

THE SOIL EROSION AND SEDIMENTATION CONTROL ACT

“The Soil Erosion and Sedimentation Control Act is designed to control plans on project sites that involve earth change activities.” The role of the Act is to protect the general public by regulating earth change activities, which can injure the environment through erosion and the unnatural accumulation of sediment. Earth changes^{1[1]} equal to or more than one acre or within 500 feet of a lake or stream need to comply with the Act, however, other earth changes require a site plan showing ways to controlling erosion.

All the details and implementation of the control plan are the responsibility of the project/design team. The Act makes it mandatory for the General Contractor to include all costs for complete implementation of control plan including required maintenance during construction and final removal as directed in the plans in the bid.

The Act has minimum requirements that need to be met in order for a project to be carried out. These include mapping of the project site; the map should include the predominant landscape features and the slope of the land. Soil information and drainage patterns are to be located, including the description of all temporary and permanent erosion and sedimentation measures. The Act also calls for the timing and progression of each earth moving operation and a schedule for maintaining all control measures.

The Soil Erosion and Sedimentation Control Act’s governing principles are based on the harmonization of the construction project with the natural environment. The Act ensures that all operations on the site are inspected and are on the maintenance schedule.

The completed design of the construction project is required to blend in with the natural landscape and all operations should minimize damage to the natural surroundings. The Act’s governing principles call for a shortest possible time for the duration of the project and the smallest possible area disturbance. This is to be done by minimizing erosion and preventing off-site sedimentation while sedimentation is not to be used as a alternate to erosion control but rather in combination with erosion control.

The Act has a recommended construction sequence to be followed. These include the placing of provisional and permanent erosion and sedimentation control measures as according to the approved plan and special permit conditions. There is need for evaluations at least once a week and after every rainfall event to ensure that the control measures that are in place are effective. Maintenance of control measures should be a according to the approved plan and or as needed based on-site inspections. The final step is the notification of the Project Manager for the final inspection when the project is finished.

Failure to comply with the Soil Erosion and Sedimentation Control Act’s conditions carries with it penalties. The law recognizes the process of earth

^{1[1]} An Earth Change means 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. Earth change does not include the practice of plowing and tilling soil for the purpose of crop production.

changing without a plan or violation of the plan as a misdemeanor. Work progress on the construction site might be stopped through the issuance of a stop work order until compliance is obtained. The owner of the project can install or maintain control measures to bring a non-conforming construction project site into compliance to the Act and back charge the contractor for the costs incurred.

Local law agencies do not have the mandate to issue permits that require Part 91 of the Michigan Natural Resources and Environmental Protection Act, until the County or local enforcing agency has issued the required state-prescribed permit for the earth change. In Kalamazoo County the County Drain Commissioner or the Drain Commissioner's duly authorized, and Michigan Department of Environmental Quality certified, representative issues the Soil Erosion and Sedimentation Control permits to authorize work to be performed under the provisions of Part 91 of the Michigan Natural Resources and Environmental Protection Act. The Drain Commissioner enforces the Act throughout all of Kalamazoo County except within the territorial boundaries of a governmental unit that has adopted an Ordinance pursuant to the provisions of Part 91 of the Michigan Natural Resources and Environmental Protection Act. Under the Act the enforcing agent is granted the permission to inspect all project sites and if entry is refused the enforcing agent shall have alternatives to the remedies provided by law to secure entry. No one is allowed to unlawfully thwart, oppose or resist the Act's enforcing agent. Local law agencies do not have the mandate to issue permits that require Part 91 of the Michigan Natural Resources and Environmental Protection Act, until the County or local enforcing agency has issued the required state-prescribed permit for the earth change.

The Michigan Department of Environmental Quality's Section 305b water quality report stresses the need to comply with the Act

...sediment is the number one pollutant by volume to the surface waters of the state. Soil erosion and sedimentation into our lakes and streams degrades the habitat of aquatic organisms and fish, decreases recreational values, and promotes the growth of nuisance weeds and algae. Stream bank erosion, urban drains and construction site erosion are major, non-agricultural, contributors to this shared problem

An example of the use of the Act in Kalamazoo County is through the efforts of the Kalamazoo Conservation District (KCD) in its efforts to stop water pollution. The KCD works with state and local officials to improve the control of soil erosion and sedimentation in urban and other non-agricultural areas. The KCD joined forces with other environment pressure groups such as the River Partners Program of The Forum of Greater Kalamazoo, the Davis Creek Watershed Steering Committee to help in the enforcement of the Soil Erosion and Sedimentation Control Act.