

**State of Michigan
Department of Environmental Quality**

Land and Water Management Division
P.O. Box 30458
Lansing, MI 48909-7958

PUBLIC NOTICE

**PROPOSED GENERAL PERMIT CATEGORY FOR LIMITED GREAT LAKES SHORELINE
MANAGEMENT ACTIVITIES**

February 5, 2007

Section 30312 of Part 303, Wetlands Protection, and Section 32512 of Part 325, Great Lakes Submerged Lands, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, authorize the Michigan Department of Environmental Quality to issue a General Permit identifying categories of activities that are similar in nature, will cause only minimal adverse environmental affects when performed separately, and will have only minimal cumulative adverse effect on the environment. Permit applications made for these types of activities may be processed in an expedited manner without issuance of an individual public notice.

General Permits are issued for a five-year period. The purpose of this public notice is to provide an opportunity for public review and comment prior to the issuance of this General Permit.

Written comments on the new Proposed General Permit Category should be sent to:

Ms. Peg Bostwick
Michigan Department of Environmental Quality
Land and Water Management Division
P.O. Box 30458
Lansing, MI 48909-7958

All comments must be received by May 6, 2007.

This notice will be reviewed by federal agencies in accordance with an agreement with the U.S. Environmental Protection Agency, under provisions of Section 404 or the Federal Clean Water Act Amendments of 1977.



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

**GENERAL PERMIT FOR
LIMITED GREAT LAKES SHORELINE MANAGEMENT ACTIVITIES**

_____, 2007

IMPORTANT: PRIOR WRITTEN AUTHORIZATION UNDER THIS GENERAL PERMIT IS REQUIRED. Please review General Permit Procedures outlined in this document.

Issued Under Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451 as amended, being Section 324.30301 to 324.30323 of the Michigan Compiled Laws, Annotated

And

Part 325, Great Lakes Submerged Lands, of the Natural Resources and Environmental Protection Act, 1994 PA 451 as amended, being Section 324.325.01 to 324.32516 of the Michigan Compiled Laws, Annotated

BACKGROUND INFORMATION

PURPOSE

This General Permit (GP) is intended to facilitate activities for limited shoreline management along the Great Lakes coast that are expected to have only a minor impact on wetlands and the Great Lakes bottomlands and that can, therefore, be reviewed through an expedited permit application process. This GP will allow the DEQ to evaluate applications for permits without public noticing, reducing the inconvenience and cost of the permit process for applicants proposing minor activities and the costs of administering the program while protecting the wetland resource.

Please note that this GP does not define projects that will be permitted, but only those that may be considered for expedited processing.

LEGISLATIVE AUTHORITY

The DEQ may issue a GP only for activities that are, "...similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment" (see Section 30312 of the Wetland Protection Part, and Section 32512a of the Great Lakes Submerged Lands Part). The DEQ may authorize activities undertaken by individual property owners under the provisions of a GP without further public notice.

GEOGRAPHIC EXTENT

This GP covers bottomlands of the entire Great Lakes shoreline in Michigan below the Ordinary High Water Mark of the Great Lakes and above the water's edge. This GP does not authorize activities below the water's edge.

GENERAL PERMIT PROCEDURES

A person seeking authorization under this GP must submit a permit application on a form provided by the DEQ. The DEQ Land and Water Management Division will review requests for authorization under the GP to determine whether the conditions and limitations of the GP are met. If the DEQ determines that an application for a specific project meets all the general and specific criteria, written authorization under the GP will be issued to the applicant.

The DEQ may require that a particular project be authorized through the individual permit process if it determines that public review would be beneficial in making a decision on the application, or if it determines that a proposed project could, in combination with other projects, result in more than minimal adverse cumulative impacts.

The Michigan Legislature has established a fee of \$100.00 for authorization under the General Permit [§30306(3)(a); §32513(2)(a)].

ACTIVITIES AUTHORIZED BY THE GENERAL PERMIT

This General Permit authorizes:

1. The following activities on Great Lakes Bottomland lying below the Ordinary High Water Mark as defined in Section 32502 and above the water's edge, in areas that are naturally free of vegetation or where all vegetation has been removed and maintained in accordance with the NREPA. These activities are not authorized in an environmental area as defined in part 323 or critical dune areas as defined in part 353, and shall not violate part 365 or rules promulgated under that part, or the endangered species act of 1973, public law 93-205, 87 stat. 884, or rules promulgated under that act. These activities are not authorized in areas exposed by temporary low water periods such as storm surges and seiches. Until 2 years from the effective date of this General Permit, property owners that have removed vegetation prior to June 5, 2006 without authorization from the DEQ may obtain approval under this General Permit on an after-the-fact basis by demonstrating that they would have been qualified to remove vegetation or to obtain a letter of permission under 2003 PA 14 and by paying twice the General Permit fee.

(a) **Leveling of sand:** The relocation of sand to sand areas, including the redistribution, grading, and spreading of sand that has been deposited through wind or wave action onto upland riparian property. Alteration of the natural lakeshore contours, including excavation of basins, formation of new upland areas, and relocation of the natural shoreline location, is not authorized. Leveling of sand is not authorized in non-sand areas, such as cobble or organic soil areas.

