Unit Five

LAWS, RULES, and INSPECTIONS PERTINENT TO CSW/SESC INSPECTORS

Federal Laws

The Federal Clean Water Act (CWA) prohibits the discharge of any pollutant to navigable waters from a point source unless the discharge is authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Furthermore, the 1987 amendments to the CWA recognized that storm water runoff was a significant source of water pollution. Thus, in the 1987 CWA amendments, Congress directed the United States Environmental Protection Agency (EPA) to develop regulations requiring permits for storm water discharges.

In 1990, in response to the 1987 CWA amendments, the EPA published its final rules for the NPDES Permit Program governing storm water. The program was to be implemented in two phases; the first phase, implemented in 1992, addressed sources of storm water runoff from designated groups, including construction activities disturbing five or more acres of land that have a direct discharge to waters of the state. In March, 2003, the Phase II NPDES Storm Water Program took effect, which lowered the size of regulated construction activities from five acres to one acre.

Administration of the NPDES Storm Water Program in Michigan was delegated to the Michigan Department of Natural Resources and Environment (MDNRE).

State Laws

In 1994, the state legislature codified all state environmental laws into one, all inclusive statute known as the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). The MDNRE utilizes two parts of the NREPA to comply with the requirements of the federal construction storm water program; they are Parts 91 and 31 and the rules promulgated under those parts.

1. Part 91, Soil Erosion and Sedimentation Control (SESC), of the NREPA (Appendices 6A and 6B).

Part 91 regulates soil erosion and off-site sedimentation from earth change activities. The primary goal of Part 91 is to protect adjacent properties and the waters of the state (lakes, streams, and wetlands regulated by Part 303, Wetlands Protection, of the NREPA) from sediment generated from unchecked erosion. Part 91 permits are generally required for any earth change that disturbs one or more acres of land <u>or</u> that is within 500 feet of the water's edge of a lake or stream. Permits must be issued to the landowner or easement holder.

Some earth change activities are exempt under Part 91 and do not require SESC permits. The exempted activities include, but not limited to, plowing and tilling for crop production, gas and oil exploration and development activities, earth changes that are stabilized within 24 hours of the initial earth disturbance, and some logging and mining

activities. Access roads to and from logging and mining sites; ancillary activities associated with logging and mining; and the removal of sand, gravel, clay, peat, or topsoil; are not included in the logging and mining exemptions and require SESC permits. Specific exemptions are identified in Sections 9115 and 9115a of Part 91 and in Rule 323.1705. Regardless if a permit is required or not, exempted activities are not exempt from enforcement actions authorized under Part 91 if the exempted activities result in a violation of Part 91.

Part 91 Agencies

The following agencies have responsibility for administering and enforcing Part 91 throughout the state:

1. Counties are <u>required</u> by statute to administer and enforce Part 91. The County Board of Commissioners of each county must designate an agency, referred to a County Enforcing Agency **(CEA),** to be responsible for administering and enforcing Part 91 within the county. The county can administer its Part 91 SESC Program via a resolution or a SESC ordinance; both must be approved by the MDNRE. If the county opts to administer its SESC Program by resolution, the county cannot require anything other than what is authorized in Part 91 and the Rules; whereas, if the county adopts a SESC ordinance, the program can be more restrictive than what is authorized by Part 91 and the Rules. The CEA is responsible to review SESC applications and plans, issue permits, inspect the permitted sites, and take any necessary compliance and enforcement actions to ensure that the sites remain in compliance with Part 91 and the Rules.
2. A municipality (defined as a city, village, charter township, and general law townships in counties with a population of 200,000 or more) <u>may elect</u> to administer and enforce its own SESC Program. In order for the municipality to administer its own program, the municipality must adopt a SESC ordinance and designate an agency, referred to as a Municipal Enforcing Agency **(MEA)**, to administer and enforce Part 91 within the municipality. Upon approval of the ordinance by the MDNRE and designation as an MEA, the CEA no longer has authority to administer and enforce Part 91 within the municipality. The MEA assumes the same responsibilities that the CEA previously had in regards to plan review, permit issuance, inspections, and compliance and enforcement actions.
3. State, county, and municipal agencies that undertake earth change activities may apply to the MDNRE for designation as an Authorized Public Agency **(APA).** To be designated an APA, the agency must submit SESC procedures to the MDNRE that detail how it will minimize erosion and off-site sedimentation while undertaking earth change activities. Upon approval of the SESC procedures by the MDNRE and designation as an APA, the agency no longer has to apply to the CEA or MEA for SESC permits. It is the responsibility of the APA to develop SESC plans, implement the plans, conduct inspections, and take any necessary compliance and enforcement actions to ensure all sites are in compliance with Part 91 and the approved SESC procedures. The CEAs and MEAs have no oversight responsibility for APA projects; it is the responsibility of

the MDNRE to ensure that the APAs comply with Part 91 and their approved SESC procedures.

Part 91 Inspections, Inspection Frequency, and Documentation

Regardless if a project is permitted by a CEA or MEA or undertaken by an APA, the person conducting the inspections on behalf of the Part 91 agency must complete the SESC training required in Section 9123 of Part 91. Inspectors can be agency employees or contract employees. The inspector must be familiar with the project site, the SESC plan requirements, installation and maintenance details for the required SESC measures, and the requirements of Part 91, the Rules, and applicable SESC ordinance or APA SESC procedures.

The Part 91 inspector must regularly inspect (based on criteria and schedule determined by the Part 91 agency) the entire project site to determine if the SESC measures are properly installed and maintained in accordance with the SESC plan and if the SESC measures are effective in minimizing erosion and off-site sedimentation. Inspections should be conducted, at a minimum, just before or after earth work begins to ensure that temporary SESC measures are in place and functioning, routinely throughout the project during major changes in work activity, after major rainfall or snowmelt events, and prior to closing out the permit (or APA project) to ensure that the site is stabilized and completed in accordance with the SESC plan and permit conditions. It is recommended that the CEA or MEA inspect the proposed project site prior to issuing the permit; however, that inspection should be conducted by the agency person responsible for developing or approving the SESC plan and issuing the SESC permit.

All observations (good or bad) made during the inspections and any necessary corrective actions and timeframes to make those corrections, must be documented on an inspection report form such as the one provided in Appendix 5B. A copy of the inspection report should be given to the on-site person responsible for the project or mailed to the permittee.

In addition to verifying that prescribed SESC measures are properly installed and maintained, the inspector should continuously be looking for potential problems that may occur on the site during the next strong wind, rainfall, or snowmelt event. It is much more effective to prevent a sediment discharge from happening than fixing the problem after it occurs and damage is done. In other words, the inspector should be **proactive** and anticipate problems, not wait and react to problems after they occur. If corrective actions are necessary that <u>require revisions</u> to the approved plan or permit conditions, a copy of the inspection report must also be forwarded to the Part 91 agency staff person responsible for approving/developing the original SESC plan and/or issuing the SESC permit. Once the appropriate revisions are identified and/or made, the agency staff person shall forward copies of the revised plan and/or permit to the permittee and to the inspector.

If corrective actions are required, the Part 91 inspector must conduct timely follow-up inspections which coincide with the timeframes set forth in the inspection reports to ensure compliance with the requested corrective actions. "Timely" is a relative term and can range anywhere from immediately for discharges to the waters of the state, to 24 hours for "minor" maintenance issues to up to five days for corrections requiring major plan revisions and/or significant adjustments to existing SESC measures. The potential for resource damage would also influence the amount of time allowed to make the necessary corrective actions. Any time there is a discharge or a potential discharge of sediment to the waters of the state, corrective actions and follow-up inspections should be done immediately to within 24 hours of discovery. Rule 1709(4) requires that SESC measures be maintained on a daily basis. Therefore, the timeframe required for complying with general maintenance items or other minor adjustments should be no more than 24 hours; by the end of the work day is preferable. For other more substantial corrective actions, the maximum allowable time by law to comply is 5 days after notification (Section 9118 of Part 91). If corrective actions are not completed within the specified timeframes, the inspector should proceed in accordance with the Part 91 agency's compliance and enforcement procedures or guidelines.

