

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1989**

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**HOUSE BILL 34**

Short Title: Extend Environmental Concern Area.

(Public)

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Sponsors: Representatives Bowman, B. Ethridge; Anderson, Chapin, Stamey, Flaherty, Robinson, Warner, and Buchanan.

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Referred to: Basic Resources.

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January 19, 1989

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE AREA OF ENVIRONMENTAL CONCERN AROUND  
OUTSTANDING RESOURCE WATERS AND PRIMARY NURSERY AREAS  
TO FIVE HUNDRED SEVENTY-FIVE FEET.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-113(b) is amended by adding two new subdivisions to read:

"(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);
- (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

- 1 Environmental Management Commission, or that are classified  
2 for water-supply use pursuant to G.S. 143-214.1;
- 3 b. Capacity use areas that have been declared by the  
4 Environmental Management Commission pursuant to G.S. 143-  
5 215.13(c) and areas wherein said Environmental Management  
6 Commission (pursuant to G.S. 143-215.3(d) or G.S. 143-  
7 215.3(a)(8)) has determined that a generalized condition of  
8 water depletion or water or air pollution exists;
- 9 c. Prime forestry land (sites capable of producing 85 cubic feet per  
10 acre-year, or more, of marketable timber), as identified by the  
11 Department of Natural Resources and Community  
12 Development.
- 13 (4) Fragile or historic areas, and other areas containing environmental or  
14 natural resources of more than local significance, where uncontrolled  
15 or incompatible development could result in major or irreversible  
16 damage to important historic, cultural, scientific or scenic values or  
17 natural systems, which may include:
- 18 a. Existing national or State parks or forests, wilderness areas, the  
19 State Nature and Historic Preserve, or public recreation areas;  
20 existing sites that have been acquired for any of the same, as  
21 identified by the Secretary of Natural Resources and  
22 Community Development; and proposed sites for any of the  
23 same, as identified by the Secretary of Natural Resources and  
24 Community Development, provided that the proposed site has  
25 been formally designated for acquisition by the governmental  
26 agency having jurisdiction;
- 27 b. Present sections of the natural and scenic rivers system;
- 28 c. Stream segments that have been classified for scientific or  
29 research uses by the Environmental Management Commission,  
30 or that are proposed to be so classified in a proceeding that is  
31 pending before said Environmental Management Commission  
32 pursuant to G.S. 143-214.1 at the time of the designation of the  
33 area of environmental concern;
- 34 d. Existing wildlife refuges, preserves or management areas, and  
35 proposed sites for the same, as identified by the Wildlife  
36 Resources Commission, provided that the proposed site has  
37 been formally designated for acquisition (as hereinafter defined)  
38 or for inclusion in a cooperative agreement by the governmental  
39 agency having jurisdiction;
- 40 e. Complex natural areas surrounded by modified landscapes that  
41 do not drastically alter the landscape, such as virgin forest  
42 stands within a commercially managed forest, or bogs in an  
43 urban complex;

- 1 f. Areas that sustain remnant species or aberrations in the  
2 landscape produced by natural forces, such as rare and  
3 endangered botanical or animal species;
- 4 g. Areas containing unique geological formations, as identified by  
5 the State Geologist; and
- 6 h. Historic places that are listed, or have been approved for listing  
7 by the North Carolina Historical Commission, in the National  
8 Register of Historic Places pursuant to the National Historic  
9 Preservation Act of 1966; historical, archaeological, and other  
10 places and properties owned, managed or assisted by the State  
11 of North Carolina pursuant to Chapter 121; and properties or  
12 areas that are or may be designated by the Secretary of the  
13 Interior as registered natural landmarks or as national historic  
14 landmarks;
- 15 (5) Areas such as waterways and lands under or flowed by tidal waters or  
16 navigable waters, to which the public may have rights of access or  
17 public trust rights, and areas which the State of North Carolina may be  
18 authorized to preserve, conserve, or protect under Article XIV, Sec. 5  
19 of the North Carolina Constitution;
- 20 (6) Natural-hazard areas where uncontrolled or incompatible development  
21 could unreasonably endanger life or property, and other areas  
22 especially vulnerable to erosion, flooding, or other adverse effects of  
23 sand, wind and water, which may include:
- 24 a. Sand dunes along the Outer Banks;
- 25 b. Ocean and estuarine beaches and shoreline;
- 26 c. Floodways and floodplains;
- 27 d. Areas where geologic and soil conditions are such that there is a  
28 substantial possibility of excessive erosion or seismic activity,  
29 as identified by the State Geologist;
- 30 e. Areas with a significant potential for air inversions, as  
31 identified by the Environmental Management Commission.
- 32 (7) Areas which are or may be impacted by key facilities.
- 33 (8) Outstanding Resource Waters which are certain unique and special  
34 surface waters that are of exceptional State or national recreational or  
35 ecological significance and have exceptional water quality.
- 36 (9) Primary nursery areas which are those areas in the estuarine system  
37 where initial post-larval development takes place.”

38 Sec. 2. Any existing use of land occurring on the date of ratification of this  
39 act that is inconsistent with the designation of the land as an area of environmental  
40 concern for the outstanding resource waters or with the designation of the land as a  
41 primary nursery area may continue to occur at the level that existed on that date.

42 Sec. 3. The area of environmental concern for any outstanding resource  
43 waters designated by rule prior to or on the date of ratification of this act is  
44 automatically extended to 575 feet. The area of environmental concern for any primary

1 nursery area designated by rule prior to or on the date of ratification of this act is  
2 automatically extended to 575 feet. The area of environmental concern shall be  
3 extended beyond 575 feet if determined necessary by the Environmental Management  
4 Commission or the Coastal Resources Commission.

5           Sec. 4. This act is effective upon ratification.