(b) **Grooming of sand:** Raking, dragging, or pulling metal teeth or other grooming equipment through the top 4 inches of sand without disturbance of or destruction of plant roots, for the purpose of removing debris. Debris includes animal or fish carcasses, zebra mussel shells,

dead vegetation, trash, and discarded materials of human-made origin. All collected debris shall be disposed of properly outside of any wetland.

(c) **Construction and maintenance of a path:** Construction of a temporary access walkway from the upland on the riparian property directly to the shoreline across swales with standing water, not exceeding 6 feet in bottom width and consisting of sand and pebbles obtained from the exposed, nonvegetated bottomlands or from the upland on the riparian property. This does not include grading of the pathway such that the natural contours of the land are altered or placement of a permanent structure such as a boardwalk or dock. Construction is limited to one walkway per individual private property. Adjoining property owners are authorized to share one path, not exceeding 12 feet in bottom width, located to avoid and minimize adverse natural resource impacts. Path construction for a public access area or commercial hotel is limited to one walkway, not exceeding 10 feet in bottom width, per 200 feet width of riparian property, with a minimum of one pathway per property.

2. The following mowing of vegetation on Great Lakes Bottomland lying below the Ordinary High Water Mark as defined in Section 32502 and above the water's edge without disturbing soil or plant roots. The mowing shall not occur in an environmental area as defined in section 32301 and shall not violate part 365 or rules promulgated under that part, or the endangered species act of 1973, public law 93-205, 87 stat. 884, or rules promulgated under that act. All collected vegetation shall be disposed of properly outside of any wetland. Thatch removal by raking or other means is not authorized.

(a) **Mowing a pathway:** Mowing of vegetation for a pathway to a height of not less than 4 inches, limited to an area 10 feet in width for the entire individual property.

(b) **Recreational areas:** Mowing of a recreational area not to exceed 400 square feet to a height of not less than 4 inches.

(c) **Mowing of previously mowed areas in Saginaw Bay and Grand Traverse Bay:** Mowing of vegetation in previously mowed areas on properties located within the pilot areas designated by the DEQ under 2003 PA 14 of Saginaw Bay and Grand Traverse Bay, if the applicant can provide evidence that the mowing was done in accordance with NREPA. This mowing is limited to the width of the riparian property or 100 feet, whichever is less and to a height of not less than 4 inches. The designated Saginaw Bay area is defined by a line drawn between Au Sable Point in Iosco County east to Point Aux Barques in Huron County. The designated Grand Traverse Bay area is defined by a line drawn between Leelanau State Park in Leelanau County east to the Antrim/Charlevoix county line.

3. Mowing of invasive or non-native species on Great Lakes Bottomland lying below the Ordinary High Water Mark as defined in Section 32502 and above the water's edge.

Mowing of areas predominantly vegetated by non-native or invasive species (e.g. purple loosestrife, *Phragmites*) as part of a vegetation control plan in accordance with recommendations provided by the DEQ. "Non-native" species are plants that did not occur in the Michigan prior to 1800. "Invasive" species are plants that have aggressive growth characteristics, and that threaten native ecosystems by dominating the normal vegetation of an area. A description of how the proposed mowing is consistent with recommendations provided by the DEQ must be provided as part of the application.

GENERAL LIMITATIONS AND CONDITIONS

Authority granted under this permit is subject to the following limitations which apply to all General Permits:

1. Initiation of any work on the permitted project confirms the permittee's and the property owner's acceptance and agreement to comply with all of the terms and conditions of this permit.
2. A person, in exercising the authority granted by this permit, shall not cause unlawful pollution pursuant to part 31, Water Resources Protection, of the NREPA.
3. This permit and the written authorization under this General Permit shall be kept at the site of the work and shall be available for inspection.
4. The permittee or the property owner shall not forbid the full and free use by the public of public waters at or adjacent to the work approved herein.
5. This permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of private rights.
6. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any court of the State when necessary to protect his/her rights.
7. This permit shall not be assigned or transferred without the written approval of the Michigan Department of Environmental Quality.
8. Failure to comply with conditions of this permit may subject the permittee to revocation of a permit and criminal and/or civil action as cited by the specific State Act, Federal Act, and/or Rule under which this permit is granted.
9. This activity is a single and complete project. Other regulated activities must be reviewed and permitted separately.

NEED FOR OTHER PERMITS

Issuance of authorization for these activities pursuant to this General Permit does not remove the need for other applicable local, state, or federal permits. **A PERMIT FROM THE U.S. ARMY CORPS OF ENGINEERS IS REQUIRED FOR MOST ACTIVITIES THAT ALTER GREAT LAKES COASTAL AREAS.**

EXPIRATION DATE

This General Permit, and all authorizations issued under the General Permit, will expire on xx/xx/20xx.

Issued _____, 20xx.

Elizabeth Browne, Chief
Land and Water Management Division