



Water Resources Division

What activities require Soil Erosion and Sedimentation Control Permit (Part 91) and/or Storm Water Coverage for Construction Activities (Part 31) and where do you get the permits?

FREQUENTLY ASKED QUESTIONS

A. Soil Erosion and Sedimentation Control (SESC) Permits:

Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act (NREPA) (Part 91) 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 Environmental Quality (DEQ), 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 city street departments, that have been designated by the DEQ 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 procedures for controlling erosion and off-site sedimentation.

4. The DEQ, Water Resources Division (WRD) has oversight responsibility over the statewide SESC Program and all Part 91 agencies.

Information regarding Part 91 and a listing of the Part 91 agencies can be found at www.michigan.gov/soilerosion.

B. Storm Water Coverage though 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 DEQ WRD. The WRD has adopted a process called "Permit-by Rule" (Rule 2190, promulgated under Part 31, 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 for Notice of coverage (NOC) to the DEQ 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 follow the requirements of Permit by Rule.

Permit-by Rule requires compliance with the SESC permit issued under Part 91 and also requires SESC measures to be inspected weekly and within 24 hours of a significant rain event by a certified storm water operator. The certification materials and testing are available in each WRD district office.

For more information on Permit-by Rule, including application materials, certified operator exam schedules and locations, storm water program contact information, or expectations on Phase II Storm Water Regulations contact DEQ WRD, Storm Water Program's web site at www.michigan.gov/soilerosion.

For more information contact the Environmental Assistance Center at 800-662-9278 or any DEQ District Office and ask for WRD storm water program staff.