

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

1

HOUSE BILL 36

Short Title: Consider Cumulative Impact.

(Public)

Sponsors: Representatives Bowman, Bruce Ethridge; Anderson, Chapin, and Stamey.

Referred to: Basic Resources.

January 19, 1989

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT CUMULATIVE IMPACT BE CONSIDERED PRIOR
TO ISSUING CAMA WATER POLLUTION CONTROL PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-120(a) reads as rewritten:

"(a) The responsible official or body shall deny an application for a permit upon finding:

- (1) In the case of coastal wetlands, that the development would contravene an order that has been or could be issued pursuant to G.S. 113-230.
- (2) In the case of estuarine waters, that a permit for the development would be denied pursuant to G.S. 113-229(e).
- (3) In the case of a renewable resource area, that the development will result in loss or significant reduction of continued long-range productivity that would jeopardize one or more of the water, food or fiber requirements of more than local concern identified in paragraphs a to c of subsection (b)(3) of G.S. 113A-113.
- (4) In the case of a fragile or historic area, or other area containing environmental or natural resources of more than local significance, that the development will result in major or irreversible damage to one or more of the historic, cultural, scientific, environmental or scenic values or natural systems identified in paragraphs a to h of subsection (b)(4) of G.S. 113A-113.

- 1 (5) In the case of areas covered by G.S. 113A-113(b)(5), that the
2 development will jeopardize the public rights or interests specified in
3 said subdivision.
- 4 (6) In the case of natural hazard areas, that the development would occur
5 in one or more of the areas identified in paragraphs a to e of subsection
6 (b)(6) [of G.S. 113A-113] in such a manner as to unreasonably
7 endanger life or property.
- 8 (7) In the case of areas which are or may be impacted by key facilities,
9 that the development is inconsistent with the State guidelines or the
10 local land-use plans, or would contravene any of the provisions of
11 subdivisions (1) to (6) of this subsection.
- 12 (8) In any case, that the development is inconsistent with the State
13 guidelines or the local land-use plans.
- 14 (9) In any case, that there is a practicable alternative that would
15 accomplish the overall project purposes with less adverse impact on
16 the public resources.
- 17 (10) In any case, that the proposed development would contribute to
18 cumulative effects that would be inconsistent with the guidelines set
19 forth in subdivisions (1) through (9). Cumulative effects are impacts
20 attributable to the collective effects of a number of projects and
21 include the effects of additional development similar to the requested
22 permit in areas available for development in the vicinity and future
23 development consistent with existing or proposed infrastructure."

24 ♦ Sec. 2. G.S. 143-215.1(b) reads as rewritten:

25 "(b) Commission's Power as to Permits. – The Commission shall act on all permits so
26 as to prevent, so far as reasonably possible, considering relevant standards under State
27 and federal laws, any significant increase in pollution of the waters of the State from
28 any new or enlarged sources. The Commission shall also act on all permits so as to
29 prevent violation of water quality standards due to the cumulative effects of permit
30 decisions. Cumulative effects are impacts attributable to the collective effects of a
31 number of projects and include the effects of additional projects similar to the requested
32 permit in areas available for development in the vicinity and future development
33 consistent with existing or proposed infrastructure. All permit decisions shall require
34 that the practicable waste treatment and disposal alternative with the least adverse
35 impact on the environment be utilized.

36 The Commission shall have the power:

- 37 (1) To grant a permit with such conditions attached as the Commission
38 believes necessary to achieve the purposes of this Article;
- 39 (1a) To require that an applicant satisfy the Commission that the applicant,
40 or any parent or subsidiary corporation if the applicant is a
41 corporation:
- 42 a. Is financially qualified to carry out the activity for which the
43 permit is required under subsection (a); and

1 b. Has substantially complied with the effluent standards and
2 limitations and waste management treatment practices
3 applicable to any activity in which the applicant has previously
4 engaged, and has been in substantial compliance with other
5 federal and state laws, regulations, and rules for the protection
6 of the environment;

7 (3) To modify or revoke any permit upon not less than 60 days' written
8 notice to any person affected.

9 No permit shall be denied and no condition shall be attached to the permit, except
10 when the Commission finds such denial or such conditions necessary to effectuate the
11 purposes of this Article."

12 Sec. 2. This act shall become effective July 1, 1989, and shall apply to
13 permits issued on or after that date.