

Enforcement Policy

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**Erosion Control Administrator
Gaston Natural Resources Department**

Topics Covered

- Program/Enforcement Statistics
- Facts About Enforcement
- How to Avoid Penalties
- Appeals

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Program Statistics

- Total projects – 342
 - <1 acre = 130
 - >1 acre = 212
- Total Acres – 5767
- Total Disturbed Acres – 2215
- Plans Reviewed – 193
 - Plan Review Time – 7.12 days
- Total Inspections – 2416
 - Inspection Interval – 2 to 4 weeks
- Total Complaints – 376
 - <1 Acre 65%
 - >1 Acre 35%

Enforcement Statistics

- Notice of Non-Compliance – 447
 - 1/5 Inspections
- NOV (penalty) – 90
 - 1/27 Inspections
 - Total Levied \$112,600
 - Max \$5,000; Min \$500
- Appeals – 23
 - Denied 9
 - Successful 3
 - Adjusted 11
 - Amount Overturned \$16,650

As of 4/01/2006

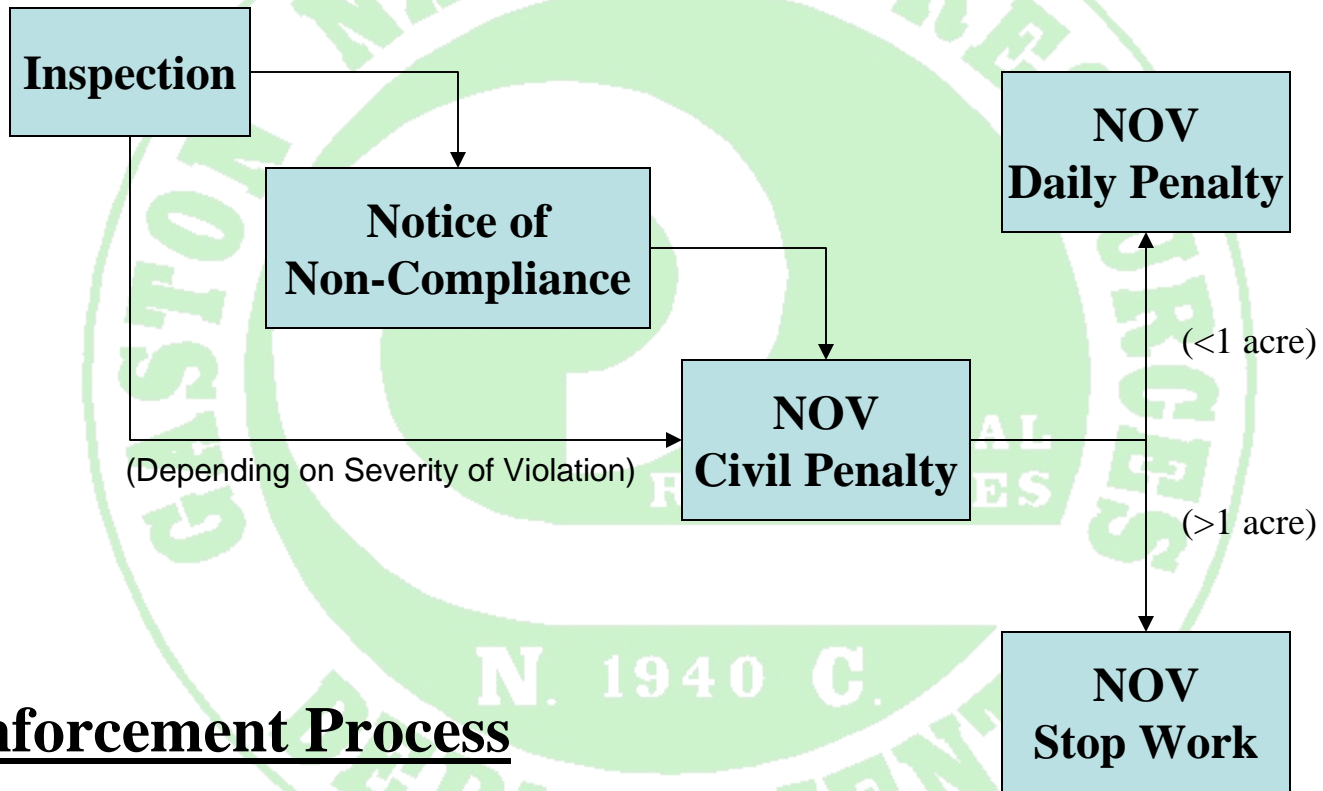
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Penalties Are An Enforcement Tool

- We do not like to assess them.
- They often lead to appeals.
- We do not benefit from collection of penalties.

