

January 15, 2016

BY EMAIL TRANSMISSION

Donald R. van der Vaart
Secretary, North Carolina Department of Environmental Quality
c/o Ms. Joelle Burluson
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Transmitted by e-mail to: daq.publiccomments@ncdenr.gov

Reference: 111(d); Comments by The NC Conservation Network, Environmental Defense Fund, Cape Fear River Watch, Clean Air Carolina, Clean Water for North Carolina, Dan River Basin Association, Dogwood Alliance, Environment North Carolina, NC Coastal Federation, NC Council of Churches, NC Environmental Justice Network, NC Interfaith Power & Light, NC League of Conservation Voters, NC WARN, Physicians for Social Responsibility, Western NC Chapter, River Guardian Foundation, Sound Rivers, Winyah Rivers Foundation, Appalachian Voices, Sustain Charlotte to Standards of Performance for Carbon Dioxide (CO₂) Emissions for Existing Electric Utility Generating Units (EGUs) Under Clean Air Act Section 111(d).

Dear Secretary van der Vaart:

The North Carolina Conservation Network and the accompanying signatories to this letter have compiled the following comments to register their opposition to the North Carolina Department of Environmental Quality's draft rule to implement the rules promulgated pursuant to Clean Air Act Section 111(d) for Best System of Emission Reduction for Existing Electric Generating Units (hereinafter the "Draft Rule"). The Draft Rule, in its current form, would result in profoundly negative effects on the health of North Carolina's citizens, its economy and its environment. Moreover, the Draft Rule harms the power sector, other stakeholders, and citizens of North Carolina by wasting valuable resources in pursuit of unnecessary litigation.

The Clean Power Plan is sound policy. It builds on years of work, and a transition already underway in the power sector to implement a system-wide approach to carbon dioxide reductions from existing power plants. As such, North Carolina should be making every effort to conscientiously and carefully expedite full compliance with the rule.

We urge the Department of Environmental Quality (DEQ) to withdraw the Draft Rule and reinitiate a rulemaking process that is based on a robust stakeholder process. With respect to the components of a state plan, we further urge DEQ to include mechanisms for increasing renewable energy production and energy efficiency, identify measures to update and enhance the

utility grid to easily integrate renewable energy sources, petition for the state's inclusion in the Clean Energy Incentives Program (CEIP), consider options for the creation of a trading-ready plan design to allow North Carolina businesses access to compliance instruments outside the state, and consider the benefits of a mass-based approach to enable market mechanisms to achieve emission reductions at the least cost.

I. Climate Change Threatens North Carolina's Environment and Economy

According to the United Nations, 14 of the last 15 years have been the hottest on record worldwide¹, while preliminary data show that 2015 may be the hottest year on record². If left unchecked, increasing global temperatures will unleash a disastrous chain of impacts on North Carolina's environment and economy. Sea level rise, increase in strength and frequency of hurricanes, droughts, food shortages, water shortages, heat waves and the spread of diseases are all happening and will continue to happen at greater frequency and increased severity the longer action is delayed.

United States Census Data show that seniors (those over 65) comprise almost 15 percent of North Carolina's population, while children (those under 18) comprise 23 percent³. Seniors and children are especially vulnerable to the effects of climate change⁴, meaning that in North Carolina nearly 40 percent of our population is especially susceptible to negative health effects associated with climate change.

Air pollution makes it difficult for those with asthma, allergies and other respiratory problems to breathe. In addition, concentrations of certain air pollutants associated with increased greenhouse gas emissions heightens the risk of lung cancer⁵. Heat waves affect the entire population, but are especially dangerous for those with cardiovascular disease and heart-related illnesses.

Extreme heat waves also create wildfires and contribute to droughts, which destroys crops, spreads mold, and encourages crop pests such as locusts⁶. Sea level rise contaminates our drinking water sources and negatively effects water quality, including increased instances, and spreading of, cholera, cryptosporidiosis, and harmful algal blooms⁷. Moreover, changes in precipitation patterns create breeding grounds for mosquitos, ticks, and rodents carrying with them malaria, Lyme disease, and leptospirosis⁸.

¹Carrington, D. (2015, February 2). "14 of the 15 hottest years on record have occurred since 2000, UN says."

²Ocko, I. (2016, January 5). "Why we can't blame El Niño for the hottest year on record."

