



PIER FACT SHEET

Pier Pressure from the DNR

The DNR says REALTORS are not telling the truth about new restrictions the department is proposing that could impact tens of thousands of piers in Wisconsin. Instead of attacking the messenger, the DNR should stick to the facts.

FACTS

Under these proposed rules, any pier in Wisconsin could be deemed illegal and require a special permit to remain if it meets **any** of the following criteria:

- The pier is greater than 6-feet-wide (NR 326.22(2)(f));
- The pier extends beyond the 3-foot water depth level or extends to water that is deeper than necessary to moor a boat (NR 326.22(2)(e));
- The pier that has more than 2 boat slips for the first 50 feet of the water frontage plus 1 additional boat slip for each additional 50 feet of water frontage (NR 326.22(2)(g));
- The pier is located in “sensitive areas” (determined by the DNR) (NR 326.22(2)(a));
- The pier has a deck located at the end of the pier that is greater than 120 sq. feet (added by NR Board)

There is one simple way for the public to decide who is telling the truth and who isn't – simply read the proposed rules. A link to the rules can be found on the Wisconsin Homeowners Alliance website at www.homeownersalliance.org.

IMPACT

How many piers will this impact? It's not clear, but affected property owners have the right to know and make up their own minds. Consider the following:

- How many piers do we have? Good question. In September, the DNR said Wisconsin had nearly 500,000 existing piers. Two months later, after significant public criticism, the DNR claims Wisconsin has only 200,000 piers. What happened to the other 300,000 piers? ***The agency responsible for regulating our waterways for decades should know how many piers there are before proposing a new comprehensive regulatory scheme that will be applied retroactively.***

- How many piers will be impacted? Good question. In September, the DNR said 99% of existing piers would be legal under their proposed rules. By October, they told the Milwaukee Journal Sentinel that only 80% of existing piers would be legal under the rules. In November, George Meyer, former DNR Secretary and now spokesperson for the Wisconsin Wildlife Federation, issued a press release saying 97% of existing piers would be legal. Now, after significant public criticism, the DNR is saying 94% of existing piers would be OK under the proposed rules. **Regardless of which month or number one uses, by their own ever-changing numbers, these rules will restrict the use of 12,000 to 100,000 piers in Wisconsin.**
- How will the new rules be enforced? Good question. In a recent Milwaukee Journal Sentinel article, the DNR states the new rules will be enforced almost solely on complaints from neighbors or other lake users. According to DNR official Todd Ambs, “there is no plan for wardens or other DNR officials to actively seek out piers that don’t comply with the new rules.” But the rules and past enforcement practices say the opposite. The rules state the DNR has the authority to abate existing piers that are not in compliance with the rules (see NR 326.07(1)). In the past, the DNR has indeed taken action to “go after” existing piers without receiving complaints from neighbors. Such a case is currently before the Wisconsin Court of Appeals (*Baer v. DNR*, case no. 05-0668). **Again, what the DNR says and what the DNR does is inconsistent.**
- Has the DNR adequately studied the impact of these rules? Good question. According to a DNR press release issued on November 9th, the DNR’s research is based upon a study of 35 random lakes in Wisconsin. In other words, the DNR is basing new rules that will make thousands of existing piers in Wisconsin illegal on a study of only 0.2% of the 15,000 lakes in Wisconsin. **This is hardly a reliable source of data on which to base a controversial rule that will have a significant impact on the pocket books of many waterfront property owners.**

REALTOR POSITION

- REALTORS and the property owners they represent support reasonable regulations of piers and property. Protecting the environment, preserving wildlife, and enhancing our water resources is critical to maintaining Wisconsin’s high quality of life, improving our economy and protecting our property values.
- That’s why we have supported and continue to support sound zoning and environmental regulations that respect the interests of property owners.
- However, it is fundamentally unfair to create new regulatory standards and apply them retroactively to existing piers that were lawful when they were placed.
- Grandfathering all existing piers is the only fair way to advance new pier regulations, similar to the past policies the state adopted regarding existing boathouses and other structures when new shoreland zoning and setback rules were enacted.