Note: *Just because the inspector gives the permittee a specified time to correct a problem, the permittee is still liable for any sediment discharge and damage that may occur during that time.*

Part 91 Inspector Responsibilities

Regardless if the project is permitted by a CEA or MEA or undertaken by an APA, it is the responsibility of the Part 91 inspector to ensure that the permittee (or APA) complies with Part 91, the Rules, applicable SESC ordinance or SESC procedures, approved plans, and permit conditions. Part 91 inspectors are responsible for ensuring or verifying that:

1) Earth changes <u>observed</u> (when traveling to perform inspections) that require SESC permits, have SESC permits.

2) SESC permits are posted on site and the approved SESC plans are available on site.

3) Inspections (and follow-up inspections) are done in a manner and frequency to assure minimization of erosion and off-site sedimentation. This requires inspecting the entire permitted site, not just those areas that are easily accessible.

4) Inspections are properly documented.

5) SESC measures are properly installed and maintained per standard details or plan specifications and are effective. In addition, the inspector must be **proactive** and anticipate or assess potential problems that may occur as the site or weather conditions change instead of reacting to problems as they arise.

***Note**: If being proactive requires that additional controls, not specified on the original plan, be installed on the site, the inspector must seek assistance from the person responsible for approving the plan if the inspector has only completed the Inspector Training and not the complete SESC training.*

6) Sediment caused by accelerated erosion does not leave the project site or discharge to waters of the state located within or off the site.

7) Water discharged from the site is at nonerosive velocities.

8) Temporary SESC measures are installed <u>before or upon</u> (not after) the commencement of the earth change activity.

9) Temporary SESC measures are maintained on a daily basis.

10) Permanent SESC measures are installed on all slopes, channels, ditches, or any disturbed land <u>within 5 calendar days</u> after final grading or the final earth change has been completed.

11) Projects (permitted or APA) are not closed out until the site is stabilized and the temporary SESC measures are removed. Stabilization is defined in the Rule 1701 as *the establishment of vegetation or proper placement, grading, or covering of soil to ensure its resistance to soil erosion, sliding, or other movement*.

12) Compliance and enforcement actions are taken in accordance with the Part 91 agency's compliance and enforcement procedures or guidelines, Part 91, and the Rules.

Any violation of Part 91, the Rules, applicable SESC ordinance, approved SESC procedures, approved SESC plans or SESC permit conditions subjects the permittee or APA to fines and penalties of up to $25,000 per day of violation. In addition, lack of adequate inspections or compliance and enforcement actions can result in CEAs being placed on probation and MEAs and APAs having their Part 91 agency designation revoked.

2. Part 31, Water Resources Protection, of the NREPA

The primary goal of Part 31 is to protect and conserve the waters of the state. This includes the prohibition of pollution of the waters of the state and any obstruction or occupation of floodways. The Part 31 definition of waters of the state is much broader than the Part 91 definition; it includes all surface water and groundwater in the state, regardless of size.

Permit-by-Rule Promulgated Under Part 31 (Appendix 5A)
In response to the federal storm water regulations, the MDNRE developed administrative rules (Permit-by-Rule) under the authority of Part 31 to permit storm water discharges from construction activities. Storm water permits are required for any construction activity that disturbs one or more acres of land and has a point source discharge to the surface waters of the state. A point source discharge is defined as *a "discharge that is released to the waters of the state by a discernable, confined, and discrete conveyance, including any of the following from which wastewater is or may be discharged: a pipe, a ditch, a channel, a conduit…."* Point source discharge also includes any runoff as a result of grading, regardless if it is sheet flow or concentrated flow.

Permit-by-Rule makes full use of Part 91 and avoids a double permitting situation. Prior to receiving authorization to discharge storm water, the applicant must first obtain coverage under Part 91 by securing: 1) an SESC permit from the appropriate CEA or MEA; 2) being designated an APA and having a site specific SESC plan for the project; or 3) securing permits under Part 615, Supervisor of Wells or Part 631, Reclamation of Mining Lands, of the NREPA. Under Permit-by-Rule, the permittee must be the landowner or easement holder.

Permit-by-Rule provides automatic storm water permit coverage for construction sites that disturb 1-5 acres with a point source discharge to the surface waters of the state, as long as the landowner has coverage under Part 91. No storm water application or permit fee is required for the 1-5 five acre sites; however, the permittee must comply with the requirements of Permit-by-Rule. Storm water coverage begins immediately upon obtaining the Part 91 coverage.

Owners of projects that disturb 5 acres or more of land that have a point source discharge to surface waters of the state must submit a Notice of Coverage (NOC) to the WB to receive coverage under Permit-by-Rule (Appendix 5C). In addition to the NOC, the landowner must also include a copy of the SESC permit (if not an APA), the SESC plan, a site location map, and appropriate application fee ($400 in 2008). Coverage begins immediately upon the MDNRE receiving a complete NOC, application fee, and other required documentation. Similar to the owners of the 1-5 acre sites, the permittee must comply with the requirements of Permit-by-Rule.

Permit-by-Rule Requirements
All permittees authorized to discharge storm water under Permit-by-Rule shall comply with the following:

1) Not directly or indirectly discharge any substance into the waters of the state in violation of Act 451(NREPA), Part 31 or the rules promulgated there under, such as Section 3109, which includes substances that are or may become injurious to any of the following:
    a) To the public health, safety, or welfare.

b) To domestic, commercial, industrial, agricultural, recreational, or other uses that are being made or may be made of such waters.
c) To the value or utility of riparian lands.
d) To livestock, wild animals, birds, fish, aquatic life, or plants, or to the growth, propagation, or the growth or propagation thereof be prevented or injuriously affected; or whereby the value of fish and game is or may be destroyed or impaired.

2) Be in compliance with the SESC permit for the site or, if the construction activity is carried out by an APA, the approved control plan, including the selected control measures that are applicable to the site.

3) Properly maintain and operate the SESC measures.

4) Have the SESC measures under the specific supervision and control of a storm water operator who has been certified by the MDNRE as properly qualified to operate the SESC measures.

5) Cause the construction site to be inspected by a certified storm water operator once per week and within 24 hours after precipitation events that result in a discharge from the site, and ensure that any needed corrective actions are carried out. A log of the inspections and corrective actions shall be maintained on file by the permittee for review and shall be retained for a period of three years from the date of the inspection or corrective action.

6) Be in accordance with the requirements for on-land facilities as set forth in spillage of oil and pollution materials, being Part 5 of these rules, the permittee provide facilities and comply with reporting procedures for containment of any accidental losses of oil or other pollution materials.

7) Dispose of solids, sediment, filter backwash, or other wastes that are removed from or results from the treatment of control of storm water in compliance with applicable state laws and regulations, and in a manner that prevents any waste from entering surface waters of the state.

8) Allow the MDNRE to enter upon the site at any reasonable time before the expiration of the authorization to discharge as set forth in Subrule (5) of this rule, upon presentation of credentials and other documents as may be required by law, for the purpose of inspecting conditions relating to the pollution of any waters or determining compliance with the provisions of this rule.

9) Upon request, make available for public inspection or provide to the MDNRE all reports or logs prepared pursuant to the provisions of this rule.

10) File a revised NOC before any expansion of the construction activity or change in the SESC measures that require a change in the SESC permit. ***Note:*** *The*

NOC automatically expires when the SESC permit expires so if the SESC permit will expire before the site is stabilized, both the SESC permit and NOC must be extended before they expire or the permittee will have to reapply for a new NOC. Extension or modification of the NOC must be done using the "Notice of Coverage Renewal" form (Appendix 5D).

Any violation of the terms and conditions of Permit-by-Rule is a violation of Section 3115 of Part 31 and subjects the permittee to fines and penalties of up to $25,000 per day of violation.

Certified Storm Water Operator

A certified storm water operator can be any person who has a training certificate issued by the MDNRE pursuant to the provisions of Section 3110 of Part 31. Typically, the certified storm water operator is a staff person of the APA, a consultant, or the permittee. The primary difference between the Part 91 inspector and the certified storm water operator is that the Part 91 inspector is employed (staff or contract employee) by the Part 91 agency to oversee permitted (or APA) projects to ensure they are in compliance with Part 91; whereas, the certified storm water operator is the permittee, or employed by the permittee, to assist the permittee in complying with the requirements of Permit-by-Rule.

