

Adds 312 IAC 11-2-11.5 concerning a new definition for a “group pier” on a public freshwater lake. Amends 312 IAC 11-3-1 to disqualify a group pier from treatment as a general license and to require a person seeking to place a group pier to complete the license application procedures of IC 14-26-2 (sometimes referred to as the “Lakes Preservation Act”). Effective 30 days after filing with the secretary of state.

312 IAC 11-2-11.5

312 IAC 11-3-1

SECTION 1. 312 IAC 11-2-11.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 11-2-11.5 “Group pier” defined

Authority: IC 14-10-2-4; IC 14-26-2-23

Affected: IC 14-26-2

Sec. 11.5. “Group pier” means a pier that provides docking space for any of the following:

- (1) At least five (5) separate property owners.**
- (2) At least five (5) rental units.**
- (3) An association.**
- (4) A condominium, cooperative, or other form of horizontal property.**
- (5) A subdivision or an addition.**
- (6) A conservancy district.**
- (7) A campground.**
- (8) A mobile home park.**
- (9) A yacht club.**

(Natural Resources Commission; 312 IAC 11-2-11.5; filed Jan 7, 2005, 2:10 p.m.: 28 IR 1681)

SECTION 2. 312 IAC 11-3-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-3-1 General licenses for qualified temporary structures; dry hydrants; glacial stone refaces

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23

Affected: IC 14-26-2

Sec. 1. (a) The placement and maintenance of a:

- (1) temporary structure; a**
- (2) dry hydrant; or a**
- (3) glacial stone reface;**

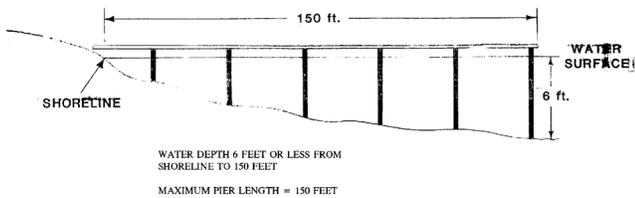
is authorized without a written license issued by the department under IC 14-26-2 and this rule if the temporary structure, dry hydrant, or glacial stone reface qualifies under this section.

(b) In order for a temporary structure to qualify, the structure must satisfy each of the following:

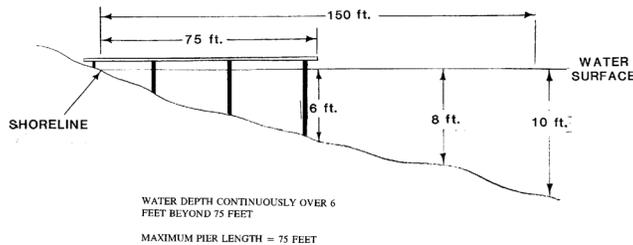
- (1) Be easily removable.**
- (2) Not infringe on the access of an adjacent landowner to the public freshwater lake.**
- (3) Not unduly restrict navigation.**
- (4) Not be unusually wide or long relative to similar structures within the vicinity on the same public freshwater lake.**

- (5) Not extend more than one hundred fifty (150) feet from the legally established or average normal waterline or shoreline.
- (6) If a pier, not extend over water that is continuously more than six (6) feet deep to a distance of one hundred fifty (150) feet from the legally established or average normal waterline or shoreline.
- (7) Not be a marina.
- (8) Not be a group pier.**
- ~~(8)~~ **(9)** Be placed by or with the acquiescence of a riparian owner.

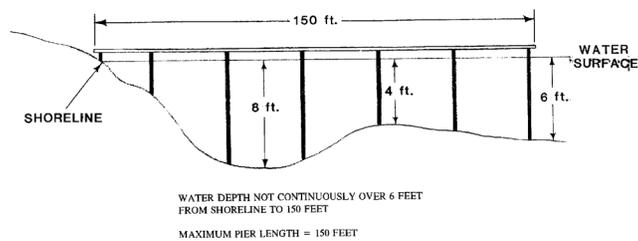
(c) Illustrations of maximum lengths for a pier or similar structure that may qualify under subsection (b) are as follows:



Where the water depth is six (6) feet or less from the shoreline to one hundred fifty (150) feet from the shoreline, the maximum pier length is one hundred fifty (150) feet.



Where the maximum water depth is continuously more than six (6) feet beyond seventy-five (75) feet from the shoreline, the maximum pier length is seventy-five (75) feet.



Where the maximum water depth is not continuously over six (6) feet from the shoreline, the maximum pier length is one hundred fifty (150) feet.

(d) In order for the placement, maintenance, and operation of a dry hydrant to qualify, the hydrant must satisfy each of the following:

- (1) Be sponsored or owned by a volunteer or full-time fire department recognized by the public safety training institute.
- (2) Be readily accessible from an all-weather road, public access site, or similar area.
- (3) Have a diameter of at least six (6) inches.
- (4) Be constructed of PVC pipe or a similar nontoxic material.
- (5) Extend no more than one hundred fifty (150) feet from the waterline or shoreline.
- (6) Have all portions of the hydrant and its in-lake accessories be at least five (5) feet below the legally established or average normal water level.
- (7) Be marked with a danger buoy, which conforms to 312 IAC 5-4-6(a)(1), at the lakeward end of the hydrant.
- (8) Be equipped with a screen or straining device on the lakeward end.

- (9) Glacial stone or riprap only may be placed in or on the lakebed for either of the following:
- (A) Bedding the intake pipe.
 - (B) Straining the intake water.
- (10) Be approved by the riparian landowner.

(e) In order for the placement of glacial stone on the lakeward side of a seawall that is located within or along the waterline or shoreline of a public freshwater lake to qualify, the glacial stone reface must satisfy each of the following:

- (1) The seawall reface must be comprised exclusively of glacial stone.
- (2) The reface must not extend more than four (4) feet lakeward of the waterline or shoreline at the base of a lawful seawall.
- (3) A walk or structural tie must not be constructed on the existing seawall in combination with the glacial stone reface.
- (4) An impermeable material must not be placed behind or beneath the glacial stone reface.
- (5) Filter cloth placed behind or beneath the glacial stone reface must be properly anchored to prevent displacement or flotation.
- (6) Erosion from disturbed areas landward of the waterline or shoreline must be controlled to prevent its transport into the lake.

(Natural Resources Commission; 312 IAC 11-3-1; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2223; filed Jan 23, 2001, 10:05 a.m.: 24 IR 1614; filed May 25, 2004, 8:45 a.m.: 27 IR 3062; filed Jan 7, 2005, 2:10 p.m.: 28 IR 1681)

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Notice of Intent Published: May 1, 2004; 27 IR 2523

Proposed Rule Published: September 1, 2004; 27 IR 4095

Hearing Held: October 4, 2004

Approved by Attorney General: December 30, 2004

Approved by Governor: January 5, 2005

Filed with Secretary of State: January 7, 2005, 2:10 p.m.

IC 4-22-7-5(c) notice from Secretary of State regarding documents incorporated by reference: None received by Publisher