

SOIL EROSION & SEDIMENTATION CONTROL AND THE CONSTRUCTION STORM WATER (NPDES) PERMIT PROGRAM

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- I. Outline
 - Regulated Activities
 - Overview of Permit Programs
 - How to Apply for Each Permit
 - Actions Required to Comply
 - Common Compliance Problems
 - Other Related Permits That May Be Necessary

- II. Two Similar Permit Programs
 - Part 91, **Soil Erosion and Sedimentation Control (SESC)** Program
 - State-mandated program
 - **Construction Storm Water (CSW)** – Michigan's Permit-by-Rule (Part 31, R323.2190)
 - Federally-mandated program

- III. Who oversees these permit programs?
 - SESC Program:
 - Counties (CEAs)
 - Select Cities, Villages, and Townships (MEAs)
 - Governmental agencies such as road and drain commissions (APAs)
 - Programmatic oversight by DEQ of CEAs, MEAs and APAs
 - CSW Program:
 - DEQ - Water Bureau – through a permit-by-rule process

- IV. Earth Change Activities -- When is permit coverage required?

SEARCH MICHIGAN LAW ONLINE:

www.legislature.mi.gov

MCL Search (First Section of Part):

324.9101 (Part 91, NREPA)

324.3101 (Part 31, NREPA)

SEARCH MICHIGAN RULES

(The Administrative Code) ONLINE:

www.michigan.gov/orr

Michigan Administrative Code

- Search by Department (DEQ)
- Water Bureau
- Part 21, Wastewater Discharge Permits (R323.2190)

SESC Program

SESC permits are required for earth change activities that:

- 1) disturb one or more acres of land or
- 2) are located within 500 ft of a lake or stream

Several permit exemptions, but you should always check with the County or Municipal Enforcing Agency.

Authorized Public Agencies are not required to apply for SESC permits, but must follow all other aspects of Part 91 of NREPA and their approved procedures

CSW Program – Permit-by-Rule

All construction activities are subject to Permit-by-Rule requirements that:

- 1) disturb one or more acres and
- 2) the site has, or will have, a point source discharge of stormwater to surface waters of the state either directly or through a separate storm sewer.

What Are Waters of the State?

- Groundwaters, lakes, rivers, and streams and all other watercourses and waters including the Great Lakes
- This can include intermittent streams which may be dry during portions of the year.
- Wetlands may also be considered waters of the state

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V. Who Must Obtain a Permit?

In either permit program the **Landowner** (which includes an easement holder) must obtain the permit, or an Authorized Public Agency (APA) if the construction activity is under the control of the APA.

VII. How to Obtain an SESC Permit

List of SESC Agencies

<http://www.deq.state.mi.us/sesca/>

- Identify the County or Municipal Agency: If the municipality in which you are constructing is a MEA you must obtain a permit from them. If there is no MEA, you must get a permit from the CEA
- Complete an Application Form:
 - The Landowner (or the landowner's designated agent) must submit a complete application, SESC plan, and necessary fees and sureties to the appropriate CEA or MEA
 - Applications may be found online at your CEA or MEA's website or may be obtained by contacting the CEA or MEA directly
- Submit a complete and approvable SESC Plan.

Minimum SESC Plan Requirements (Rule 1703):

- Scaled drawing
- Site location sketch
- Proximity of the earth change to lakes and streams
- Predominant land features.
- Contour intervals or slope description
- Soil survey or description of soil type(s)
- Description and location of the physical limits of each proposed earth change
- Description and location of existing and proposed on-site drainage and dewatering facilities
- Timing and sequence of each proposed earth change
- The location and description for installing and removing all proposed temporary SESC measures
- Description and location of all proposed permanent SESC measures
- Maintenance plan for temporary and permanent SESC measures

VIII. How to Obtain CSW Coverage

- Obtain a SESC Permit
- If the site is between 1 and 5 acres in size, coverage is automatic and DEQ does not need to be notified
- If the site is over 5 acres in size DEQ must be notified. This is done through a Notice of Coverage application.
- Retain a certified stormwater operator

IX. Certified Storm Water Operator

- State law requires that permit by rule sites have erosion and sedimentation control measures under the control of a certified stormwater operator.
- Certification can be obtained by reviewing resource material available online and completing and passing an operator certification exam administered at a DEQ District Office.

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- Certified Operators are required to inspect sites once per week and within 24 hours of rain or snowmelt events resulting in a discharge
- Logs of these inspections must be maintained by the landowner for 3 years and provided to the DEQ upon request
- Inspections must be conducted until site is stabilized

X. When is a site considered stabilized?

The site is considered stabilized when all permanent control measures have been installed and functional, maintenance for permanent control measures have been arranged, vegetation is well established, and temporary controls have been removed. A site covered or partially covered with volunteer weed growth is generally not considered stabilized.

XI. How do I comply with these permits?

SESC Permit

- Maintain permit coverage until earth change is stabilized
- Follow the SESC plan, revise with Part 91 agency if necessary
- Remove sediments from runoff water before it leaves the site
- Install temporary control measures prior to earth change
- Maintain all permanent and temporary control measures
- Remove temporary measures once permanent measures are installed and area is stabilized
- Complete permanent measures within 5 days of final grading or final earth change is completed

CWS/Permit-by-Rule

- Stay in compliance with SESC permit
- Maintain uninterrupted SESC permit coverage until site is stabilized
- Have a Certified Storm Water Operator inspect the site once weekly and within 24 hours of every rain event and document inspections
- Maintain copies of logs for 3 years
- Comply with all requirements of Permit-by-Rule even if you don't have a permit
- If over 5 acres in size, submit Notice of Termination once site is stabilized

XII. Typical Compliance Problems

- Paperwork
- Site Performance
- Unauthorized Discharges

XIII. Why Should You Care?

- Possible penalties up to \$25,000 per day per violation for SESC violations
- Possible penalties up to \$25,000 per day per violation for CSW violations
- Possible cost for removing sediment and restoring area
- Infrastructure maintenance costs
- Possible damage to fisheries

XIV. Other Permits?

DEQ Permit Information Resources & Checklist

www.michigan.gov/deq select
"Permits" from top menu bar

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Program Web Resources

Soil Erosion and Sedimentation Control Program Website:

www.michigan.gov/deq, select "Land" then "Soil Erosion and Sedimentation Control"

Hotlink: http://www.michigan.gov/deq/0,1607,7-135-3311_4113---,00.html

Resources available on this webpage include:

List of Soil Erosion & Sedimentation Control Agencies

Soil Erosion and Sedimentation Control Training – Self Study

Hotlink: http://www.michigan.gov/deq/0,1607,7-135-3311_4113-83842--,00.html

Construction Storm Water Program Website:

www.michigan.gov/deqwater, select "Surface Water" then "Storm Water"

Hotlink: http://www.michigan.gov/deq/0,1607,7-135-3313_3682_3716-23997--,00.html

Resources available on this webpage include:

- Storm Water Certified Operator Training Materials
- Storm Water Certified Operator Exam Schedules
- Storm Water Certified Operator Review