



**NORTH CAROLINA CENTER FOR
PUBLIC POLICY RESEARCH INC.**

NEWS RELEASE

For Release on Tuesday, March 29, 1988: May be broadcast Tuesday A.M. and may appear in Tuesday morning and afternoon newspapers

N.C. CENTER CALLS FOR REPEAL OF HARDISON AMENDMENTS

Citing specific instances where state environmental policy has been impaired or delayed, the N.C. Center for Public Policy Research is calling for repeal of the Hardison Amendments, three laws that say North Carolina's environmental regulations can be no more stringent than federal regulations.

In the latest issue of its quarterly magazine, North Carolina Insight, the Center says the three Hardison Amendments have affected ambient air quality standards, influenced the way the state chose to regulate biocides, played a role in delaying new rules on toxic air standards, and could seriously impair the state's ability to deal with emerging environmental issues like incineration of municipal waste.

"When they were adopted, the Hardison Amendments sounded reasonable enough," says Insight Editor Jack Betts, who wrote the article. "But it's become increasingly clear that the state will be ill-equipped to protect the environment if the Hardison Amendments continue to restrict what the state can do. North Carolina is boxed in. Our standards are now set in Washington, and if the feds lower their standards, we will have to lower ours. But who would argue that Washington knows what's best for North Carolina's environment?"

The Hardison Amendments were first adopted in 1973, at a time when the federal Environmental Protection Agency (EPA) had a reputation as an aggressive environmental protection force. The theory was that the federal regulations were sufficiently tough, and that the state should not adopt tougher standards because it might deter potential new industries from locating in North Carolina. The Hardison Amendment on water quality was adopted in 1973 as a special provision within a budget bill, the air quality Hardison Amendment was adopted in 1975, and the hazardous waste amendment in 1979. They were named for their sponsor, state Sen. Harold Hardison (D-Lenoir), now a candidate for Lieutenant Governor.

In the 1980s, as the Environmental Protection Agency has come under increasing fire for failing to clean up the environment in a number of areas, many state officials and environmentalists have feared that the Hardison Amendments would seriously hamper North Carolina's ability to deal with ecological problems and keep its water, air, and land clean. These critics, including Gov. Jim Martin and Lt. Gov. Bob Jordan, say the Hardison Amendments could actually discourage economic development in North Carolina, and that the amendments should be repealed by the 1988 General Assembly when it meets in June. Previous efforts in 1985 and 1987 to repeal the amendments died for lack of bipartisan support.

Betts says this issue has generated more heat than light, so the Center decided to conduct research on whether the Hardison Amendments have actually affected environmental policy or were likely to do so in the future. The Center's research uncovered six instances in which the amendments have affected or will affect state environmental policy and policymaking.

1. In 1975, North Carolina had one of the nation's stronger air pollution programs. But after the 1975 General Assembly adopted the Hardison Amendment on air quality, the state's standards were changed to allow higher overall levels of industrial ambient air emissions, called Total Suspended Particulates. The standards had been more stringent than the EPA's, but after the Hardison Amendment was adopted, North Carolina's air emission standard was lowered to match the federal level.

2. Former Secretary of Natural Resources and Community Development (NRCD) Joe Grimsley told the Center the Hardison Amendments played a role in preventing the state from adopting a ban on biocides. In 1984, state regulators were worried about organic chemicals called biocides contaminating the state's surface waters. Also known as organotins, biocides are chemical compounds designed to kill certain organisms, like odor-producing bacteria in socks, or are used as disinfectants in air-conditioning towers. NRCD's Division of Environmental Management ultimately decided not to push for a ban. Part of the reason was the Hardison Amendment, which required a lengthy and time-consuming procedure to adopt a standard where there was no corresponding federal standard. So instead of instituting a ban, the EMC adopted a water classification standard that had the effect of limiting biocides -- but was still high enough to allow the use of biocides to continue.

3. The Hardison Amendment on air quality also has been one of several factors in delaying the state in its attempts to clean up toxic air pollutants. The federal government has not adopted its own toxic air standards although it does regulate certain pollutants such as carbon monoxide and nitrogen oxide. The Hardison Amendment on air quality says the state cannot adopt standards where the federal government has none unless the Environmental Management Commission first considers "an assessment of the economic impact of the proposed standards."* Those economic impact assessments are very expensive. The Department of Natural Resources and Community Development says it has not had enough money to finish the work. And so far, the EPA has not adopted its own toxic air standards. So the state of North Carolina is at least temporarily handcuffed, limited to controlling only the four pollutants that EPA already regulates, while it waits for the money to finish the economic assessment and adopt its own standards.

4. Those same air emissions also hold the threat of damaging important crops in North Carolina, adds R. Paul Wilms, Director of NRCD's Division of Environmental Management. "The state has to have the ability to be more stringent than the federal government because the EPA sets standards for nationwide applicability, not local situations. For example, the federal ozone standard is four times the level that adversely affects tobacco and corn [ranked as the second and ninth largest cash crops in this state, which also are leading crops in Senator Hardison's home county of Lenoir], yet North Carolina cannot have a [tougher] standard because of the Hardison Amendment. Now, we don't need a standard more restrictive than the EPA's for, say, cactus. But we may well need more restrictive standards for these others," says Wilms.

5. And there are other issues that the Hardison Amendments could affect adversely in the future. For instance, more county and municipal governments -- including the counties of Durham, Orange, and Alamance, as well as the city of Greensboro -- are considering incinerators to reduce their volume of solid waste. But so far, the EPA has issued no regulatory standards for air emissions from these incinerators -- despite evidence that these emissions can be toxic. That could slow North Carolina down in adopting its own standards.

