



## Great Lakes Beach Grooming in Michigan Under 2012 PA 247 Questions and Answers

**1. Why was the law needed?** For about 12 years now, the Michigan Department of Environmental Quality has said that under two state laws--the Wetland Protection Act, and the Great Lakes Submerged Lands Act--a permit is required before any beach maintenance can be done, using machines like plows and tractors, on a Great Lakes beach.

**2. What does the new law do?** It clarifies that the MDEQ cannot require permits under those two laws for certain beach maintenance activities performed between the water's edge and the statutory "ordinary high water mark."

**3. What beach maintenance activities does the new law allow?** For most Great Lakes beaches, the law allows mowing of vegetation between the water's edge and the statutory "ordinary high water mark."

**4. What else does the new law allow?** The law also allows leveling of sand, removal of vegetation, grooming of soil, or removal of debris, between the water's edge and the statutory "ordinary high water mark," as long as the soil is made up of "unconsolidated material predominantly composed of sand, rock, or pebbles."

**5. What does "unconsolidated material" mean?** The purpose of this provision was to provide a simple way to distinguish between beaches and wetlands, so that true wetlands were protected. A typical beach has sand, rock, or pebbles that could easily be sifted, and does not stick together. That is what we think of as "unconsolidated material." In contrast, wetland soils might be wet and sticky, and tend to stay in clumps.

**6. I want to remove vegetation. Why do I care about mowing?** Mowing is an important part of the law because it may be the simplest and fastest way to get relief from unwanted vegetation like *phragmites*. The Corps of Engineers-Detroit District says it does not regulate mowing, which means that you can now mow your beach vegetation *today* without asking for any permit from anyone. Also, you may not be able to obtain a permit from the Detroit District to remove vegetation. The new state law at least lets you mow.

**7. Is every Great Lakes beach included under the new law?** No. The law does not apply to the St. Clair Flats, which are in northern Lake St. Clair. Also, any area designated as an "environmental area" under a separate state law is not included. You probably already know if your beach is a designated "environmental area," but if you have any questions, check the MDEQ website at <http://www.michigan.gov/deq/> and type "environmental area" (in quotes) in their search box, or call them at (517) 373-4608 if you have any questions.

**8. What is the statutory “ordinary high water mark”?** It is not actually a “mark” at all; it is an elevation above sea level defined by statute, which is different for each lake, and which can be determined by a surveyor. The statute is MCL 324.32502, and the elevations are as follows (International Great Lakes Datum of 1955):

Lake Superior, 701.5 feet;  
Lakes Michigan and Huron, 579.8 feet;  
Lake St. Clair, 574.7 feet; and  
Lake Erie, 571.6 feet.

**9. So do I need to hire a surveyor before I mow or groom?** Not in most cases. SOS advises the use of common sense. In most cases, MDEQ has been concerned about what happens BELOW the ordinary high water mark. Water levels are currently several feet below those elevations. MDEQ will be concerned with land above the mark only if it contains wetlands, which is not typical. If you have reason to suspect wetlands, further investigation may be required.

**10. Do I still need to get a permit from the US Army Corps of Engineers-Detroit District?** No permit is needed for mowing; the Detroit District’s position is that they do not regulate mowing. We expect they will still require a permit for leveling of sand, as well as any removal of vegetation, grooming of soil, or removal of debris which involves the movement of sand using mechanical equipment. But they have adopted a regional permit which simplifies the process for some projects involving leveling of sand, grooming of sand, sand paths, or public beach grooming. Contact the Detroit District Regulatory Office for any questions at (313) 226-2218, or view their webpage at <http://www.lre.usace.army.mil/>. Remember that the Corps does not require a permit to remove vegetation by hand, hand shoveling or hand raking.

**11. Someone has told me that any cutting of “live phragmites” will only make the problem worse, and that instead, I should use chemicals. Should I listen to them?** Both our experience and our research reveals that mowing, plowing, and discing can be effective ways to control *phragmites*. We have included some of this research on our website.

**12. If my property does not meet the requirements of the new law, does that mean I can’t maintain my beach?** Not necessarily. The purpose of the law was to eliminate the need to request a permit from the state. Any person can still apply for a permit, and the MDEQ can still adopt a general permit for beach grooming like it did in 2007 if it so desires. And don’t forget that the MDEQ typically says permits are not required for maintenance performed by hand, without the benefit of machines.