³ U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, American Community Survey, Census of Population and Housing, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits Last Revised: Wednesday, 02-Dec-2015 10:00:22 EST

⁴Physicians for Social Responsibility at <http://www.psr.org/assets/pdfs/vulnerable-populations.pdf>.

⁵National Institute of Environmental Health Science:

http://www.niehs.nih.gov/research/programs/geh/climatechange/health_impacts/cancer/index.cfm.

⁶National Institute of Environmental Health Science:

http://www.niehs.nih.gov/research/programs/geh/climatechange/health_impacts/foodborne_diseases/index.cfm.

⁷ CDC National Center for Environmental Health: <http://www.cdc.gov/climateandhealth/effects/>.

⁸ Githeko, A., Lindsay, S., Confalonieri, U., & Patz, J. (2000). Climate change and vector-borne diseases: a regional analysis. (1142, 1137).

In addition to the morbidity and mortality associated with extreme weather events, severe storms and extreme heat and cold pose catastrophic economic effects. For example, Super Storm Sandy and Hurricane Katrina killed at least 1,058 people and cost the US \$178 billion⁹. The 2002 drought cost North Carolina's agricultural industry almost \$400 million¹⁰. In fact, the cost of not acting on climate change could rise to as much as \$44 trillion before the next century¹¹.

One of the most injurious effects of climate change for North Carolina will be accelerated sea level rise. Sea level rise causes flooding, contaminates drinking water, disrupts agriculture, threatens wildlife populations, and permanently alters our coastal ecosystem¹². North Carolina's tourism and agricultural industry alone is a \$100 billion a year industry¹³. Together these industries employ hundreds of thousands of North Carolinians and support millions of North Carolina families. All of these vital industries face a severe threat as a result of the effects of climate change.

II. The Clean Power Plan Presents an Economic Opportunity

Energy efficiency measures reduce carbon dioxide (CO₂) emissions and energy consumption, save businesses and homeowners' money, all while creating jobs. This opportunity is particularly significant in low-income communities that spend a significant portion of their income on electricity bills to combat the cold of winter and heat of summer. There is a significant business opportunity under the Clean Power Plan for the energy efficiency industry alone.

It is clear that effective policies to create market opportunities for investments in renewable energy generation have propelled North Carolina to national prominence as a clean energy leader. North Carolina is now home to nearly 200 solar companies and the state ranks fourth in the nation in installed solar capacity¹⁴. Renewable energy is the energy of the future and the energy that drives economic growth.

According to Fortune Magazine, one out of every 78 new jobs created in the U.S. were created by the solar industry in the last year¹⁵. And, compared to fossil fuel-based jobs, twice as many Americans are employed in the solar industry than in the coal industry¹⁶. The Clean Power Plan offers North Carolina a significant opportunity to spur new investments in existing local businesses, create jobs, and grow the economy. That's precisely why 29 businesses in North Carolina – totaling more than \$24 billion in assets – sent a letter to Governor McCrory urging his support of the Clean Power Plan¹⁷.

⁹ Gerken, J. (2013, February 12). Hurricane Sandy Was Second-Costliest In U.S. History, Report The Data Center: <http://www.datacenterresearch.org/data-resources/katrina/facts-for-impact/>.

¹⁰ White House Press Release. May 6th, 2014 https://www.whitehouse.gov/sites/default/files/docs/state-reports/NORTHCAROLINA_NCA_2014.pdf

¹¹ Frangoul, A. (2015, August 18). Cost of not acting on climate change \$44 trillion: Citi.

¹² Harvey, C. (2015, February 17). Sea-level rise will cause more than flooding — these 5 other impacts of rising oceans are just as bad.

¹³ NC Department of Agriculture and Consumer Services: <http://www.ncagr.gov/stats/general/overview.htm> NC Tourism: <https://www.nccommerce.com/tourism/about-us/annual-report>.

¹⁴ Solar Energy Industries Association: <http://www.seia.org/state-solar-policy/north-carolina>.

¹⁵ Korosec, K. (2015, January 16). In U.S., there are twice as many solar workers as coal miners.

¹⁶ Korosec, K. (2015, January 16). In U.S., there are twice as many solar workers as coal miners.