Although the permittee is ultimately responsible for complying with the requirements of Permit-by-Rule, the permittee relies on the certified storm water operator for assistance in meeting some or all of the Permit-by-Rule requirements. Prior to conducting the inspections, the certified storm water operator should meet with the permittee so they have a clear understanding of which of the above Permit-by-Rule requirements he/she is responsible for and who is responsible for the other requirements. Some certified storm water operators may be responsible for ensuring compliance with all 10 items; whereas, others may only be responsible for Items 2-5. There should also be a clear understanding regarding what authority the certified storm water operator has, or does not have, when it is necessary to take preventive or corrective actions to ensure compliance with Permit-by-Rule. Some certified storm water operators may be given complete authority to do whatever is necessary to ensure compliance with Permit-by-Rule; whereas, others may only have authority to inspect and report findings to the permittee or some other specified individual.

Permit by Rule Inspections, Inspection Frequency, and Documentation

Certified storm water operators are required to inspect all construction sites once per week and within 24 hours of a precipitation event that results in a discharge from the site. These inspections are conducted to ensure that SESC measures are properly installed and maintained and appropriate for the site conditions. When conducting the inspections, the entire site must be inspected, not just at the locations of the prescribed SESC measures. It is the duty of the certified storm water operator to keep the permittee informed of problems, potential problems, and necessary corrective actions.

An important part of the certified storm water operator's responsibility is to know how to properly install and maintain the SESC measures identified on the plans. All construction plans should identify the location of all prescribed SESC measures. One method of denoting the SESC measures is to write the names of each control on the plan where they are to be located; another more common method is to use a number, symbol, or other unique descriptor that represents a specific SESC measure. It is also equally important that the certified storm water operator know the sequence of when each control measure should be installed and removed. Being familiar with the construction plans, the requirements of Permit-by-Rule and expectations of the permittee will make the certified storm water operator's job easier and more effective.

The certified storm water operator must complete an inspection report or keep a written log of all inspections. The inspection report or log must contain information regarding the conditions of the control measures and any corrective actions that need to be taken. The inspection log should be kept on the construction site at all times and must be available for public inspection. The inspection log shall be maintained on file by the construction permittee for a minimum of three years.

In conjunction with the inspection log, it is recommended that the certified storm water operator use a sketch or a reduced photocopy of the site plan showing the location and type of control measures. Problems observed at these locations, or at other locations on the construction site, should be highlighted and any corrective measures undertaken should be drawn in and noted in detail on the front side of the form.

The "observations" in the site log should include as much detail as possible about the control measures, even if they are working properly. This is important because they could be working one week and fail the next. Also include observations of areas other than where control measures are installed. Any problems on the site must be documented. Refer to the site plan or sketch as much as possible to make sure it is clear where the problems are. The more detail the better.

The "Corrective Action Taken/Needed" should include anything that is needed to repair or improve the prescribed control measures. This can include regular maintenance activities, additional measures installed (after conferring with the person responsible for developing/approving the plan), or emergency situations. (For example: there may have been a control that failed the week before that has since been repaired. These repairs should be noted). This section is also the place to put any suggestions for improvements, or for correcting a bad soil erosion situation. It is not required by the MDEQ that a certified storm water operator make suggestions, but the permittee may expect such help.

Permit by Rule Reporting

The certified storm water operator is responsible to communicate to the permittee what corrections need to be made. To ensure the site remains in compliance with the permit, the reporting of all problem areas for the entire site is necessary.

This communication is often accomplished through the written inspection log. This log may be the only contact between the certified storm water operator and the permittee. Since the permittee is the person responsible for the site, they must be kept well informed. When conducting site inspections, it is very important to keep detailed records.

The certified storm water operator is required to conduct site inspections, keep a written log of the inspections, and record corrective actions that need to be performed by the permittee. They are not responsible for designing, installing, or maintaining the controls. It is the responsibility of the permittee to keep the site in compliance with the permit. However, the permittee may turn to the certified storm water operator for help. In addition, there may be instances where the permittee may delegate authority to others on site in order to make the project run more efficiently. Thus, the details of each permittee/certified storm water operator relationship will need to be worked out by the individuals involved. As the expectations may change from job to job, it is important to discuss them at the onset of each project.

Controls can be structural, vegetative, and managerial tools used to prevent or control storm water and subsequent erosion and sedimentation. There may be times when problems occur at locations other than those specified on the SESC plan. In these instances, the permittee will need to revise the SESC plan to install additional control measures. A good certified storm water operator will become familiar with the installation and maintenance requirements of commonly used controls in order to identify potential problems on site. Improper installation and poor of maintenance are the major reasons for why SESC measures fail.

Site Stabilization and Site Termination

It is the responsibility of the permittee to ensure that the required inspections and documentation are continued until the site is stabilized and the authorization to discharge storm water is terminated. A site is considered to be stabilized only after:

1. Permanent control structures have been installed (Part 91 requires that permanent controls be installed within 5 days of completing final grade);
2. Good growth of vegetation or other permanent controls have been established
3. Maintenance for permanent controls have been arranged;
4. Temporary SESC controls or BMPs have been removed

For sites disturbing 1-5 acres, Permit-by-Rule coverage (*or the authorization to discharge storm water*) terminates when the Part 91 inspector determines the site is stabilized and closes out the permit or when the SESC permit expires. For APA projects with no permits, it is when the Part 91 inspector *(or certified storm water operator*) determines that the site is stabilized or five years from the start of the project, whichever is sooner. The certified storm water operator must continue conducting inspections until the site is stabilized.

For sites disturbing 5 or more acres, Permit-by-Rule coverage (*or authorization to discharge storm water*) terminates when the permittee (including APA projects) sends a

Notice of Termination (Appendix 5E) to the MDNRE or when the SESC permit expires or five years from the start of the project, whichever is sooner. The certified storm water operator must continue conducting inspections until the NOC is terminated. **Note:** If coverage is terminated before the site is stabilized, the owner will be violation of Part 31 for discharging without a permit. In addition, the owner will have to reapply for coverage which means submitting a new NOC, application fee, and other pertinent documents.

Unit Five Review

1. The Federal _____ _____ _____(CWA) prohibits the discharge of any pollutant (*including storm water*) to navigable waters from point source discharges unless the discharge is authorized by a National Pollutant Discharge Elimination System (NPDES) permit.

2. In 1994, the state legislature codified all state environmental laws into on, all inclusive statute known as the ____ ____ ____ _____ _____ _____, 1994 PA 451, as amended (NREPA).

3. The primary goal of Part 91 (of the NREPA) is to protect _____ properties and the ____ of the state from _____ generated from unchecked erosion.

4. Part 91 permits are generally required for any earth change that disturbs _____ or more acres of land or that is within _____ feet of the water's edge of a lake or stream.

5. SESC permits must be issued to the _____ or _____ holder.

6. The three types of agencies responsible for administering and enforcing Part 91 are _____, _____, and _____.

7. The _____ and _____ issue SESC permits whereas the _____ undertake earth change activities in accordance with procedures submitted to the MDNRE.

8. The Part 91 inspector must regularly _____the project site to determine if the SESC measures are properly _____ and _____ in accordance with the SESC plan and if the SESC measures are _____ in minimizing erosion and off-site sedimentation.

9. Part 91 inspectors are responsible for ensuring or verifying that:
   a) SESC permits are ____ on site.
   b) Inspections are done in a manner and _____ to assure minimization of _____ and off-site _____.
   c) Inspections are properly _____.

d) SESC measures are properly installed and maintained per standard details or plan _____ and are ___. In addition, the inspector must be _____ and anticipate or assess potential problems that may occur.
e) Sediment caused by accelerated erosion does not ____ the project site.
f) Water discharged from the site is at _____ velocities.
g) Temporary SESC measures are installed _____ or upon _____ of the earth change activity.
h) Temporary SESC measures are maintained on a _____ basis.
i) Permanent SESC measures are installed on all slopes, channels, ditches, or any disturbed land within___ calendar days after final grading.
j) Projects are not closed out until the site is _____ and the temporary SESC measures are _____.
k) Compliance and enforcement actions are taken in accordance with Part 91 agency's _____ and _____ procedures or guidelines, Part 91 and the Rules.

