Water Resources Division
Surface Water Assessment Section
RESCISSION OF POLICY AND PROCEDURE

323-95-04 – Special Exception Permit Issuance for Readily Moveable Structures (RMS), Under R 281.22, Subrule 2 (9), Part 323, Shorelands Protection and Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA)

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Water Resources Division, Surface Water Assessment Section, Policy and Procedure No. 323-95-04, Special Exception Permit Issuance for Readily Movable Structures (RMS) Under R 281.22, Subrule 2 (9), Part 323, Shorelands Protection and Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), dated July 14, 2008, is rescinded.

The substance of Policy and Procedure No. 323-95-04 was incorporated in the High Risk Erosion Area Project Review Report (PRR) for New Structures and the PRR for Special Exceptions which makes policy and Procedure No. 323-95-04 unnecessary.

APPROVING AUTHORITY

Dina Klemans, Manager, Surface Water Assessment Section
Water Resources Division

A DEQ policy and procedure cannot establish regulatory requirements for parties outside of the DEQ. This document provides direction to DEQ staff regarding the implementation of rules and laws administered by the DEQ. It is merely explanatory, does not affect the rights of or procedures and practices available to the public, and does not have the force and effect of law. DEQ staff shall follow the directions contained in this document.

DEPARTMENT OF ENVIRONMENTAL QUALITY	OPERATING PROCEDURE LAND AND WATER MANAGEMENT DIVISION	NUMBER: 323-95-04 PAGE: 1 of 2
SUBJECT: Special Exception Permit Issuance For Readily Moveable Structures (RMS) Under **R 281.22, Subrule 2 (9),** Part 323, Shorelands Protection and Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA)		**EFFECTIVE DATE:** 09/28/95 **REVISED DATE:** 07/14/08
SECTION AND/OR UNIT: District Staff and Great Lakes Shorelands Unit	**APPROVAL SIGNATURE:** **TITLE:** Elizabeth M. Browne, Chief	**ALSO SEE: 323-08-01**

PURPOSE: Provide guidance in evaluating applications for special exceptions on "substandard parcels" when the project is for a small, readily moveable structure, under R 281.22, Subrule 2 (9), of the Administrative Rules for Great Lakes Shorelands promulgated pursuant to Part 323, Shorelands Protection and Management, of the NREPA.

DEFINITIONS: "Parcel" means a continuous area or acreage of land which is under the same ownership at the time of designation (R 281.21 [1][g]).

"Substandard Parcel" means a lot or parcel of record or a lot or parcel which is described in a land contract or deed that is executed and delivered before the designation of a high-risk erosion area and which does not have adequate depth to provide the required setback distance from the erosion hazard line for a permanent structure. The term also means those lots which are legally created after the designation of a high-risk erosion area and which have sufficient depth to meet setback requirements for permanent structures, but which subsequently become substandard due to erosion processes or become substandard due to a change in the required setback distance (R 281.21 [1][n]).

FORMS USED: Joint Permit Application, Form EQP 2731.
High Risk Erosion Area (HREA) Project Review Report (PRR), Form EQ 2739b.
Template cover letter advising of the erosion hazard based on the amount of setback waived.

WHO	DOES WHAT
	Special Exceptions for readily moveable structures on substandard parcels
District or GLSU staff	1. Using information in the Joint Permit Application, determines whether the project meets RMS criteria.
	2. Conducts site inspection using HREA PRR. Determines whether the property has enough depth to allow construction that meets the applicable setback requirement.
	3. When a property does not have sufficient depth, determines whether the property meets the definition of "substandard." This requires comparing the date the current property boundaries were created to the date of HREA designation. If the property boundaries were in place prior to the HREA designation, the property meets the definition of substandard.

WHO	DOES WHAT
District or GLSU staff	4. When the property boundaries were created after the HREA designation, the property may be classified as substandard only if the property was not substandard when the boundaries were created, but became substandard due either to: a. erosion, or b. a change in the required setback distance. To make this assessment requires comparison of the property boundaries at the date of designation to the current boundaries. This may be done using property surveys, property tax maps, or aerial photographs. If either condition a. or b. above is met, the property can be classified as substandard. If neither condition is met, the property cannot be classified as substandard and the project cannot be reviewed under Subrule 2 (9). 5. For properties that meet substandard classification, reviews the application to determine if the building will meet RMS criteria. This includes reviewing the property to determine whether there is access to and from the site of sufficient width and grade to allow the home to be relocated. 6. If the building will meet RMS criteria, determines whether the structure is as far landward as local zoning will allow. The minimum footprint of homes established under local zoning should be a factor included in this portion of the determination. In many projects, down-sizing the structure will be a way to increase the distance between the erosion hazard line (EHL) and the home. If a septic system is used, it must be as far landward as the building. If there are questions, contacts the zoning administrator and/or sanitarian to verify local regulations that affect the project. 7. Determines whether the building is at least 30 feet landward of the EHL and is not located on a lakeward facing bluff with a slope measuring 60 percent or greater. 8. Verifies the project meets requirements of other applicable state laws. 9. If permit is issued and more than 50 percent of the setback has been waived, includes a cover letter advising the owners of the erosion hazard based on the amount of setback waived. 10. If all requirements of R 281.22, Subrule 2 (9), are met, notes that the project is a Special Exception in the "project description" box of the permit, prepares and signs permit. Template letter is attached. 11. Notes in CIWPIS database comments that file is a HREA Special Exception.

