

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 217
HOUSE BILL 34

AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO
DESIGNATE PRIMARY NURSERY AREAS AND OUTSTANDING
RESOURCE WATERS AREAS OF ENVIRONMENTAL CONCERN.

The General Assembly of North Carolina enacts:

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

"(b) The Commission may designate as areas of environmental concern any one or more of the following, singly or in combination:

- (1) Coastal wetlands as defined in ~~G.S. 113-230(a)~~; G.S. 113-229(n)(3) and contiguous areas necessary to protect those wetlands;
- (2) Estuarine waters, that is, all the water of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters, as set forth in the most recent official published agreement adopted by the Wildlife Resources Commission and the Department of Natural Resources and Community Development;
- (3) Renewable resource areas where uncontrolled or incompatible development which results in the loss or reduction of continued long-range productivity could jeopardize future water, food or fiber requirements of more than local concern, which may include:
 - a. Watersheds or aquifers that are present sources of public water supply, as identified by the Department of Human Resources or Environmental Management Commission, or that are classified for water-supply use pursuant to G.S. 143-214.1;
 - b. Capacity use areas that have been declared by the Environmental Management Commission pursuant to G.S. 143-215.13(c) and areas wherein said Environmental Management Commission (pursuant to G.S. 143-215.3(d) or G.S. 143-215.3(a)(8)) has determined that a generalized condition of water depletion or water or air pollution exists;
 - c. Prime forestry land (sites capable of producing 85 cubic feet per acre-year, or more, of marketable timber), as identified by the Department of Natural Resources and Community Development.

- (4) Fragile or historic areas, and other areas containing environmental or natural resources of more than local significance, where uncontrolled or incompatible development could result in major or irreversible damage to important historic, cultural, scientific or scenic values or natural systems, which may include:
- a. Existing national or State parks or forests, wilderness areas, the State Nature and Historic Preserve, or public recreation areas; existing sites that have been acquired for any of the same, as identified by the Secretary of Natural Resources and Community Development; and proposed sites for any of the same, as identified by the Secretary of Natural Resources and Community Development, provided that the proposed site has been formally designated for acquisition by the governmental agency having jurisdiction;
 - b. Present sections of the natural and scenic rivers system;
 - c. Stream segments that have been classified for scientific or research uses by the Environmental Management Commission, or that are proposed to be so classified in a proceeding that is pending before said Environmental Management Commission pursuant to G.S. 143-214.1 at the time of the designation of the area of environmental concern;
 - d. Existing wildlife refuges, preserves or management areas, and proposed sites for the same, as identified by the Wildlife Resources Commission, provided that the proposed site has been formally designated for acquisition (as hereinafter defined) or for inclusion in a cooperative agreement by the governmental agency having jurisdiction;
 - e. Complex natural areas surrounded by modified landscapes that do not drastically alter the landscape, such as virgin forest stands within a commercially managed forest, or bogs in an urban complex;
 - f. Areas that sustain remnant species or aberrations in the landscape produced by natural forces, such as rare and endangered botanical or animal species;
 - g. Areas containing unique geological formations, as identified by the State Geologist; and
 - h. Historic places that are listed, or have been approved for listing by the North Carolina Historical Commission, in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966; historical, archaeological, and other places and properties owned, managed or assisted by the State of North Carolina pursuant to Chapter 121; and properties or areas that are or may be designated by the Secretary of the

- Interior as registered natural landmarks or as national historic landmarks;
- (5) Areas such as waterways and lands under or flowed by tidal waters or navigable waters, to which the public may have rights of access or public trust rights, and areas which the State of North Carolina may be authorized to preserve, conserve, or protect under Article XIV, Sec. 5 of the North Carolina Constitution;
 - (6) Natural-hazard areas where uncontrolled or incompatible development could unreasonably endanger life or property, and other areas especially vulnerable to erosion, flooding, or other adverse effects of sand, wind and water, which may include:
 - a. Sand dunes along the Outer Banks;
 - b. Ocean and estuarine beaches and ~~shoreline~~; the shoreline of estuarine and public trust waters;
 - c. Floodways and floodplains;
 - d. Areas where geologic and soil conditions are such that there is a substantial possibility of excessive erosion or seismic activity, as identified by the State Geologist;
 - e. Areas with a significant potential for air inversions, as identified by the Environmental Management Commission.
 - (7) Areas which are or may be impacted by key facilities.
 - (8) Outstanding Resource Waters as designated by the Environmental Management Commission and such contiguous land as the Coastal Resources Commission reasonably deems necessary for the purpose of maintaining the exceptional water quality and outstanding resource values identified in the designation.
 - (9) Primary Nursery Areas as designated by the Marine Fisheries Commission and such contiguous land as the Coastal Resources Commission reasonably deems necessary to protect the resource values identified in the designation including, but not limited to, those values contributing to the continued productivity of estuarine and marine fisheries and thereby promoting the public health, safety and welfare."

Sec. 2. Article 7 of Chapter 113A of the General Statutes is amended to add a new section to read:

"§ 113A-118.2. Development in Primary Nursery Areas and Outstanding Resource Waters areas of environmental concern.

Public notice, opportunity for public comment, and agency review shall be required for all development within the Primary Nursery Areas or Outstanding Resource Waters areas of environmental concern. Provided, however, that the Coastal Resources Commission may by rule exempt or issue general permits for minor maintenance and improvement projects as defined in G.S. 113A-103(5)c. and for single-family residential development pursuant to use standards or conditions adopted by the Coastal Resources Commission."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified this the 5th day of June,

1989.