But... We Have to Enforce The Law.

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Enforcement Process

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Actions That Will Likely Result In An Immediate Notice of Violations (Civil Penalty)

Disturbing over 1 acre without a permit

Severe off-site sediment

(NCDENR Notified)

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Notice of Non-Compliance

- If the site shows a pattern of maintenance problems
- Failure to correct items listed on previous inspection reports
- Failure to follow approved plan
- Incomplete/incorrect installation
- To document a discharge (off-site sediment)

Notice of Violation

- If the site shows a pattern of Non-Compliance
- Failure to correct items listed on previous Notices of Non-Compliance
- Severe off-site sediment
- Disturbing more than 1 acre without a permit/disturbing beyond clearing limits

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Enforcement Tools (Continued)

- Notice of Violation (Daily Penalty) Section 22 (a)
 - Penalties up to \$5000/violation/day
 - No Compliance Date
- Hold Final Certificate of Occupancy Section 22 (b)
 - If site is in violation near the end of the project.
 - If there remains an unpaid penalty.

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Enforcement Tools (Continued)

- Stop Work Orders Section 22 (d)
 - Penalties up to \$5000/day
- Criminal Penalties Section 22 (c)
 - Class 2 misdemeanor
- Restoration Section 24
 - Requirement from Environmental Review Board

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Civil Penalty Guidelines

- Section 22 (a) 2 – ...In determining the amount of the penalty the Natural Resources Department shall consider...
 - The degree and extent of harm caused
 - The amount of money saved by non-compliance
 - Whether the violation was committed willfully
 - The prior record of the violator

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Enforcement Misconceptions

- Sites less than 1 acre do not require erosion control measures.
- You need to have off-site sediment to receive a penalty.
- A warning has to be given before issuing a penalty.
- If the site is in compliance by the date listed on the NOV, the penalty is waived.
- Demolition of existing structures is not considered a grading/land-disturbing activity.
- Trees can be removed before erosion control plan is submitted & approved.

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- If you are following your approved plan, you are not subject to enforcement if sediment is leaving the site.
- A 10' buffer is all that is required along a natural water course.
- An on-site rain gauge is not a requirement.
- Washing the roadway is a proper procedure for removing off-site sediment.
- Once a project is seeded & mulched, it is considered stable and erosion control measures can be removed.

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How To Avoid Enforcement

- Maintenance, maintenance, maintenance.
- Take an active role, do not wait for a warning letter.



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How To Avoid Enforcement

- Read your inspection reports.

Especially
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  www.co.gaston.nc.us/ NaturalResources	Gaston County Soil Erosion and Sedimentation Control Program	Description: none noted _____ _____ _____
	CONTACT: Gaston Natural Resources Department 1303 Cherryville Hwy Dallas, NC 28034 Telephone: 704-922-4181	Gaston County Belmont Bessemer City Cherryville Cramerton Dallas Dellview Gastonia High Shoals

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How To Avoid Enforcement

- Implement the approved plan in an appropriate sequence.



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How To Avoid Enforcement

- If you have a problem or question, call. We will meet on site.



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Appeals

- Person financially responsible for erosion control may appeal penalties.
- Appeal forms are available in our office.
- Must be submitted within 30 days of the violation.

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Appeals

- We will schedule an appeal hearing within 30 days, which must be attended by the petitioner.
- Board is made up of the following representation
 - Municipality, Home Builders Assn., Soil & Water, QNRC, Chamber of Commerce, GC Board, PE
- Our department aggressively defends penalties.
- The board renders its decision at the hearing.

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Questions???