DEQ	HIGH-RISK ERISON AREA PROJECT REVIEW REPORT NEW STRUCTURES	Department of Environmental Quality Land and Water Management Division

1. Application Number:		
2. Applicant's Name:		
3. Projected Recession Distances (PRD):	30 Year PRD: _____ ft.	60-Year PRD: _____ ft.
4. Verify dimensions of proposed structures and their distances from property lines and permanent features.		
5. Does the proposed structure meet the 60-year PRD from the top of the lakeward-facing slope?	☐ Yes – proposed structure may be approved ☐ No – Proceed to 6	
6. Determination of Structure Size: A. Is the size of the foundation 3,500 square feet or less? B. Does the permanent structure contain less than 5 individual living units?	Foundation size = _____ sq. ft. Number of living units = _____ ☐ Yes ☐ No ☐ Yes ☐ No	
If answer to 6(A) and 6(B) is "yes", proceed to Section 7; If "no" to either 6(A) or 6(B), Skip to Section 13.		

Small Structures

7. Have you confirmed that access is of sufficient width and grade for relocation? (For Example: Access slopes are less than 25%, and no significant structural features prohibit landward movement, and no critical dune features greater than one on three would need to be impacted.)	☐ Yes - Proceed to Section 8 ☐ No – Skip to Section 9
8. Determination of Readily Moveable Structure (RMS) – Proposed Structure. A. Is the proposed foundation: pilings, a basement, or crawl space? B. Are above-foundation walls stud-frame or whole log construction (viz. walls/exterior siding do not include stone, poured concrete, or concrete blocks)? C. If a garage is proposed to be attached to the existing house: 1. Is the garage's slab foundation ≤ 676 square feet? 2. Is it true that the garage will not have plumbing or interior walls? 3. Do the garage's above foundation walls meet RMS criteria? D. Based on 8(A-C), is the proposed structure a readily moveable structure (requires a "yes" answer to all applicable previous questions in this section)?	☐ Yes ☐ No ☐ Yes ☐ No ☐ Yes ☐ No ☐ N/A ☐ Yes ☐ No ☐ N/A ☐ Yes ☐ No ☐ N/A ☐ Yes – Proceed to Section 9 ☐ No – Skip to Section 10
9. Does the proposed structure meet the 30-year PRD from the top of the lakeward-facing slope?	☐ Yes – Proposed structure may be approved ☐ No – Proceed to 10
10. What is the bluff height (above elevation contour (EC)[1])? A. Is the bluff "high" (greater than 25 feet above EC) or "low" (25 feet or less above EC)?	_____ ft. ☐ Low – Proceed to 11A ☐ High – Skip to 11B
11. Determination of Required Setback Distances (RSD): A. "low" bluff: RSD = PRD (values in 3 above). RSD (30-yr/60-yr)= B. "high" bluff: 1. What is the slope of the bluff/dune over the lower 50 feet? 2. What is the multiplier (1 + (Percent Slope over 25% *0.05))? 3. What are the pertinent Required Setback Distances (RSD)?	_____ / _____ ft. _____ % _____ _____ / _____ ft.

Date

Mr. /Ms.

Dear Mr./Ms.:

SUBJECT: Notice of Erosion Hazard
Permit #
Property tax #
Located in section , Township, County

This letter is to inform you that the enclosed Special Exception permit has been issued for construction of a _____ which will be located less than half the required setback distance landward of the erosion hazard line (EHL). The required setback distance for the subject property is ___ feet, measured from the *(describe the reference feature the setback is measured from-either the EHL or the top of the lakeward facing slope).* The lakeward edge of the permitted structure will be built __ feet landward of the *EHL or top of the lakeward facing slope*, which amounts to approximately __ percent of the thirty-year setback. Per the Department of Environmental Quality recession rate study, the average annual rate of recession in the vicinity of the subject property is ___ feet per year. If this rate of recession were to continue in the future, the permitted structure would have an expected design-life of _____ years. The estimated design-life of the permitted structure is a projection based on historic trends in shoreline recession. The actual life span of the structure is dependent upon multiple factors and may be less or greater than projected.

May include additional information on current conditions, such as the following paragraph: Current water levels are extremely low (approximately two feet below average) and therefore shoreline recession on the subject property is not an imminent threat. It should be understood that water levels have been much higher in the past (approximately 4.5 feet higher in 1986 than the current level) and will rise again. It is advantageous for coastal property owners to be cognizant of inherent hazards associated with living on the shore in order to mitigate as much of the risk as possible.

Please contact me if you have questions regarding this matter.

Sincerely,

Land and Water Management Division

Enclosure

cc: , Bldg Code Official
, Zoning Administrator
, District Health Dept