10. Any violation of Part 91, the Rules, applicable SESC ordinance approved SESC procedures, approved SESC plans or SESC permit conditions subjects the permittee or ___ to fines and penalties up to _____ per day of violation.

11. In addition to the fines and penalties, lack of adequate inspections or compliance and enforcement actions can result in CEAS being placed on _____ and MEAs and APAs having their Part 91 agency designation _____.

12. The primary goal of Part 31 is to _____ and _____ the waters of the state.

13. In response to the _____ storm water requirements, the MDNRE developed administrative rules (Permit-by-Rule) under the authority of Part 91 to permit storm water _____ from construction activities.

14. Storm water permits are required for any construction activity that disturbs ____ or more acres of land and has a _____ _____ discharge to the surface waters of the state.

15. In addition to including a discernable, confined and discrete conveyance, point source discharge includes any runoff as a result of _____ , regardless if it is sheet flow or concentrated flow.

16. Permit-by-Rule provides _____ storm water permit coverage for construction sites that disturb ___ - ___ acres with a point source discharge to the surface waters of the state as long as the landowner has coverage under Part 91. However, the permittee must comply with the requirements of Permit-by-Rule.

17. Owners of projects that disturb ____ acres or more of land that have a point source discharge to surface waters of the state must submit a _____ ___ _____ (_____) *[along with other required documents and fees]* to the MDNRE to receive

coverage under Permit-by-Rule. The permittee must also comply with the requirements of Permit-by-Rule.

18. All permittees authorized to discharge storm water under Permit-by-Rule shall comply with the following: (***Note****: Although it is ultimately the permittee's responsibility to comply with all of the following, the certified storm water operator is responsible for only those requirements that are specifically assigned to him/her by the permittee which may include as few as two to all of the responsibilities.)*

a) Not directly or indirectly _____any _____ into waters of the state in violation of the NREPA, Part 31 or the rules promulgated there under which includes substances that are or _____ become injurious to specified uses.
b) Be in compliance with the _____ _____ or, if the construction activity is carried out by an APA, the _____ control plan, including the selected control measures that are applicable to the site.
c) Properly _____ and _____ SESC measures.
d) Have the SESC measures under the specific supervision and control of a _____ _____ _____ who has been certified by the MDNRE.
e) Cause the construction site to be inspected by a certified storm water operator ____ per week and within ___ hours after precipitation events that result in a discharge from the site and ensure that needed _____ _____ are carried out.
f) Ensure that a log of the _____ and corrective actions shall maintained on file by the permittee for review and shall be retained for a period of _____ years from the date of inspection or corrective action..
g) Be in accordance with the requirements for on-land facilities as set forth in spillage of _____ and _____ materials, being Part 5 of the NREPA rules.
h) Dispose of solids, _____, filter backwash, or other _____ that are removed from or results from the treatment of control of storm water in compliance with applicable state laws and regulations.
i) Allow the MDNRE to enter upon the site at any _____ time…….
j) Upon request, make available for _____ inspection or provide to the MDNRE all _____ or _____ prepared pursuant to the provisions of this rule.
k) File a _____ NOC before any expansion of the construction activity or _____ in the SESC measures that require a change in the SESC permit.

19. Any violation of the terms and conditions of Permit-by-Rule subjects the permittee to fines and penalties of up to _____ per day of violation.

20. A certified storm water operator can be ____ person who has a _____ _____ issued by the MDNRE pursuant to the provisions of Part 31.

21. The Part 91 inspector is employed by the Part 91 agency to oversee _____ (or APA) projects to ensure they are in compliance with Part 91; whereas, the certified storm water operator is the _____, or employed by the _____, to assist the permittee in complying with the requirements of Permit-by-Rule.

22. A site is considered stabilized only after:
    a) _____ control structures have been _____;
    b) Good growth of _____ or other permanent controls have been established;
    c) _____ for permanent controls have been arranged;
    d) _____ SESC measures or BMPs have been removed.

23. For sites disturbing 5 or more acres, Permit-by-Rule terminates when the permittee sends a _____ of _____ to the MDNRE or when the SESC permit _____ or _____ years from the start of the project, whichever is sooner.

Answers to Unit Five Review

1. The Federal **Clean Water Act** (CWA) prohibits the discharge of any pollutant (*including storm water*) to navigable waters from point source discharges unless the discharge is authorized by a National Pollutant Discharge Elimination System (NPDES) permit.

2. In 1994, the state legislature codified all state environmental laws into on, all inclusive statute known as the **Natural Resources and Environmental Protection Act**, 1994 PA 451, as amended (NREPA).

3. The primary goal of Part 91 (of the NREPA) is to protect **adjacent** properties and the **waters** of the state from **sediment** generated from unchecked erosion.

4. Part 91 permits are generally required for any earth change that disturbs **one** or more acres of land or that is within **500** feet of the water's edge of a lake or stream.

5. SESC permits must be issued to the **landowner** or **easement** holder.

6. The three types of agencies responsible for administering and enforcing Part 91 are **CEAs, MEAs**, and **APAs**.

7. The **CEAs** and **MEAs** issue SESC permits whereas the **APAs** undertake earth change activities in accordance with procedures submitted to the MDNRE.

8. The Part 91 inspector must regularly **inspect** the project site to determine if the SESC measures are properly **installed** and **maintained** in accordance with the SESC plan and if the SESC measures are **effective** in minimizing erosion and off-site sedimentation.

9. Part 91 inspectors are responsible for ensuring or verifying that:
    a. SESC permits are **posted** on site.
    b. Inspections are done in a manner and **frequency** to assure minimization of **erosion** and off-site **sedimentation**.
    c. Inspections are properly **documented**.
    d. SESC measures are properly installed and maintained per standard details or plan **specifications** and are **effective.** In addition, the inspector must be **proactive** and anticipate or assess potential problems that may occur.
    e. Sediment caused by accelerated erosion does not **leave** the project site.
    f. Water discharged from the site is at **nonerosive** velocities.
    g. Temporary SESC measures are installed **before** or upon **commencement** of the earth change activity.

h. Temporary SESC measures are maintained on a **daily** basis.
i. Permanent SESC measures are installed on all slopes, channels, ditches, or any disturbed land within **5** calendar days after final grading.
j. Projects are not closed out until the site is **stabilized** and the temporary SESC measures are **removed**.
k. Compliance and enforcement actions are taken in accordance with Part 91 agency's **compliance** and **enforcement** procedures or guidelines, Part 91, and the Rules.

10. Any violation of Part 91, the Rules, applicable SESC ordinance approved SESC procedures, approved SESC plans or SESC permit conditions subjects the permittee or **APA** to fines and penalties up to **$25,000** per day of violation.

11. In addition to the fines and penalties, lack of adequate inspections or compliance and enforcement actions can result in CEAS being placed on **probation** and MEAs and APAs having their Part 91 agency designation **revoked**.

12. The primary goal of Part 31 is to **protect** and **conserve** the waters of the state.

13. In response to the **federal** storm water requirements, the MDNRE developed administrative rules (Permit-by-Rule) under the authority of Part 91 to permit storm water **discharges** from construction activities.

14. Storm water permits are required for any construction activity that disturbs **one** or more acres of land and has a **point source** discharge to the surface waters of the state.

15. In addition to including a discernable, confined and discrete conveyance, point source discharge includes any runoff as a result of **grading**, regardless if it is sheet flow or concentrated flow.

16. Permit-by-Rule provides **automatic** storm water permit coverage for construction sites that disturb **1- 5** acres with a point source discharge to the surface waters of the state as long as the landowner has coverage under Part 91. However, the permittee must comply with the requirements of Permit-by-Rule.

17. Owners of projects that disturb **5** acres or more of land that have a point source discharge to surface waters of the state must submit a **Notice of Coverage (NOC)** *[along with other required documents and fees]* to the MDNRE to receive coverage under Permit-by-Rule. The permittee must also comply with the requirements of Permit-by-Rule.

