Water Resources Division

PART 91, SOIL EROSION AND SEDIMENTATION CONTROL (SESC),

of the Natural Resources and Environmental Protection Act (NREPA),
1994 PA 451, as Amended

Why is erosion and sediment control important?

Sediment is the greatest pollutant by volume impacting our lakes, streams, and wetlands. Sediment is the product of uncontrolled erosion. Everyone in Michigan is affected by erosion and off-site sedimentation. Erosion and sedimentation result in: loss of fertile topsoil, filling of lakes and streams, increased flooding, damage to plant and animal life, and structural damage to buildings and roads.

Construction is one of the major causes of erosion in Michigan. Without proper planning and management, over 100 tons of sediment per acre per year can be generated on some construction sites.

Why was Part 91 passed?

The primary intent of Part 91 is to protect the waters of the state and adjacent properties by minimizing erosion and controlling off-site sedimentation.

What activities require a Part 91 permit?

A permit is generally required for any earth change that disturbs one or more acres, or is within 500 feet of a lake or stream. Exempted activities include plowing and tilling for crop production and some logging and mining activities. Access roads to the logging and mining sites and ancillary activities associated with logging and mining operations are not exempt. The removal of clay, gravel, sand, peat, or topsoil is not considered "mining" and therefore requires a permit. Cutting trees and removing stumps to accommodate future development activities is not "logging" and permits are required. All exempted activities are detailed in Sections 9115 and 9115a of Part 91 and in Rule 323.1705 promulgated under the authority of Part 91. Copies of Part 91 and the rules can be found on the SESC Web page by going to: www.michigan.gov/soilerosion. Questions regarding whether an activity requires a permit should be discussed with the county or municipal permitting agency identified below.

Where do I obtain a Part 91 permit?

Counties have the primary responsibility for issuing permits. In some cases, cities, villages, and townships have assumed permitting responsibility within their jurisdictions. Permit applications can be obtained from the respective county or municipal agencies. A list of county and municipal enforcing agencies can be found on the SESC Web page by clicking on Soil Erosion and Sedimentation Control Agencies under "General Information."

What information is required in the permit application?

The applicant must submit an application that provides specific information such as the name of the on-site responsible person, location and size of the earth change, description of the earth change, and project starting and ending dates. The applicant must also submit a SESC plan that includes the following information:

1. A map showing the site location, predominant land features, and proximity to lakes, streams and wetlands, and contour intervals or slope information.
2. Soils information.
3. Physical limits of each earth change.
4. Location of existing and proposed on-site drainage patterns and dewatering facilities.
5. Timing and sequence of each proposed earth change.
6. Description of all temporary and permanent erosion and sedimentation control measures.
7. A schedule for maintaining all control measures.
8. Any other information required by the permitting agency.

What principles should be considered when developing a SESC plan?

1. Integrate the overall construction design and activities to fit the physical features of the site.
2. Stage construction and stabilization activities to minimize the area and duration of disturbance.
3. Identify control measures that will minimize erosion.
4. Identify controls that will prevent off-site sedimentation. Sediment control should not be used as used as a substitution for erosion control, but rather in conjunction with erosion control.
5. Establish an inspection and maintenance schedule.

How can I maintain compliance with Part 91?

1. Obtain a permit from the appropriate county or municipal enforcing agency.
2. Install all temporary and permanent SESC measures in accordance with the approved SESC plan and special permit conditions. Temporary SESC measures should be installed prior to or upon commencement of the earth change.
3. Inspect all projects at least weekly and after every rainfall event to evaluate the effectiveness of the SESC measures.
4. Maintain and/or replace all SESC measures per plan requirements or as needed based on the site inspections.
5. Notify the permitting agency when the project begins and for a final inspection when the site is stabilized.

Note: If the permit will expire before the site is stabilized, a request for a permit extension must be made before the permit expires.

Are there penalties for not complying with permit conditions or Part 91?

Yes, there are several:

1. A person may be subject to a civil fine of up to $25,000 for each day of violation.
2. A cease and desist order or injunction may be issued until compliance is obtained.
3. The permitting agency may install or maintain control measures, to bring the site into compliance with Part 91, and bill the landowner for the costs incurred.
4. A person may be ordered to restore all areas affected by the violation.

If I have a Part 91 permit, do I need to apply for storm water coverage under Part 31 of the NREPA?

Yes, if your earth change meets the requirement for storm water coverage. Storm water coverage is required for any earth change that disturbs one or more acres of land and has a point source discharge to the waters of the state. A point source discharge is defined as any discharge by a specific confined conveyance such as, but not limited to, a pipe, ditch, channel, swale, or concentrated flow area.

Storm water coverage is generally obtained through a Permit-By-Rule process which relies heavily on Part 91. Owners of sites disturbing one to five acres, with a point source discharge to the waters of the state, receive automatic storm water coverage upon securing a SESC permit from the appropriate county or municipal permitting agency, or being designated an Authorized Public Agency (APA) under the authority of Part 91. Owners of sites disturbing over five acres, with a point source discharge to the waters of the state, must obtain a county or municipal SESC permit, or be designated an APA, and then submit a Notice of Coverage and other pertinent documents, and the appropriate fee to the Department of Environmental Quality (DEQ). All owners with storm water coverage, regardless of size, must comply with the requirements of Permit-By-Rule which include, but are not limited to having a construction site storm water operator conducting inspections weekly and within 24 hours of a precipitation event that results in a discharge from the site.

If I obtain a permit from the DEQ's Water Resources Division for various land/water interface activities, do I need a Part 91 permit?

Yes, if the project involves earth work that is within 500 feet landward of a lake or stream or disturbs one or more acres.

Who do I call if I have additional questions?

Questions should be directed to the appropriate county or municipal enforcing agency or to the DEQ, Water Resources Division staff found on the staff map: http://www.michigan.gov/documents/deq/wrd-sesc-const-sw-staff_344830_7.pdf

The Michigan Department of Environmental Quality (MDEQ) will not discriminate against any individual or group on the basis of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. Questions or concerns should be directed to the MDEQ, Quality of Life Human Resources, PO Box 30473, Lansing, MI 48909.