

## What activities require a Soil Erosion and Sedimentation Control Permit (Part 91) and/or Storm Water Coverage for Construction Activities (Part 31)?

### Frequently Asked Question (FAQ)

#### Soil Erosion and Sedimentation Control (SESC) Permits

Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), provides for the control of soil erosion and protects adjacent properties and the waters of the state from sedimentation. A permit is generally required for any earth change activity which disturbs one or more acres of land, or which is within 500 feet of a lake or stream.

Part 91 is administered and enforced by various state, county, and local governmental agencies. There are four categories of agencies recognized under Part 91:

1. Counties are mandated by statute to administer and enforce Part 91. The board of commissioners for each county must appoint an agency within the county, referred to as the County Enforcing Agency (CEA), to review soil erosion and sedimentation control plans, issue permits, and take enforcement actions when necessary to ensure compliance with Part 91.
2. Municipal Enforcing Agencies (MEAs) are cities, villages, charter townships, and some general law townships that have elected to enforce Part 91 through adoption of a soil erosion and sedimentation control ordinance. After approval of the ordinance by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), the MEAs assume responsibility for administering and enforcing Part 91 within their jurisdictions, independent of the CEAs.
3. Authorized Public Agencies (APAs) are state, county, or municipal agencies, such as the Michigan Department of Transportation, county road commissions, and other county or city departments that have been designated by the EGLE to undertake earth change activities without having to obtain soil erosion and sedimentation control permits from the county or municipal enforcing agencies. Designation is dependent upon having acceptable and approved procedures for controlling erosion and off-site sedimentation.
4. EGLE's Water Resources Division (WRD) has oversight responsibility over the statewide SESC Program and all Part 91 agencies.

Part 91 information and a listing of the Part 91 agencies can be found at [Michigan.gov/SoilErosion](https://Michigan.gov/SoilErosion).

## Storm Water Coverage through Permit-by-Rule

Construction activities which disturb one or more acres of land and have a point source discharge of storm water to waters of the state (streams, rivers, lakes, and wetlands) are required to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the WRD. The WRD has adopted a process called “Permit-by Rule” (Rule 2190, promulgated under Part 31 of the NREPA) for issuing the necessary storm water coverage. Permit-by Rule “streamlines” the permitting process and is dependent upon the applicant first obtaining Part 91 coverage, i.e., obtaining an SESC permit from the appropriate Part 91 permitting agency or being designated an APA.

For sites disturbing one to five acres, the applicant/permittee receives automatic storm water coverage upon the applicant obtaining a Part 91 permit (or undertaking the project as an APA). Although the coverage is automatic, the permittee must comply with the requirements of Permit by Rule.

For sites disturbing five or more acres, the applicant/permittee must obtain a Part 91 permit (or undertake the project as an APA) and submit an application through [MiWaters](#) for Notice of Coverage (NOC) to the WRD. Along with the NOC application, the applicant/permittee must submit a copy of the SESC permit, approved SESC plan, site location map, and the \$400 permit fee. The permittee must also follow the requirements of Permit by Rule.

Permit-by Rule requires compliance with the SESC permit issued under Part 91 and requires SESC measures to be inspected weekly and within 24 hours of a significant precipitation event by a certified storm water operator. EGLE WRD provides the exams to become certified.

For more information on Permit-by Rule, including application materials, certified operator exam schedules, storm water program contact information, or expectations on Storm Water Regulations contact EGLE [WRD storm water staff](#) or visit the program’s web site at [Michigan.gov/SoilErosion](#).

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