

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
**NON-COMPLIANCE WITH SOIL EROSION AND SEDIMENTATION CONTROL
REQUIREMENTS**

COS:DMG

1 of 2

APPR:TWK:HLZ:02-26-20
FHWA:APPR:03-02-20

a. Description. This special provision establishes negative adjustments related to the failure to properly install and maintain soil erosion and sedimentation control (SESC) measures and the conditions under which these adjustments will be determined and applied. Nothing in this special provision modifies section 107 of the Standard Specifications for Construction.

Delays to the project as a result of the Contractor conducting corrective actions for SESC measures do not constitute a valid reason for an extension of time.

Ensure deficiencies with SESC measures are corrected in the time frame stated herein. For those deficiencies not corrected within the stated time frame, the Engineer will make a negative adjustment to the contract as stated herein.

b. Materials. None specified.

c. Construction. Install all temporary erosion control measures identified on the plans and as directed by the Engineer for an impacted area of the project prior to the start of any earth disturbance including, but not limited to, clearing, grading and excavation in that area. The Engineer will inspect these measures every 7 days and within 24 hours after a precipitation event that results in a discharge from the site. Deficiencies will be documented on the National Pollutant Discharge Elimination System and SESC Inspection Report (MDOT Form 1126).

If at any time during the project, including the time during the seasonal suspension, the Engineer documents deficient SESC measures, the Engineer will provide written notification with instructions for corrective action to the Contractor. The time frame for completion of these corrective actions will be specified in the notification and will be discussed with the Contractor as necessary.

Deficiencies are defined as one or more of the following:

1. Failure to install or construct SESC measures shown on the plans or as directed by the Engineer;
2. Failure to maintain the measures;
3. Failure to conduct earth change activities in a manner consistent with all applicable environmental permit requirements;
4. Failure to comply with the area limitations or the time limitations stated in subsections 208.03.A and 208.03.B, respectively, of the Standard Specifications for Construction.

SESC deficiencies are either emergency or non-emergency and the time frame for corrective action is determined accordingly. Sediment leaving the right-of-way or entering a drainage structure, waters of the state, or loss of support of the roadbed impacting public safety constitutes an emergency and corrective actions must be completed within 24 hours of notification, including weekends or holidays regardless of whether the Contractor is working or not. Non-emergency deficiencies must be corrected within 5 calendar days of notification.

For those emergency corrective actions not completed within 24 hours of notification, the Contractor will be assessed \$100.00 per hour for every hour the deficiency remains uncorrected after the initial 24 hours of notification. For those non-emergency corrective actions not completed within 5 calendar days, the Contractor will be assessed \$500.00 per day for every day, or part thereof, the deficiency remains uncorrected after the initial 5 days of notification.

If it is not practicable to complete the non-emergency corrective actions within 5 calendar days, the Contractor must document the reasons and propose a corrective action plan to the Engineer within 5 days of notification. The corrective action plan must contain the Contractor's course of action and a time frame for completion. If the reasons and the corrective action plan are acceptable to the Engineer, the Contractor will be allowed to proceed with the plan as proposed without incurring a negative adjustment. If the approved corrective action plan is not completed as proposed, the Contractor will be assessed \$1000.00 per calendar day for every day, or part thereof, the deficiency remains uncorrected after the time frame is exceeded in the approved corrective action plan.

Correct, in the timeframe stated herein, all other emergency or non-emergency SESC deficiencies documented anywhere else on the project during completion of the approved corrective action plan.

d. Measurement and Payment. The Engineer will make the necessary monetary adjustment to the contract amount based on the length of time the Contractor allows the deficiencies to remain uncorrected after the time allowance stated herein and as described to cover any costs incurred by the Department as a result of SESC violations.

All costs associated with corrective actions required due to the Contractor's failure to properly install or maintain SESC measures on this project will be borne by the Contractor.