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Via E-Mail & Online Submission:

Secretary Michael S. Regan
North Carolina Department of Environmental Quality
217 West Jones Street
Raleigh, NC 27603
Michael.regan@ncdenr.gov

Re: Comments on draft Clean Energy Plan

Dear Secretary Regan,

On behalf of the undersigned conservation organizations and itself, the Southern Environmental Law Center submits these comments on the draft Clean Energy Plan that the Department of Environmental Quality (“DEQ”) published for public comment on August 16, 2019, pursuant to Governor Cooper’s landmark executive order addressing climate change, Executive Order No. 80.¹

We commend the Cooper Administration for confronting the ongoing climate emergency. Severe storms like Hurricanes Florence, Michael, and Dorian that have flooded our communities are only the plainest manifestation of the threats it poses to our state. Record heat threatens public health and worsens energy burdens, which are already a serious problem in the state.² Indeed, climate change tends to increase preexisting inequality throughout the United States.³ Rainfall patterns are changing in ways that increase the chances of both flooding and droughts; crop ranges are shifting;⁴ and saline infiltration literally salts the earth our farmers plow.⁵

¹ Exec. Order No. 80, North Carolina’s Commitment to Address Climate Change and Transition to a Clean Energy Economy (2018), <https://files.nc.gov/ncdeq/climate-change/EO80--NC-s-Commitment-to-Address-Climate-Change--Transition-to-a-Clean-Energy-Economy.pdf>.

² Adam Chandler, *Where the Poor Spend More Than 10 Percent of Their Income on Energy. Hint: almost everywhere in the United States*, THE ATLANTIC (June 8, 2016), <https://www.theatlantic.com/business/archive/2016/06/energy-poverty-low-incomehouseholds/486197/> (last visited September 9, 2019); see also David Tucker, *Charging into the Question of Affordability: Residential Electric Rates in North Carolina from 2011 to 2013*, UNC ENV’T L. FIN. CTR. (Feb. 19, 2014), <http://efc.web.unc.edu/2014/02/19/charging-into-the-question-of-affordability-residential-electric-rates-in-north-carolina-from-2011-to-2013/>.

³ FOURTH NATIONAL CLIMATE ASSESSMENT, CHAPTER 19: SOUTHEAST (2018), <https://nca2018.globalchange.gov/chapter/19/>.

⁴ See *Effects of Climate Change on the Southeast*, N.C. CLIMATE OFFICE, <https://climate.ncsu.edu/edu/Impacts> (last visited Sep. 9, 2019); Nicola Jones, *Redrawing the Map: How the World’s Climate Zones Are Shifting*, YALE ENVIRONMENT 360 (Oct. 23, 2018), <https://e360.yale.edu/features/redrawing-the-map-how-the-worlds-climate-zones-are-shifting>.

The draft Clean Energy Plan is a strong start to addressing these threats. It includes bold but achievable greenhouse gas (“GHG”) reduction goals specific to the electric power generation sector of the economy: a 60% to 70% reduction from 2005 levels by 2030 and working towards zero emissions by 2050. We recommend the Department commit to a clear goal of 70% reduction from 2005 levels by 2030, and zero emissions by 2050. And we urge the Department to recommend the most straightforward path to that goal: a simple cap on carbon emissions.

The draft Clean Energy Plan also rightly focuses on equitable access to clean energy and ensuring that our transition from reliance on fossil fuels to a clean-energy economy is just.⁶ As referenced in the plan, the energy burden on low-income ratepayers is significant and public policy solutions to address the disparity and ability to pay for energy costs between low and high income rate payers is badly needed.⁷ In addition, the plan makes many practical and achievable recommendations that will “expand energy efficiency and renewable energy programs specifically targeted at underserved markets and low-income communities,”⁸ and we support the plan’s recommendations to address equitable access and energy affordability.⁹ Energy-efficiency and clean-energy programs—such as weatherization and community solar—can help to lift the energy burden that climate change is worsening by including a focus on savings for low-wealth households. Programs like an energy-efficiency apprenticeship, and support for creating long-term jobs with family-sustaining wages and benefits in clean-energy work, will help to ensure that no workers or communities are left behind in our transition to a clean-energy economy.

Finally, the draft plan correctly leaves no place for forest-derived biomass or swine-waste biogas in our state’s clean energy future. Cutting and burning trees adds huge amounts of carbon dioxide to the atmosphere immediately, undermining our emissions-reduction goals. Biomass production and combustion also create serious local air quality problems and destroy natural, intact forests that are necessary for coastal resilience and carbon sequestration. Swine-waste biogas relies on the primitive lagoon-and-sprayfield hog waste management system that continues to disproportionately devastate communities of color and the environment in eastern North Carolina.