18. All permittees authorized to discharge storm water under Permit-by-Rule shall comply with the following: (***Note****: Although it is ultimately the permittee's responsibility to comply with all of the following, the certified storm water operator is responsible for only those requirements that are specifically assigned to*

him/her by the permittee which may include as few as two to all of the responsibilities.)

a. Not directly or indirectly **discharge** any **substance** into waters of the state in violation of the NREPA, Part 31 or the rules promulgated there under which includes substances that are or **may** become injurious to specified uses.
b. Be in compliance with the **SESC plan** or, if the construction activity is carried out by an APA, **the approved** control plan, including the selected control measures that are applicable to the site.
c. Properly **maintain** and **operate** SESC measures.
d. Have the SESC measures under the specific supervision and control of a **storm water operator** who has been certified by the MDNRE.
e. Cause the construction site to be inspected by a certified storm water operator **once** per week and within **24** hours after precipitation events that result in a discharge from the site and ensure that needed **corrective actions** are carried out.
f. Ensure that a log of the **inspections** and corrective actions shall maintained on file by the permittee for review and shall be retained for a period of **three** years from the date of the inspection or corrective action.
g. Be in accordance with the requirements for on-land facilities as set forth in spillage of **oil** and **pollution** materials, being Part 5 of the NREPA rules.
h. Dispose of solids, **sediment,** filter backwash, or other **wastes** that are removed from or results from the treatment of control of storm water in compliance with applicable state laws and regulations.
i. Allow the MDNRE to enter upon the site at any **reasonable** time…….
j. Upon request, make available for **public** inspection or provide to the MDNRE all **reports** or **logs** prepared pursuant to the provisions of this rule.
k. File a revised NOC before any expansion of the construction activity or **change** in the SESC measures that require a change in the SESC permit.

19. Any violation of the terms and conditions of Permit-by-Rule subjects the permittee to fines and penalties of up to **$25,000** per day of violation.

20. A certified storm water operator can be **any** person who has a **training certificate** issued by the MDNRE pursuant to the provisions of Part 31.

21. The Part 91 inspector is employed by the Part 91 agency to oversee **permitted** (or APA) projects to ensure they are in compliance with Part 91; whereas, the certified storm water operator is the **permittee**, or employed by the permittee, to assist the permittee in complying with the requirements of Permit-by-Rule.

22. A site is considered stabilized only after:
    a. **Permanent** control structures have been **installed**;
    b. Good growth of **vegetation** or other permanent controls have been established;
    c. **Maintenance** for permanent controls have been arranged;
    d. **Temporary** SESC measures or BMPs have been removed.

23. For sites disturbing **5 or more acres, Permit-by-Rule terminates when the permittee sends a Notice of Termination** to the MDNRE or when the SESC permit **expires** or **5** years from the start of the project, whichever is sooner.

MICHIGAN'S PERMIT-BY-RULE FOR CONSTRUCTION ACTIVITIES

R 323.2190 National permit for storm water discharge from construction activity.

Rule 2190. (1) Unless the Department has required an individual national permit pursuant to the provisions of subrule (3) or (4) of this rule, a point source discharge of storm water from a construction activity will be deemed to have a national permit authorizing the discharge if the criteria of subdivisions (a) and (b) of this subrule is met. Exception: after March 10, 2003, small construction activities, meaning 1 to 5 acres of disturbed soil as defined in R 323.2102(h)(ii) or (iii), are automatically deemed to have a national permit authorizing discharge of storm water in accordance with this rule and are not required to meet the filing requirements of subdivision(a) or (b) of this subrule, subrule (2)(j) of this rule, and subrule(5)(b) of this rule. The construction permittee shall do both of the following:

(a) File with the Department, on a form approved by the Department, notice of coverage pursuant to the provisions of this rule before the initiation of construction activity. The notice of coverage shall include all of the following:

(i) A copy of the individual soil erosion and sedimentation control permit for the site as issued to the construction permittee; or if the construction activity is to be carried out by an authorized public agency, certification by the authorized public agency that an approved control plan exists; or, for
Part 615 or Part 631 permits, a copy of the permit, along with any forms or diagrams pertaining to soil erosion and sedimentation control that were part of the permit application.

(ii) Acknowledgement by the construction permittee that any discharge that is made pursuant to the provisions of this rule shall be in compliance with Part 31 of the Act and the rules promulgated thereunder.

(iii) A location map and a description of the nature of the construction activity.

(iv) The location of the proposed discharge and identification of the receiving water.

(v) The total area of the site and the area of the site that is expected to undergo construction activity during the life of the project.

(vi) Name and certification number of a certified storm water operator responsible for inspection of the construction activity in accordance with subrule (2)(e) of this rule.

(b) Provide a valid signature of the construction permittee or authorized representative on the notice of coverage. If the construction permittee is a partnership, association, corporation, industry, municipality, state agency, or interstate body, the valid signatory for the notice of coverage shall be determined in accordance with R 323.2114.

(2) A construction permittee that has authorization to discharge under a national permit pursuant to subrule (1) of this rule shall comply with all of the following provisions:

(a) Not directly or indirectly discharge wastes such as discarded building materials, concrete truck washout, chemicals, lubricants, fuels, litter, sanitary waste, or any other substance at the construction site into the waters of the state in violation of Part 31 of the Act or rules promulgated thereunder.

(b) Be in compliance with a soil erosion and sedimentation control permit for the site or, if the construction activity is carried out by an authorized public agency, the

approved control plan, including the selected control measures that are applicable to the site.

(c) Properly maintain and operate the soil erosion control measures.

(d) Have the soil erosion control measures under the specific supervision and control of a storm water operator who has been certified by the Department as properly qualified to operate the soil erosion control measures. The certification shall be done in accordance with the requirements of
R 323.1251 et seq.

(e) Cause the construction activity to be inspected by a certified storm water operator once per week, and within 24 hours after every precipitation event that results in a discharge from the site, and ensure that any needed corrective actions are carried out. A log of the inspections and corrective actions shall be maintained on file by the construction permittee for review and shall be retained by the construction permittee for a period of 3 years from the date of the inspection or corrective action.

(f) In accordance with the requirements for on-land facilities as set forth in spillage of oil and polluting materials, being Part 5 of these rules, provide facilities and comply with reporting procedures for containment of any accidental losses of oil or other polluting materials.

(g) Dispose of solids, sediment, filter backwash, or other waste that is removed from or results from the treatment or control of storm water in compliance with applicable state laws and regulations and in a manner that prevents any waste from entering waters of the state.

(h) Allow the Department to enter upon the site at any reasonable time before the expiration of the authorization to discharge as set forth in subrule (5) of this rule, upon presentation of credentials and other documents as may be required by law, for the purpose of inspecting conditions relating to the pollution of any waters or determining compliance with the provisions of this rule.

(i) Upon request, make available for public inspection or provide to the Department all reports or logs prepared pursuant to the provisions of this rule.

(j) File a revised notice of coverage in compliance with the provisions of subrule (1) of this rule before any expansion of the construction activity or change in the soil erosion control measures that requires a change in the soil erosion and sedimentation control permit.

(3) The Department may require that discharges from a construction activity be authorized by an individual national permit if it has been determined by the Department that unlawful pollution cannot be adequately guarded against, and there is or may be water quality degradation that will violate the commission act unless requirements in addition to those in the soil erosion and sedimentation control permit are imposed. A determination by the Department for an individual national permit or other additional control constitutes grounds for revocation of the authorization to discharge pursuant to the provisions of this rule.

(4) The Department may require that discharges from a construction activity be authorized by an individual national permit if it has been determined by the Department that the responsible Part 91 permitting entity or authorized public agency is not carrying out a program that is adequate to ensure that the requirements of Part 91 of the Act are complied with.

(5) The authorization to discharge pursuant to the provisions of this rule expires as follows:

(a) When the soil erosion and sedimentation control permit expires, or is revoked or terminated by the Part 91 permitting entity in accordance with the provisions of Part 91 of the Act and 1969 PA 306, MCL 24.201 et seq., or when the authorized public agency determines that the project has been completed by the stabilization of earth change activity.

(b) Five years from the date of the notice that is filed pursuant to the provisions of subrule (1)(a) of this rule, if the authorization to discharge has not previously expired pursuant to subdivision (a) of this subrule. This authorization may be extended by filing a new notice in compliance with the provisions of subrule (1)(a) of this rule. The construction permittee shall file a notice of termination with the Department, on a form approved by the Department, when authorization to discharge expires as set forth in accordance with subdivision (a) of this subrule. The notice of termination shall include the name and address of the construction permittee, the location of the construction site, and the mailing address, if available, and certification that stabilization of earth change activity has been completed or, if the certification cannot be made, the reason why the authorization to discharge has expired.

