

March 23, 2009

**S 760. PER DIEM EROSION CONTROL PENALTIES.** Filed 3/23/09. *TO AUTHORIZE THE ASSESSMENT OF A CIVIL PENALTY PRIOR TO THE RESTORATION OF THE LAND FOR CONTINUING VIOLATIONS UNDER THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973 AND, FOR VIOLATORS WHO FAIL TO CONTEST THE AMOUNT OF THE PENALTY FOR CONTINUING VIOLATIONS WITHIN THIRTY DAYS AFTER THE PENALTY IS DUE, TO BAR SUBSEQUENT CHALLENGES OF THE AMOUNT OF THE PENALTY.*

Amends GS 113A-64(a) to clarify that a person assessed a civil penalty, by the Secretary of Environment and Natural Resources or a local government, because of a violation of an erosion and sedimentation control program must be notified of the total amount of the penalty, *if the violation has ceased*. Adds that if the violation is a continuing violation, then the person must be notified of the per diem amount of the penalty. Provides that if a violator receives a notice of assessment for a continuing violation and fails to contest the amount of penalty within 30 days after it is due, the violator is barred from subsequently challenging the amount. Makes conforming changes. Effective for violations that occur on or after October 1, 2009.

**Intro. by McKissick.**

GS 113A

May 4, 2009

**S 760. PER DIEM EROSION CONTROL PENALTIES.** Filed 3/23/09. Senate committee substitute makes the following changes to 1st edition. Amends GS 113A-64(a)(2) to require the Secretary of Environment and Natural Resources or a local government administering an erosion and sedimentation control program to notify persons who are assessed civil penalties of either (1) the amount of the penalty that has accrued, or (2) the daily amount of the penalty (was, must be notified of the total amount of the penalty, if the violation has ceased; and if the violation is a continuing violation, then must be notified of the per diem amount of the penalty). Bars the violator from subsequently challenging the daily amount of the penalty (was, amount of the penalty), if the violator receives a notice of assessment of a violation under GS 113A-64(a)(2)b., the daily amount of the penalty (was, subdivision (2)), and does not contest the daily amount of the penalty (was, the amount of the penalty) within 30 days after service of the notice of the daily amount of the penalty (was, after the penalty is due).