

**Frequently Asked Questions (FAQ) Regarding the High-Risk Erosion Area Program
And the Update Study in Berrien County**

**Administered under Part 323, Shorelands Protection and Management
Of
The Natural Resources and Environmental Protection Act, 1994 PA 451, as amended**

Question:

Why is my property being designated as high-risk erosion area (HREA)?

Answer:

The Land and Water Management Division (LWMD) has conducted an update study of recession occurring along the Berrien County Shoreline. This study identifies the rate of recession in feet per year. Those stretches of shoreline that average one foot or more per year of recession are designated as HREA.

Question:

How are the setback distances determined?

Answer:

Staff of the LWMD use modern principles of remote sensing and geographic information systems to create and overlay historic and modern digital aerial photographs. The erosion reference feature is identified in each photo. Movement of these erosion reference features is tracked and measured over the study time period. The change over time is converted to a rate in feet per year at transects spaced every 150 feet along the shoreline. Areas of similar rates are grouped and the area average is calculated. These rates are multiplied by the required 30-year and 60-year time frames, with an additional 15 feet being added to account for the possibility of severe storm events.

Question:

The update study is proposing to designate my property as HREA, but I don't believe it is eroding more than a foot per year. What can I do?

Answer:

The study results are only preliminary at this time. LWMD staff will review and respond to all comments, questions, and requests for the LWMD to again re-examine its data. If you have any supporting documentation, such as site photographs or aerial photographs, that would provide insight on historic and modern shoreline conditions on your property, it may be helpful to submit these with your request for re-examination of the recession rates.

Question:

What effect does designation as a HREA have on the ability to use my property?

Answer:

The regulations require that a permit be obtained prior to erecting, installing, or moving a permanent structure anywhere on the property. The MDEQ/USACE Joint Permit Application (www.michigan.gov/jointpermit) is used for this purpose. Each proposed construction project is reviewed by LWMD staff to ensure that the setback requirements instituted under the administrative rules are complied with.

Question:

I have an existing house that does not meet the newly required setback. Will I have to move my house?

Answer:

No, the regulations will only apply to new structures, newly proposed additions to the existing structure, major renovations to the existing house on the property, and to installation and replacement of septic systems.

Question:

The letter I received from the LWMD has a code at the top (e.g. N, IS, IL, S, L, or D). What does this code mean?

Answer:

The code indicates the status of the property in terms of existing high-risk requirements vs. those proposed for your specific property. The breakdown is as follows:

N = New Designation: The property was not previously designated as HREA, however, it is now proposed for designation

IS = Increase Due to Study: The property was previously designated as HREA. The current study has found increase rates of erosion in the region and therefore required setback distances will now be larger than they were previously.

IL = Increase Due to Law (Administrative Rule): The property was previously designated as HREA and will continue to be designated as such. The required setback distances will be slightly larger than they were previously, because an administrative rule amendment in the early 1990's required 15 additional feet be added to the setback distances.

S = Same: The property was previously designated as HREA. The current study found no change in recession rates as compared to the previous study. Therefore the new required setback distances will be the same as those that currently apply to the property.

L = Lowered: The property was previously designated as HREA. The current study has found the rate of recession to be lower than that which was determined in the previous study. Therefore, the new setback distances will be smaller than those that currently apply to the property.

D = De-designated: The property was previously designated as HREA. The current study has found this stretch of shoreline to be eroding at a rate less than one foot per year on average. For this reason, the property will no longer be designated as HREA, which means that a high-risk erosion area permit will not be required prior to construction on the property.

Question:

Where are the setbacks measured from on my property?

Answer:

The setbacks are measured from the erosion hazard line (EHL) as defined in the administrative rules. Generally speaking, the EHL is a line of stable vegetation or the landward edge of any slumps on the bluff in cases where the bluff is actively eroding. In cases where there is active erosion on the bluff face the EHL may be located as far landward as the top of the bluff. For planning purposes, the top of the bluff is a safe place to measure from as the EHL will never be landward of this feature.

Question:

How can I identify the erosion hazard line (EHL) on my property?

Answer:

The EHL is a very site specific feature and is identified on-site by LWMD staff every time a permit application for construction in a HREA is reviewed. For planning purposes the top of the lakeward-facing slope or bluff is safe to use as the EHL, because the EHL as identified by LWMD staff will never be landward of this feature. In cases where dense vegetation exists down the face of the bluff or bank, the EHL may be located at the lakeward edge of this vegetation depending on the bluff height and slope of the bluff face.

Question:

I want to build a new house. Will it have to meet the 30-year or 60-year setback?

Answer:

It will depend on the characteristics of the house you want to build. If the foundation of the house does not exceed 3500 square feet and the building meets the readily-moveable structure criteria, then it needs to meet the 30-year setback. A house with a foundation exceeding 3500 square feet or one that is not readily moveable would have to meet the 60-year setback.

Question:

What constitutes a “readily-moveable” structure?

Answer:

Readily moveable structures are fully defined in the administrative rules. The footprint of the first-floor foundation can be no larger than 3500 ft². The foundation must be a crawl space, basement, or pilings. If the house has an attached garage, it can't be larger than 676 ft². All walls above the foundation must be of stud-frame or whole log construction with no solid stone or concrete block walls. There must also be sufficient access on the property to allow the house to be moved in the future in case it is ever threatened by erosion.

Question:

I have an existing house that will not meet the new setback requirements. Will I be able to construct an addition to this house?

Answer:

In many cases, the answer is yes. Permittable additions depend on the characteristics of both the existing house as well as those of the addition that is being proposed. The rules are less stringent for additions to existing structures than for new structures. Characteristics that typically make an addition more likely to be permitted include: the existing structure and/or the addition meet readily moveable structure criteria, the addition does not reduce the distance from the EHL, and the existing structure with addition are not located less than 30 feet from the EHL.