(6) The Department may revoke authorization to discharge pursuant to the provisions of this rule if an individual national permit is required pursuant to the provisions of subrule (3) of this rule or in compliance with R 323.2159.

(7) Nothing in this rule shall be construed to preclude the institution of any legal action or relieve the construction permittee from any responsibilities, liabilities, or penalties to which the construction permittee may be subject pursuant to Part 31 of the Act or rules promulgated thereunder.

(8) The provisions of this rule are severable, and if any provision of this rule or the application of any provisions of this rule to any circumstances is held invalid, the application of the provisions of this rule to other circumstances and the remainder of this rule shall not be affected by the invalidity.

(9) The construction permittee shall take all reasonable steps to minimize any adverse impact to the surface or groundwaters of the state that result from noncompliance with any of the conditions specified in this rule.

(10) If, for any reason, the construction permittee does not comply with, or will be unable to comply with, any of the conditions that are specified in this rule, the construction permittee shall provide the Department with the following information, in writing, within 5 days of becoming aware of the noncompliance or inability to comply:

(a) A description of the noncompliance and its cause.

(b) The period of noncompliance, including exact dates and times, or, if the noncompliance is not corrected, the anticipated time that the noncompliance is expected to continue and the steps taken to reduce, eliminate, and prevent recurrence of the noncompliance.

(11) The provisions of this rule do not convey any property rights in either real or personal property, or any exclusive privileges, authorize any pollution, impairment, or destruction of the natural resources of the state, or the violation of any federal, state, or local laws or regulations, or obviate the necessity of obtaining permits or approvals from other units of government as may be required by law.

(12) The provisions of this rule do not exempt the construction permittee from giving notice to public utilities and complying with each of the requirements of 1974 PA 53, MCL 460.701 et seq.

(13) This rule shall not provide authorization to discharge storm water from construction activity which is mixed with non-storm water, or which is subject to an existing national permit or general permit.

DEFINITIONS AS USED IN THE PERMIT-BY-RULE

“Act” means 1994 PA 451, MCL 324.3101 et seq., and the rules promulgated under the Act.

“Applicant” means a person who applies to the Department for a state or national permit to discharge waste or wastewaters into the waters of the state by an NPDES application form or a state permit application form.

“Application” means either the uniform national NPDES application form, including subsequent additions, revisions, or modifications thereof, promulgated by the administrator of EPA and adopted for use by the Department or a state permit application form for applying for a permit.

“Approved control plan” means the plan which is prepared by an authorized public agency, which is approved by the Department pursuant to the provisions of section 9110 of Part 91 of the Act, and which contains the soil erosion and sedimentation control procedures that govern all construction activities normally undertaken by the authorized public agency.

“Authorized public agency” means a state, local, or county agency that is designated pursuant to the provisions of section 9110 of Part 91 of the Act to implement soil erosion and sedimentation control requirements with regard to construction activities undertaken by the agency.

“Authorized representative” means a person who has written authorization from the construction permittee to sign the notice of coverage in the name of the construction permittee.

“Certified storm water operator” means an individual who has been certified by the Department pursuant to the provisions of section 3110 of Part 31 of the Act as properly qualified to operate treatment or control facilities for storm water discharges.

“Construction activity” means a man-made earth change or disturbance in the existing cover or topography of land for which a national permit is required pursuant to the provisions of 40 C.F.R. §122.26(a) (2000) and which is any of the following:

(i) Five acres or more in size and defined as a construction activity pursuant to the provisions of
40 C.F.R. §122.26(b)(14)(x) (2000).

(ii) One acre or more in size and defined as a small construction activity pursuant to the provisions

of 40 C.F.R. §122.26(b)(15) (2000).

(iii) Less than 1 acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb 1 acre or more.

The term includes clearing, grading, and excavating activities. The term does not include the practices of clearing, plowing, and tilling soil and harvesting for the purpose of crop production.

“Construction permittee” means a person who is deemed to have a national permit pursuant to the provisions of R 323.2190 and who owns or holds a recorded easement on the property where a construction activity is located, is constructing in a public right-of-way in accordance with the provisions of sections 13, 14, 15, and 16 of 1925 PA 368, MCL 247.183, 247.184, 247.185, and 247.186 , or is the authorized public agency if a construction activity is carried out by the authorized public agency.

“Department” means the director of the Department of Environmental Quality or his or her designee to whom the director delegates a power or duty by written instrument.

“Discharge” means any direct or indirect discharge of any waste, waste effluent, wastewater, pollutant, or any combination thereof into any of the waters of the state or upon the ground.

“Discharger” means any person who discharges, directly or indirectly, any substance defined by section 3109 of Part 31 of the Act, any treated or untreated waste, waste effluent, wastewater, or pollutant; or cooling waters into any of the waters of the state or upon the ground.

“EPA” means the United States Environmental Protection Agency.

“General permit” means a national permit issued authorizing a category of similar discharges.

“National permit” means an NPDES permit, or equivalent document or requirements, issued by the Department to a discharger pursuant to sections 3106 and 3112 of Part 31 of the Act for discharges into surface waters.

“NPDES” means the national pollutant discharge elimination system established by the Federal Act.

“NPDES form” means any issued permit and any uniform national form which is used by the Department, which is developed for use in the NPDES, and which is prescribed in regulations promulgated by the administrator of EPA, including an NPDES application and a reporting form.

“Part 91 permitting entity” means an agency that is designated by a county board of commissioners pursuant to the provisions of section 9105 of Part 91 of the Act; an agency that is designated by a city, village, or township in accordance with the provisions of section 9106 of Part 91 of the Act; or the Department if the construction activity is under the jurisdiction of 2 or more municipal or county enforcing agencies; or

the Department for soil erosion and sedimentation activities under Part 615 or Part 631 pursuant to the provisions of section 9115 of Part 91 of the Act.

“Person” means an individual, partnership, association, corporation, industry, or public body.

“Point source discharge” means a discharge that is released to the waters of the state by a discernible, confined, and discrete conveyance, including any of the following from which wastewater is or may be discharged:
(i) A pipe.
(ii) A ditch.
(iii) A channel.
(iv) A tunnel.
(v) A conduit.
(vi) A well.
(vii) A discrete fissure.
(viii) A container.
(ix) A concentrated animal feeding operation.
(x) A vessel or other floating craft.
The term does not include a legally established county or intercounty drain, except for a county or intercounty drain that has a POTW designated as part of the drain or a discharge otherwise required to be authorized by a national permit.

“Site” means the area where a construction activity is physically located or conducted, including adjacent land that is used in connection with the construction activity.

“Soil erosion and sedimentation control permit” means a permit that is issued pursuant to the provisions of Part 91 of the Act by a part 91 permitting entity.

“Soil erosion control measures” means the measures or procedures to prevent or reduce the pollution of waters of the state that are required in the soil erosion and sedimentation control permit for the site or the selected control measures from the approved control plan that are applicable to the site.

“Stabilization of earth change activity” means the proper placement, grading, or covering of soil or rock at a construction activity to ensure subsequent resistance to soil erosion, sliding, or other earth movement.

“Storm water” means storm water runoff, snow melt runoff, and surface runoff and drainage.

OTHER RULES REFERENCED IN THE PERMIT-BY-RULE

R 323.2114 Permit applications and other NPDES forms; valid signatories.

Rule 2114. A state or national permit application form or any other NPDES form submitted to the Department pursuant to these rules shall be signed as follows:

(a) For a corporation, by a principal executive officer of at least the level of vice president, or his or her designated representative, if the representative is responsible for the overall operation of the facility from which the discharge described in the permit application or other NPDES form originates.
(b) For a partnership, by a general partner.
(c) For a sole proprietorship, by the proprietor.
(d) For a municipal, state, or other public facility, by either a principal executive officer, the mayor, village president, city, or village manager, or other duly authorized employee.

