

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 36  
Committee Substitute Favorable 2/20/89

Short Title: Consider Cumulative Impact.

(Public)

Sponsors:

Referred to:

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 projects 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 Cumulative effects shall be determined by assessing the impact of  
25 proposed or reasonably predictable future development plus the effects  
26 attributable to existing development in the vicinity of the proposed  
27 project."

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

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

40 The Commission shall have the power:

- 41 (1) To grant a permit with such conditions attached as the Commission  
42 believes necessary to achieve the purposes of this Article;

1           (1a) To require that an applicant satisfy the Commission that the applicant,  
2           or any parent or subsidiary corporation if the applicant is a  
3           corporation:

4           a.     Is financially qualified to carry out the activity for which the  
5           permit is required under subsection (a); and

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

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

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

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