

Document: Proposed Rule, **Register Page Number:** 27 IR 1201

Source: January 1, 2004, Indiana Register, Volume 27, Number 4

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TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #03-203

DIGEST

Amends 312 IAC 11-3-1 and 312 IAC 11-4-3 to allow bulkhead seawalls or previously authorized seawalls to be refaced with glacial stone, under a general license, regardless of the number of times the existing bulkhead or authorized seawall has previously been refaced. Effective 30 days after filing with the secretary of state.

312 IAC 11-3-1

312 IAC 11-4-3

SECTION 1. 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

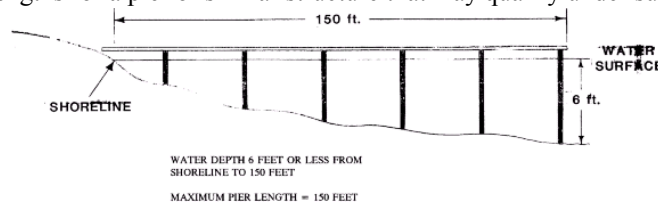
Affected: IC 14-26-2

Sec. 1. (a) The placement and maintenance of a temporary structure, a dry hydrant, or a 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.

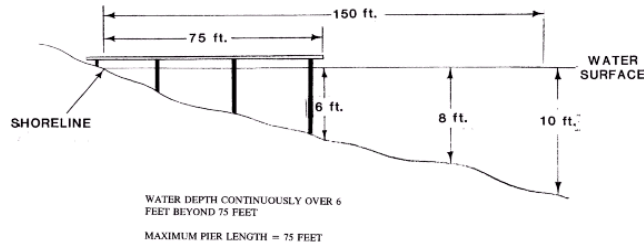
(b) In order for a temporary structure to qualify, the structure must satisfy each of the following:

- (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) Be placed by or with the acquiescence of a riparian owner.

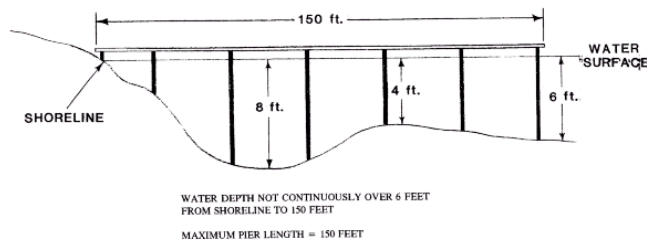
(c) Illustrations of maximum lengths for a pier or similar structure that may qualify under subsection (b) are as follows:



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 ~~310 IAC 2-1-4-6(a)(1)~~, **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 existing seawall must not have been previously refaced.~~
- ~~(2) (1) The seawall reface must be comprised exclusively of glacial stone.~~
- ~~(3) (2) The reface must not extend more than four (4) feet lakeward of the waterline or shoreline at the base of either of the following:~~
 - ~~(A) The existing wall lakeward face of a seawall licensed by the department.~~
 - ~~(B) Any bulkhead seawall.~~
- ~~(4) (3) A walk or structural tie must not be constructed on the existing seawall in combination with the glacial stone reface.~~
- ~~(5) (4) An impermeable material must not be placed behind or beneath the glacial stone reface.~~
- ~~(6) (5) Filter cloth placed behind or beneath the glacial stone reface must be properly anchored to prevent displacement or flotation.~~
- ~~(7) (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)

SECTION 2. 312 IAC 11-4-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-4-3 Seawall refacing

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

Affected: IC 14-26-2

Sec. 3. (a) A written license under IC 14-26-2 and this rule is required to reface on the lakeward side of a seawall that is located within or along the waterline or shoreline of a public freshwater lake.

(b) **Except as provided in 312 IAC 11-3-1(e)**, the director or a delegate shall not issue a license to reface a seawall if the wall has been previously refaced.

(c) To qualify for a license if a seawall is to be refaced in a significant wetland or an area of special concern, the seawall reface must be comprised of either or both of the following:

- (1) Bioengineered materials.
- (2) Glacial stone.

(d) To qualify for a license if a seawall is to be refaced in a developed area, the seawall reface must be comprised of one (1) or some combination of the following:

- (1) Bioengineered material.
- (2) Glacial stone.
- (3) Riprap.
- (4) Concrete.
- (5) Steel sheet piling.

(e) For a seawall reface comprised of:

- (1) glacial stone or riprap, the reface must not extend more than four (4) feet lakeward of the waterline or shoreline at the base of the existing wall;
- (2) concrete, the reface must:
 - (A) not extend more than twelve (12) inches lakeward of the existing seawall; and
 - (B) be keyed to the lakeward face of the existing seawall;
- (3) steel sheet piling, the reface must not extend more than six (6) inches lakeward of the existing seawall; and
- (4) bioengineered material, the lakeward extent of the reface must be coordinated with the department before filing the permit application.

(f) Any walk or structural tie constructed on top of the existing seawall must be located landward of the seawall face.

(g) The director or a delegate shall not issue a license for the placement of an impermeable material behind or beneath a seawall reface.

(h) Filter cloth placed behind or beneath the seawall reface must be properly anchored to prevent displacement or flotation.

(i) 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 11-4-3; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2225; filed Jan 23, 2001, 10:05 a.m.: 24 IR 1616)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 29, 2004 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments to allow bulkhead seawalls or previously authorized seawalls to be refaced with glacial stone, under a

general license, regardless of the number of times the existing bulkhead or authorized seawall has previously been refaced. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Kiley
Chairman
Natural Resources Commission