R 323.2159 State and national permits; modification or revocation by the Department.
Rule 2159. (1) The Department may modify any term or condition, including a schedule of compliance, of a permit, or may revoke a permit upon its finding of any of the following:
(a) There is a change in any condition that requires a temporary or permanent reduction or elimination of a permitted discharge or constituent thereof.
(b) The administrator of EPA issues a regulation prescribing a restriction or prohibition of a waste or wastewater constituent which is not covered by the terms and conditions of a permit, or the regulation is more stringent than any limitation imposed on a wastewater constituent in a permit.
(c) A modification of the terms and conditions of a permit or a time schedule thereon is necessary because of an act of God or other conditions beyond the control of the permittee.
(d) In the case of discharges from publicly owned treatment works, federal treatment works grant funds are not available or are not sufficient to allow construction of the treatment works in a time schedule set forth in the permit.
(e) There is a violation of any term or condition of the permit.
(f) The permittee has obtained a permit by misrepresentation or has failed to disclose all relevant facts to the commission.
(g) A toxic effluent standard or prohibition, including any schedule of compliance specified therein, is established pursuant to section 307(a) of the Federal Act for a toxic waste or wastewater constituent which is present in the permittee's discharge and the standard or prohibition is more stringent than any limitation upon the waste or wastewater constituent in the permit.
(h) The POTW receives wastewater from a nondomestic source and the development of a pretreatment program is necessary to control the introduction of regulated pollutants.
(i) When a request for removal credits is approved in accordance with R 323.2313(a).
(2) The Department shall notify the regional administrator of any change in status or condition of a permit and he or she shall have an opportunity to object thereto, in writing, within 45 days before the effective date of the modification. If the regional administrator objects in writing, then the objection shall be resolved before the modification is approved by the Department, unless the right to object is waived, in writing, by the regional administrator.
(3) A permittee who is affected by a modification of a permit by the Department shall be notified not less than 90 days before the effective date of the modification and, upon petition therefore, shall have a hearing thereon pursuant to section 3112 of Part 31 of the Act.

(4) If the Department modifies an effluent limitation or a schedule of compliance in a permit, notice of the modification shall be mailed to all persons on the Department mailing list for public notices and fact sheets as prescribed by R 323.2124, and any interested person may comment thereon within 30 days following the date of notification.

PART 91
SITE INSPECTION REPORT

Project Name		
Address	City	Township
Permit No.	Inspections No.	Date of Inspection

A. GENERAL

Is permit posted at site?	☐ Yes	☐ No
Are approved plans available?	☐ Yes	☐ No
Is sediment properly contained on project site?	☐ Yes	☐ No
Is earth change confined to areas specified on plans?	☐ Yes	☐ No
Is there a potential for sediment to leave property/site?	☐ Yes	☐ No
Is there a potential for sediment to discharge to surface waters?	☐ Yes	☐ No

B. CONTROL MEASURES

Are controls installed per plans?	☐ Yes	☐ No	Are controls adequate for this site?	☐ Yes	☐ No
Are controls properly maintained?	☐ Yes	☐ No	Are storm sewers being protected?	☐ Yes	☐ No

C. INSPECTOR'S COMMENTS

Specific on site conditions:

Weather conditions:

Photos Taken? ☐ Yes ☐ No: Samples Taken? ☐ Yes ☐ No:

Recommendations:

Corrections (if any) must be made by _____/_____/_____ (date)

Persons attending inspection:

D ACTION TAKEN

☐ Report left on-site with _____ ☐ Report mailed to _____

☐ Violation notice recommended _____ ☐ Copies sent to _____

_____ _____

Inspector's Signature Date

SOIL EROSION & SEDIMENTATION CONTROL/CONSTRUCTION STORM WATER INSPECTION LOG

Project Name or Description: *NPDES Number (if applicable):* _____ *Page* _____ *of* _____

_____

Date: _____ *Time:*_____ *Reason for Inspection:* ☐ *Weekly Inspection* ☐ *Inspection* ***within 24 hrs. of*** *Storm Water Runoff*

Current extent of the project work: _____

SESC measures installed since the last inspection and their location: _____

_____

Are SESC measures installed according to the SESC Plan? ☐ ***Y*** ☐ ***N*** *Are there other potential areas of concern?* ☐ ***Y*** ☐ ***N***
If ***NO****, identify measures, locations, and actions needed below.*

Are the SESC measures: Properly installed? ☐ ***Y*** ☐ ***N*** *Maintained?* ☐ ***Y*** ☐ ***N*** *Appropriate for site conditions?* ☐ ***Y*** ☐ ***N***
Failed? ☐ ***Y*** ☐ ***N***
If ***NO****, identify measure locations and actions needed below.*

Are additional SESC measures recommended? ☐ ***Y*** ☐ ***N*** *Are there other concerns or improvements noted for the site?* ☐ ***Y*** ☐ ***N***
If ***YES****, identify locations and recommendations below.*

Corrective Actions Taken/Needed ***to repair or improve the prescribed control measures****:*

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

Certified Operator *Signature:*_____ *Operator Number:* _____

*Print Name:*_____

The details included in this report were provided to: *Date:* *By method of delivery:*

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER BUREAU

FOR DEQ USE ONLY
NPDES Number
Receipt No.:
Permit ID:

NOTICE OF COVERAGE

FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITY

By Authority of R 323.2190 promulgated under Part 31 of Act 451, Public Acts of 1994, as amended
Failure to comply with the terms and provisions of R 323.2190 may result in fines up to $25,000
per day and the possibility of imprisonment.

Filing of this Notice of Coverage (NOC) with the Michigan Department of Environmental Quality (MDEQ) is required before initiation of construction activities **that disturb 5 acres or more of land or is part of a larger common plan of development or sale** that requires a national permit pursuant to the provisions of 40 CFR Section 122.26(a). This constitutes notice that the construction permittee is authorized under R 323.2190 to discharge storm water associated with the construction activities. The construction permittee must be the land owner or the recorded easement holder of the property where the construction activity is located.

INSTRUCTIONS AND FEE INFORMATION: Soil Erosion and Sedimentation Control (SESC) coverage is required under Part 91, SESC, of Act 451 before submitting this NOC. The construction permittee will be deemed to have an NPDES permit for storm water discharges from a construction site when the MDEQ receives the completed NOC**, a copy of the appropriate SESC permit, a copy of the approved SESC Plan, a site map and the $400 fee.** These must be received before construction begins. **This authorization to discharge construction storm water will expire** on the same day as the SESC permit originally submitted to the MDEQ with this package. The expiration date will be specified in the NOC acknowledgement letter provided by the MDEQ (please make sure you receive the NOC acknowledgement letter). NOC Authorization to discharge storm water may be extended (up to five years after original issuance date) by submitting a NOC Renewal form and a copy of the revised or extended SESC permit to the MDEQ **prior** to the NOC expiration. If the SESC permit number changes, expires, is revoked or terminated, prior to the complete stabilization of the site, a **new** administratively complete NOC and all the requirements, including the fee must be submitted to obtain storm water authorization.

PERMIT BY RULE REQUIREMENTS: The permittee must abide by the requirements of R 323.2190 which states in part: (**a**) Not directly or indirectly discharge waste materials into the waters of the state in violation of Part 31, Water Resources Protection, of the Act or rules promulgated there under; (**b**) Be in compliance with a soil erosion and sedimentation control permit for the site; (**c**) Properly maintain and operate the soil erosion control measures; (**d**) Have the soil erosion control measures under the specific supervision and control of a storm water operator who has been certified by the Department; (**e**) Cause the construction activity to be inspected by a certified storm water operator once per week, and within 24 hours after every precipitation event that results in a discharge from the site. Refer to R 323.2190 for the complete listing of requirements at: http://www.michigan.gov/deq/0,1607,7-135-3313_3682_3716-23997--,00.html.