6. Several North Carolina cities -- particularly Raleigh and Charlotte -- have major problems with air quality because of automobile emissions. Carbon monoxide from auto exhausts can cause blood poisoning, and the air in these cities was listed by the EPA in August 1987 as among the 10 worst among 65 areas nationwide that did not meet the federal carbon monoxide standard from 1984-86. And

* This economic impact assessment applies only to the Hardison Amendment on air quality and not to the other two Hardison Amendments.

ozone, the principal pollutant in smog, is created from hydrocarbon emissions, which come from vehicle exhausts and other sources, including industrial emissions. Studies have shown that ozone created in North Carolina has limited visibility in the western part of the state. Yet even if the state wanted to clamp down on automotive emissions, says Conservation Council of N.C. Executive Director Russell Norburn, "It would be virtually impossible to do that under the Hardison Amendments."

Some industry groups favor retention of the amendments, reports the Center. Among them are North Carolina Citizens for Business and Industry (NCCBI), which functions as a statewide chamber of commerce. Joe Harwood, a Duke Power Company executive and chairman of NCCBI's Environmental Concerns Committee, says the Hardison Amendments have not hampered the state and have made good business sense. "Our basic environmental policy at NCCBI is to promote environmental legislation that is scientifically sound and economically feasible. We believe that a consideration of the costs of a program is good public policy and does not serve as a deterrent to environmental protection. In the absence of a consideration of costs, environmental statutes and regulations can be imposed at great cost to business and the public without substantial benefit to the environment," Harwood says. Marc Finlayson, a spokesman for the N.C. Textile Manufacturers Association adds, "The amendments simply give the General Assembly scrutiny over promulgation of environmental rules by the administrative agencies."

But others say it may be time for a reappraisal of the amendments. Among them are former state Rep. Sam Johnson of Raleigh, now an industry lobbyist. Johnson says legislators "felt they were a reasonable ceiling on environmental regulations" when they were first adopted. But Johnson adds, "Since these regulations have been on the books for 10 to 15 years, I would not object to a review of all of them, including an effort to see to what extent circumstances have changed."

Senator Hardison himself has said he would be willing to reassess the amendments if it could be shown that they had harmed the environment. Both Governor Martin, who opposed the amendments in his 1984 campaign for governor, and Lieutenant Governor Jordan are more explicit. "I believe the state must be able to develop and maintain regulations that protect the myriad environmental conditions unique to North Carolina. The state should not depend on the federal government, but should be the decision-maker in all matters relating to our environment," says Martin. Jordan favors repeal of the amendments because he believes "North Carolina is equipped to make its own decisions on the environment," says an aide.

Rather than hampering economic development, says Martin, repealing the Hardison Amendments would enhance the state's efforts. "In the long run," says the Governor, "tougher environmental protection stimulates the economy and encourages development. By getting tougher on individual industries, we provide more room (in the finite world of natural resources) for newer and better industries with better technologies."

The N.C. Center for Public Policy Research is an independent, nonpartisan, nonprofit organization created to examine state government policies and practices. The Center is supported in part by grants from the Z. Smith Reynolds and Mary Reynolds Babcock Foundations, both in Winston-Salem. Other funding comes from 105 corporate contributors and 670 individual and organizational members. In addition to its quarterly magazine, the Center also publishes book-length research reports. Past studies have been issued on all the boards and commissions in state government, for-profit hospitals, and state prison policy.

Copies of the issue of North Carolina Insight magazine containing the research on the Hardison Amendments are available for \$6.30 plus \$1.00 postage from the N.C. Center for Public Policy Research, P.O. Box 430, Raleigh, NC 27602, or call (919) 832-2839.

For more information, call Jack Betts or Ran Coble at the N.C. Center for Public Policy Research at (919) 832-2839.

◆
The Hardison Amendment on Air:

“... air quality rules, regulations, procedures, plans, practices, air quality standards, and emission control standards adopted by the [Environmental Management] Commission ... shall be no more restrictive and no more stringent than required to comply with federal ambient air quality standards or other applicable federal requirements ... except that no air quality rules, procedures, plans, practices, air quality standards or emission control standards shall be adopted ... unless the [Environmental Management] Commission first considers, among other things, an assessment of the economic impact of the proposed standards.”

—G.S. 143-215.107(f)

◆

◆
The Hardison Amendment on Water:

“It is the intent of the General Assembly that the effluent standards and limitations and management practices adopted hereunder shall be no more restrictive than the most nearly applicable federal effluent standards and limitations and management practices.”

— G.S. 143-215(c)

◆

◆
The Hardison Amendment on Hazardous Wastes:

“The rules and standards concerning hazardous waste promulgated ... shall be no more stringent than those rules, regulations and standards promulgated under the federal act; provided, that in establishing acceptable water table levels, location in relation to water supplies and population centers and appropriate buffer zones, the rules and standards promulgated ... shall be at least as comprehensive and may be more comprehensive than the hazardous waste program prescribed under the federal act.”

—G.S. 130-166.21D(b)

◆

NOTE: The economic impact statement clause appears in the language of only one amendment -- the Hardison amendment on air quality. There is no corresponding clause for the water quality Hardison amendment, though the hazardous waste amendment does allow tougher rules, but only in cases involving questions of water supply and proximity to population centers.