We recommend some key ways to improve the draft Clean Energy Plan. Because time is of the essence, the plan should recommend doing as much as possible as quickly as possible. Wherever possible, the plan should recommend taking action rather than conducting further study. This decision should focus on whether we have sufficient information on policy considerations such as effectiveness at reducing GHG emissions, and whether additional

⁵ See Sarah Kaplan, *Ruined crops, salty soil: How rising seas are poisoning North Carolina’s farmland*, WASH. POST (Mar. 1, 2019), https://www.washingtonpost.com/national/ruined-crops-salty-soil-how-rising-seas-are-poisoning-north-carolinas-farmland/2019/03/01/2e26b83e-28ce-11e9-8eef-0d74f4bf0295_story.html?noredirect=on.

⁶ Draft CEP 95. We do, however, concur with Appalachian Voices that the Clean Energy Plan should include a stronger focus on addressing the barriers to clean energy access that exist in communities served by rural electric cooperatives and municipal utilities.

⁷ Draft CEP 35-36, 49, 96.

⁸ Draft CEP 99.

⁹ Draft CEP 96.

stakeholder input is necessary. It is also important for DEQ to avoid pre-judging the legal pathway to implementation for the policies in the Clean Energy Plan. The Department should include an up-front disclaimer that the portions identifying which entities will carry out the plan's recommendations are illustrative only and not the product of legal analysis. For every action that DEQ anticipates another entity will carry out, it should describe what it will do to facilitate the action. In addition, the time horizon for actions under the Clean Energy Plan should extend through 2050 wherever possible.

The plan should recommend establishment of a carbon mass cap at 25MMT CO₂. Among the decarbonization scenarios modeled for the Clean Energy Plan, establishing a mass cap results in the greatest GHG emissions reductions.¹⁰ In addition, a mass cap may be established without new legislation, meaning it may be implemented more quickly, which is crucial given the urgency of confronting climate change. And a mass cap easily can—and should—be set to decline to meet our long-term 2050 goals. A policy designed around a declining cap on carbon emissions should be designed thoughtfully to address equity concerns and foster a just transition to the clean-energy economy.

The second major action that we urge the Department to prioritize is to convene a stakeholder process on reforming the utility business model by aligning utilities' incentives with the public interest and the state's energy and carbon policies.¹¹ This process will help to resolve the existing tension between utilities' incentives and statutory mandate, and rapid clean-energy deployment and decarbonization. Consistently with stakeholder recommendations, the plan should require this stakeholder process to be *completed* within one year from the date that the final Clean Energy Plan is issued.

To clarify what technologies it intends to promote, the plan should define “clean energy.” During the development of the Clean Energy Plan, DEQ staff presented a good definition of “clean energy” that is consistent with Executive Order No. 80 and with the views expressed by stakeholders during facilitated workshops.¹² DEQ should simply formalize this as the definition of “clean energy” for the Clean Energy Plan. To be clear, forest-derived biomass and swine-waste biogas should not be included.¹³ Also, the Clean Energy Plan should stick to the term “clean energy,” rather than alternating between “clean energy” and “renewable energy,” which can mean different things.

¹⁰ Draft CEP 109.

¹¹ Draft CEP 61.

¹² This definition states that “‘clean’ energy resources include solar, energy efficiency, battery storage, wind, efficient electrification, and other zero emitting technology options capable of quickly decarbonizing the power sector and modernizing the electric power sector.” Sushma Masemore, Presentation to stakeholders at Clean Energy Plan Facilitated Workshop 5: Overview of Clean Energy Plan Vision and Guiding Structure, slide 9 (June 26, 2019), <https://files.nc.gov/ncdeq/climate-change/clean-energy-plan/CEP-Combined-Workshop-5-powerpoint.pdf>.

¹³ Conservation groups have previously submitted comments discussing problems with these energy sources. Letter from Blakely Hildebrand, et al. to Sushma Masemore (July 30, 2019); Letter from Heather Hillaker, et al. to Sushma Masemore (July 23, 2019). We incorporate these letters by reference.

Finally, the Clean Energy Plan should address all GHGs. The draft Clean Energy Plan's emissions-reduction goals for the electric power rightly apply to all GHG emissions.¹⁴ This is consistent with Executive Order No. 80, which sets an emissions-reduction goal for all GHGs, and with common sense: non-CO2 GHGs can have tens, hundreds, or even many thousands of times the warming potential of CO2,¹⁵ and represent almost twenty percent of the GHGs emitted in North Carolina as measured by global warming potential.¹⁶ One straightforward way for the plan to address methane and other non-CO2 climate pollutants is to be sure climate pollutants are included in the cost of carbon that will be incorporated into utilities' least-cost planning as they develop integrated resource plans.¹⁷

Thank you for your extensive work on this impressive draft Clean Energy Plan and for considering these comments. Under the leadership of the Governor's Office and the Department, our state can and will confront the climate emergency with bold action.



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¹⁴ Draft CEP 56. Our GHG Inventory assesses six major GHG pollutants: carbon dioxide, methane, notorious oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. NC 2019 GHG Inventory 1. Future GHG inventories—and our state's approach to GHG emissions reduction—should address additional important climate pollutants such as black carbon.

¹⁵ NC 2019 GHG Inventory 61-62, App'x B, Table B-1.

¹⁶ NC 2019 GHG Inventory 11.

¹⁷ Draft CEP 114.

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