CONSTRUCTION PERMITTEE INFORMATION (Landowner, Easement Holder, or Authorized Public Agency)					
LANDOWNER/PERMITTEE			AGENT FOR LANDOWNER (OPTIONAL)		
CONTACT PERSON (FIRST AND LAST NAME)			CONTACT PERSON (FIRST AND LAST NAME)		
E-MAIL ADDRESS (OPTIONAL FOR FASTER SERVICE)			E-MAIL ADDRESS		
MAILING ADDRESS			MAILING ADDRESS		
STREET			STREET		
CITY	STATE	ZIP	CITY	STATE	ZIP
STORM WATER CERTIFIED OPERATOR (CONSTRUCTION ONLY)			**For Cashier's Office Only: 37000-40512-9091-481001-01**		
CERTIFIED OPERATOR					
CERTIFICATION NUMBER					

SITE DESCRIPTION		
TOTAL ACRES OF SITE	ACRES OF DISTURBANCE	RECEIVING WATERS

PROJECT INFORMATION				
PROJECT NAME			COUNTY	TOWNSHIP
STREET			¼ ¼ SECTION	
CITY	STATE	ZIP	TOWN (T)	RANGE (R)

PART 91 SESC PERMITTING ENTITY INFORMATION			
NAME OF PART 91 SESC PERMITTING ENTITY OR APA AGENCY			
E-MAIL ADDRESS (OPTIONAL FOR FASTER SERVICE)			PHONE NUMBER
ADDRESS			SESC PERMIT NUMBER OR APA STATUS
CITY	STATE	ZIP	ISSUE DATE

CERTIFICATION - Michigan regulations require this form be signed as follows:
Corporation: a principal executive officer of at least the level of vice president, or his designated representative, if the representative is responsible for the overall operation of the facility from which the discharge described in this form originates.
Partnership: a general partner.
Sole Proprietorship: the proprietor.
Municipal, State, or other public facility: either a principal executive officer, the mayor, village president, city or village manager, or other duly authorized employee.

I certify that I have read R 323.2190 and that all provisions of R 323.2190 will be complied with and that all information contained in this NOC is, to the best of my knowledge and belief, true, accurate and complete. I acknowledge that any discharge that is authorized by this NOC shall be in compliance with Act 451, Part 31, and the rules promulgated thereunder. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment. I certify under penalty of law that I possess full authority on behalf of the legal landowner/permittee to sign and submit this NOC.

SIGNATURE (**ORIGINAL SIGNATURE REQUIRED**) X	DATE TELEPHONE
PRINTED NAME	TITLE

MAKE CHECK OR MONEY ORDER IN THE AMOUNT OF $400 PAYABLE TO: STATE OF MICHIGAN

MAIL COMPLETED APPLICATION, LOCATION MAP, SESC PERMIT AND PLAN, ALONG WITH THE **$400** FEE TO:

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
CASHIERS OFFICE - WB-SW1
P O BOX 30657
LANSING, MI 48909-8157

ADDRESS FOR OVERNIGHT MAILING:

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
CASHIERS OFFICE - WB-SW1
525 WEST ALLEGAN 5TH FLOOR SOUTH TOWER
LANSING, MI 48913

IF YOU HAVE ANY QUESTIONS ABOUT THE PREPARATION OF THIS FORM OR DON'T RECEIVE ACKNOWLEDGEMENT WITHIN 30 DAYS OF SUBMITTAL, CALL 517-335-4137 OR E-MAIL: PLOEHNK@MICHIGAN.GOV.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER BUREAU

OFFICIAL USE ONLY
PERMIT ID
NPDES NUMBER

NOTICE OF COVERAGE RENEWAL

FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITY

By Authority of R 323.2190 of Act 451, Public Acts of 1994, as amended
Failure to comply with the terms and provisions of R 323.2190 may result in fines up to $25,000 per day and the possibility of imprisonment.

Filing of this Notice of Coverage Renewal with the Michigan Department of Environmental Quality (MDEQ) is required **prior** to any ownership change or revision of the permitted construction activity, change in the Soil Erosion and Sedimentation Control (SESC) plan, or expiration of the SESC permit. Authorization to discharge storm water may be extended (up to five years after original issuance date) by submitting a revised or extended SESC permit to the MDEQ **prior** to the NOC expiration. If the SESC permit number changes, expires, is revoked or terminated, prior to the complete stabilization of the site, a **new** administratively complete NOC and all the requirements, including the fee must be submitted to obtain storm water authorization.

CONSTRUCTION PERMITTEE INFORMATION (Landowner or easement holder)			
LANDOWNER			CONTACT PERSON (FIRST AND LAST NAME)
STREET			E-MAIL ADDRESS (OPTIONAL FOR FASTER SERVICE)
CITY	STATE	ZIP	**CURRENT NPDES NUMBER (REQUIRED)**

PROJECT INFORMATION		
PROJECT NAME		STREET
COUNTY	ACRES OF SITE	ACRES OF DISTURBANCE
STORM WATER CERTIFIED OPERATOR		CERTIFICATION NUMBER
SESC PERMITTING ENTITY (PART 91)		

I certify that all provisions of R 323.2190 pursuant to Act 451, Part 31, of 1994, as amended, have been complied with and that all information submitted under the Rule and contained in this Notice of Coverage Renewal is, to the best of my knowledge and belief, true, accurate and complete. I acknowledge that any discharge that is made pursuant to Rule 323.2190 shall be in compliance with Act 451, Part 31, and the rules promulgated thereunder. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment. I certify under penalty of law that I possess full authority on behalf of the legal landowner/permittee to sign and submit this Notice of Coverage.

SIGNATURE (**ORIGINAL SIGNATURE REQUIRED**) X	DATE	TELEPHONE
PRINTED NAME	TITLE	

MAKE SURE TO INCLUDE A COPY OF THE UPDATED SESC PERMIT AND PLAN (plans only required if revised*).**
TO AVOID LAPSE IN COVERAGE, PLEASE SUBMIT 30 DAYS PRIOR TO NPDES EXPIRATION DATE.

MAIL OR E-MAIL COMPLETED FORM TO:

E-mail: PLOEHNK@MICHIGAN.GOV

KELLY PLOEHN
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER BUREAU – 2ND FLOOR NORTH
525 WEST ALLEGAN
PO BOX 30273
LANSING, MI 48909

IF YOU HAVE ANY QUESTIONS ABOUT THE PREPARATION OF THIS FORM, CALL 517-335-4137.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION

NOTICE OF TERMINATION

FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
Storm Water Discharges from Construction Activities
By Authority of R 323.2190 of Act 451, PA 1994, as amended

PERMIT INFORMATION	**NPDES PERMIT NUMBER:**

REASON FOR TERMINATION: (check all that apply) list month, day and year for all dates

- ☐ The Soil Erosion and Sediment Control (Act 451, Part 91) permit will expire on:
- ☐ The Soil Erosion and Sediment Control (Act 451, Part 91) permit was revoked/terminated on:
- ☐ The project was completed by stabilization of the earth change activities on:
- ☐ Other: Explain:

CONSTRUCTION PERMITTEE INFORMATION		
NAME		
MAILING ADDRESS		
STREET		
CITY	STATE	ZIP CODE

CONSTRUCTION SITE INFORMATION		
PROJECT NAME		
MAILING ADDRESS		
STREET		
CITY	STATE	ZIP CODE
DESCRIPTION		

CERTIFICATION

Michigan regulations require this form be signed as follows:
Corporation: a principal executive officer of at least the level of vice president, or his designated representative, if the representative is responsible for the overall operation of the facility from which the discharge described in this form originates.
Partnership: a general partner.
Sole Proprietorship: the proprietor.
Municipal, State, or other public facility: either a principal executive officer, the mayor, village president, city or village manager, or other duly authorized employee.

I certify that all information submitted in this Notice of Termination is, to the best of my knowledge and belief, true, accurate, and complete, and that all storm water discharges associated with construction activities from the site identified above that were authorized by R 323.2190 have been eliminated because of the reason(s) indicated above. I understand, by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with construction activities at this site and that discharging pollutants in storm water associated with construction activities without authorization is unlawful. I also understand that submittal of this Notice of Termination does not release the permittee from liability for any prior violations of R 323.2190.

SIGNATURE (**ORIGINAL SIGNATURE REQUIRED**)	DATE TELEPHONE
PRINTED NAME	TITLE

PLEASE MAIL OR EMAIL THE COMPLETED FORM TO THE APPROPRIATE DISTRICT OFFICE USING THE FOLLOWING LINK: http://www.michigan.gov/deq/0,1607,7-135-3306_28610---,00.html AND CLICK ON WRD DISTRICT OFFICES OR CONTACT YOUR LOCAL COMPLIANCE PERSON AT: http://www.michigan.gov/documents/deq/wrd-sesc-const-sw-staff_344830_7.pdf

EQP 4662 (Rev 1/13)