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SENATE BILL DRS45340-MH-35

Short Title: Sediment/Erosion Control Stop-Work Orders. (Public)

Sponsors: Senator Mayfield (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS GOVERNING STOP-WORK ORDERS ISSUED UNDER
3 THE SEDIMENTATION POLLUTION CONTROL ACT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 113A-65.1 reads as rewritten:

6 "§ 113A-65.1. Stop-work orders.

7 (a) The Secretary may issue a stop-work order if he finds that a land-disturbing activity
8 is being conducted in violation of this Article or of any rule adopted or order issued pursuant to
9 this Article, that the violation is knowing and willful, and that either:

- 10 (1) Off-site sedimentation has eliminated or severely degraded a use or violated a
11 water quality standard in a lake or natural watercourse or that such degradation
12 or violation is imminent.
13 (2) Off-site sedimentation has caused severe damage to adjacent land or that such
14 damage is imminent.
15 (3) The land-disturbing activity is being conducted without an approved plan.

16 (b) The stop-work order shall be in writing and shall state what work is to be stopped and
17 what measures are required to abate the violation. The order shall include a statement of the
18 findings made by the Secretary pursuant to subsection (a) of this section, and shall list the
19 conditions under which work that has been stopped by the order may be resumed. The delivery
20 of equipment and materials which does not contribute to the violation may continue while the
21 stop-work order is in effect. A copy of this section shall be attached to the order.

22 (c) The stop-work order shall be ~~served by the sheriff of the county in which the~~
23 ~~land-disturbing activity is being conducted or by some other person duly authorized by law to~~
24 ~~serve process as provided by G.S. 1A-1, Rule 4, and shall be served on~~ delivered to the person at
25 the site of the land-disturbing activity who is in operational control of the land-disturbing activity.
26 The ~~sheriff or other person duly authorized by law to serve process~~ person who is in operational
27 control of the land-disturbing activity shall post a copy of the stop-work order in a conspicuous
28 place at the site of the land-disturbing activity. The Department shall also deliver a copy of the
29 stop-work order to any person that the Department has reason to believe may be responsible for
30 the violation.

31 (d) The directives of a stop-work order become effective upon service of the order.
32 Thereafter, any person notified of the stop-work order who violates any of the directives set out
33 in the order may be assessed a civil penalty as provided in G.S. 113A-64(a). A stop-work order
34 issued pursuant to this section may be issued for a period not to exceed five days.

35 (e) The Secretary shall designate an employee of the Department to monitor compliance
36 with the stop-work order. The name of the employee so designated shall be included in the



1 stop-work order. The employee so designated, or the Secretary, shall rescind the stop-work order
2 if all the violations for which the stop-work order are issued are corrected, no other violations
3 have occurred, and all measures necessary to abate the violations have been taken. The Secretary
4 shall rescind a stop-work order that is issued in error.

5 (f) ~~The issuance of a stop work order shall be a final agency decision subject to judicial~~
6 ~~review in the same manner as an order in a contested case pursuant to Article 4 of Chapter 150B~~
7 ~~of the General Statutes. The petition for judicial review shall be filed in the superior court of the~~
8 ~~county in which the land disturbing activity is being conducted.~~

9 (g) As used in this section, days are computed as provided in G.S. 1A-1, Rule 6. Except
10 as otherwise provided, the Secretary may delegate any power or duty under this section to the
11 Director of the Division of Energy, Mineral, and Land Resources of the Department or to any
12 person who has supervisory authority over the Director. The Director may delegate any power
13 or duty so delegated only to a person who is designated as acting Director.

14 (h) ~~The Attorney General shall file a cause of action to abate the violations which resulted~~
15 ~~in the issuance of a stop work order within two business days of the service of the stop work~~
16 ~~order. The cause of action shall include a motion for an ex parte temporary restraining order to~~
17 ~~abate the violation and to effect necessary remedial measures. The resident superior court judge,~~
18 ~~or any judge assigned to hear the motion for the temporary restraining order, shall hear and~~
19 ~~determine the motion within two days of the filing of the complaint. The clerk of superior court~~
20 ~~shall accept complaints filed pursuant to this section without the payment of filing fees. Filing~~
21 ~~fees shall be paid to the clerk of superior court within 30 days of the filing of the complaint."~~

22 **SECTION 2.** This act becomes effective October 1, 2021.