

Soil Erosion and Sedimentation Control Act - MCL 324.91

Summary:

- › Rules to prevent and mitigate soil erosion and sedimentation are implemented by the DEQ and may be developed by local governments through ordinances. The county must designate an appropriate local agency to administer and enforce these rules.
- › Any action that results in an earth change must comply with requirements that seek to reduce soil erosion and sedimentation into the waters of the state. Some earth changes may require a permit.
- › Any person who violates SESCA must take measures to reduce soil erosion and sedimentation or pay for the county to take such measures. Any violator may also be subject to fines.

Regulating Agency:

Department of Environmental Quality (DEQ):

Provides permit forms and information on Soil Erosion and Sedimentation Control Program and designates appropriate local agency.

Oversees local soil conservation district or other regulatory local government.

County Enforcement Agency: 324.9105; 324.9106

A county is responsible for administering and enforcing the SESCA within the county.

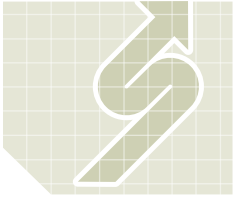
The county board of commissioners must designate the county agency or soil conservation district as the county enforcement agency.

The county enforcement agency must enforce the DEQ rules or any local ordinance that applies.

Issues permits for activities causing earth change.

Must notify DEQ of violations.

Must notify DEQ upon entering into an agreement with a person engaging in agricultural practices.



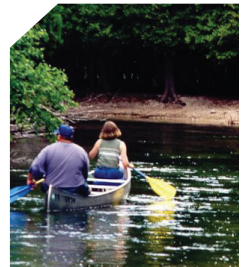
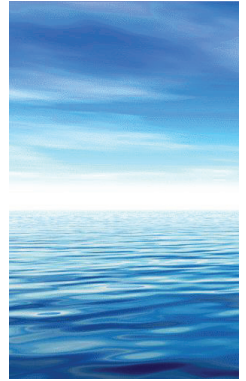
Cities, Townships, Villages: 324.9106

May create local ordinance to provide for soil erosion and sedimentation control for public and private land uses.

If a local unit of government creates such an ordinance it must designate a local enforcing agency to enforce its provisions.

Ordinance may be more restrictive, but not less restrictive and this Act, and must be approved by DEQ.

Must notify DEQ of violations.



Alcona County v Wolverine Environmental Production, Inc, 233 Mich App 238; 590 NW2d 586 (1998).

Counties do not have the power under the Soil Erosion and Sedimentation Control Act to implement their own rules, they may only enforce the DEQ's rules (since the Act only gives power to local towns and villages to enact ordinances, it follows that the legislature meant to exclude counties).

Regulated Activity:

A person must conduct an earth change in a manner that will reduce accelerated soil erosion and resulting sedimentation through an acceptable soil erosion and sedimentation control plan (see Rule 1703 for plan requirements), and comply with other earth change requirements in Rule 1709.

Earth Change: a human-made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state (does not include plowing and tilling of soil for crop production).

All earth changes must be designed, constructed, or completed in such a manner which shall limit the exposed area of any disturbed land for the shortest time period. Rule 1709(1).

Any sediment caused by accelerated soil erosion must be removed from runoff before it leaves the site of the earth change. Rule 1709(2).

Any temporary or permanent facility designed and constructed for the conveyance of water around, through, or from the earth change area to be designed to limit the water flow to a non-erosive velocity. Rule 1709(3).

Permanent erosion control measures are required for all slopes, channels, ditches or any disturbed land area to be completed within 15 calendar days after the earth change has been completed. Rule 1709(5).

A permit is required for any earth change that disturbs one or more acres OR is within 500 feet of a lake or stream.

Soil Erosion Permitting Agencies by county: www.deq.state.mi.us/sesca/

A permit is not required for some minor earth changes listed in Rule 1705.

An authorized public agency is exempt from obtaining a permit, but must notify the county or local enforcing agency of the proposed earth change. Rule 1706.

A person engaged in agricultural practices may enter into agreement with a soil conservation district to pursue such practices (they then are not subject to permits or land use plans).

If a person owns land where an earth change has been made, they must take measures to control and reduce soil erosion or sedimentation. 324.9116.

Exception: this Act does not apply to logging, mining or agriculture.

A permit is not required for some actions. Rule 1705.

Permit Requirements:

An applicant must submit a soil erosion and sedimentation control plan along with other required documents. Rule 1706.

A person designated by the enforcing agency, trained in soil erosion and sedimentation control methods and techniques, must review and approve the proposed plan. Rule 1707.

The local enforcing agency may require, as a condition of the permit, that the applicant make a deposit in an amount sufficient to assure the installation and completion of such protective or corrective measures as may be required. 324.9108.

The local enforcing agency may approve, deny, or require modification of the application, and must do so within 30 days of receiving the application. Rule 1707.

Enforcement:

The DEQ, local enforcement agency or an appointed agent may enter onto property at any time to investigate possible violations. 324.9113(2).

If the DEQ determines a person or agency has violated this rule, they must notify them of the specific violation, propose a remedy, and set a date for a hearing between 4 and 8 weeks from the date of notification. 324.9117.

Any person who has been given notice of a violation may implement and maintain soil erosion and sedimentation control measures within 10 days after notice. 324.9118.

If after 10 days, the local enforcement agency determines that the condition of the land may contribute to soil erosion and sedimentation of the waters of the state, and control measures are not in place, the enforcement agency may enter the property and implement soil erosion and sedimentation control measures. The person in violation of this Act must then reimburse the local enforcing agency. 324.9119; 324.9120.

The DEQ or any local enforcement agency may bring an action for an injunction to prevent or restrain violations.

A person who violates these rules is guilty of a state civil infraction and is subject to fines. 324.9122.



Any affected person may sue for injunctive relief under the Michigan Environmental Protection Act (MEPA) for a violation of the SESCO.

Nemeth v Abonmarche Development, Inc, 457 Mich 16; 576 NW2d 641 (1998).

Affected residents may seek injunctive relief under MEPA for violations of SESCO and polluting, impairing or destroying air, water, or other natural resources.

