

§ 113A-61.1. Inspection of land-disturbing activity; notice of violation.

(a) The Commission, a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60, or other approving authority shall provide for inspection of land-disturbing activities to ensure compliance with this Article and to determine whether the measures required in an erosion and sedimentation control plan are effective in controlling erosion and sedimentation resulting from the land-disturbing activity. Notice of this right of inspection shall be included in the certificate of approval of each erosion and sedimentation control plan. The Department of Agriculture and Consumer Services may inspect land-disturbing activities undertaken on forestland for the production and harvesting of timber and timber products to determine compliance with the Forest Practice Guidelines Related to Water Quality adopted pursuant to G.S. 113A-52.1.

(b) No person shall willfully resist, delay, or obstruct an authorized representative of the Commission, an authorized representative of a local government, or an employee or an agent of the Department while the representative, employee, or agent is inspecting or attempting to inspect a land-disturbing activity under this section.

(b1) No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Department of Agriculture and Consumer Services while the representative, employee, or agent is inspecting or attempting to inspect a land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products under this section.

(c) If the Secretary, a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60, or other approving authority determines that the person engaged in the land-disturbing activity has failed to comply with this Article, the Secretary, local government, or other approving authority shall immediately serve a notice of violation upon that person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply with this Article and inform the person of the actions that need to be taken to comply with this Article. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64. If the person engaged in the land-disturbing activity has not received a previous notice of violation under this section, the Department, local government, or other approving authority shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program in the Department, referral to a cooperative extension program, or by the provision of written materials such as Department guidance documents.

(d) The damage or destruction of a silt fence occurring during land-disturbing activities or construction on a development project shall not be assessed a civil penalty under this Article provided that the silt fence is repaired or replaced within the compliance period noted in the inspection report or Notice of Violation. (1989, c. 676, s. 5; 1993 (Reg. Sess., 1994), c. 776, s. 10; 1999-379, s. 6; 2002-165, s. 2.10; 2015-241, s. 14.26(d); 2017-108, s. 6(c); 2021-121, s. 5(d); 2021-158, s. 10(a).)