¹⁷ Ceres: <http://www.ceres.org/files/clean-power-plan-state-letters/north-carolina-cpp-letter>.

III. NC DEQ's Draft Rule is Inadequate

Given the severe negative health, environmental and economic impacts of climate change – and the strong economic opportunities provided by the clean energy industry – we oppose the state's decision to submit a Draft Rule that does not seriously address climate change or encourage the clean energy industry.

First, the Draft Rule inadequately and insufficiently proposes only emission rate controls on fossil fuel-powered stationary electric generating units (EGU's). By taking this limited "inside-the-fenceline" approach, DEQ will prevent North Carolina from meeting its emission reduction targets, which are needed to protect the state's citizens' environment and economy. An inadequate and insufficient approach, as outlined in the Draft Rule, will expose North Carolina's citizens, environment and economy to undue harm.

Second, the Draft Rule entirely ignores the Clean Power Plan's requirement to engage in a robust stakeholder process prior to the development of a state plan. As the Environmental Management Commission and DEQ expressly stated when deciding to send the Draft Rule to public comment, the Draft Rule is nothing more than a pretext for a legal challenge to the Clean Power Plan.¹⁸

Third, it exposes North Carolina unnecessarily to pollution and risks associated with greenhouse gas emissions that will not be curbed as a result of its intentional noncompliance, risking irreversible and expensive environmental damage. The longer North Carolina waits to take action on climate change the more expensive and damaging it will be.

Fourth, the Draft Rule deprives North Carolina workers and companies of jobs and new business, because of the loss of a host of clean energy production opportunities that would be associated with a fully compliant rule. Unlike coal, the clean energy industry is a growth industry providing unbounded economic and job opportunities.

Finally, the current Draft Rule makes North Carolina susceptible to a prolonged review process, thereby wasting finite staff and budgetary resources to wrangle with EPA, and ultimately could deprive the state of its ability to develop and control its own emission reduction strategy.¹⁹ This is not a wise use of taxpayer dollars.

¹⁸ North Carolina uses unique tactic against new EPA power rule, available at <http://bigstory.ap.org/article/343ad93212924f6c8cd9239c4ea64130/north-carolina-uses-unique-tactic-against-new-epa-power> (Dec. 25, 2015).

¹⁹ The irony of the state's position rests on the fact that the state is on track to comply with the Clean Power Plan's state specific target of 1,136 pounds per megawatt hour (lbs/MWh) by 2030, as compared to a baseline rate of 1,673 lbs/Mwh, or, employing a mass-based target, 51.2 million tons of carbon dioxide, as compared to a baseline of 58.6 million tons of carbon dioxide. Note that the Draft Plan's approach would meet neither a rate-based nor mass-based target, and that increased investment in cleaner generation due to the execution of the Clean Smokestacks Act and the Renewable Energy and Energy Efficiency Portfolio Standard of 2007 have set North Carolina on a course to meet the rules' requirements without much difficulty.

Given the severity of climate change effects to our health, economy, and environment, and given the benefits of true implementation of the rule, North Carolina deserves a more serious response than the Draft Rule, which is inadequate and is certain to eventually be deemed as such by EPA. Moving forward with only building block one (actions within the fence line of an EGU) will not help North Carolina accomplish its CO₂ reduction requirements. This “plan to fail” wastes state resources and time, and if North Carolina declines to act responsibly, EPA has the duty to step in and ensure that critical protections are put in place. Instead, we seek timely state action to launch a robust stakeholder engagement process and to develop a state plan that employs the flexibility and effectiveness provided by full deployment of the Best System of Emission Reduction by EPA which can include deploying renewable energy and energy efficiency, which are cost-effective methods for reducing CO₂ emissions.

IV. Recommendations to Ensure the Sufficiency of North Carolina’s State Clean Power Plan Rules

In order to ensure an adequate and robust plan, we recommend that the EMC withdraw the Draft Rule and begin rulemaking anew. First, and PRIOR TO drafting a state plan, DEQ should act swiftly to undertake a legitimate stakeholder process – which is not merely good practice, but required by the Clean Power Plan rule. All interested parties must have a voice in shaping the state’s response plan. Next, and only after a robust dialogue takes place and all interested parties are able to provide their input, DEQ should draft a plan.

Allowing time for stakeholder input will benefit the state by providing it the time not only to undertake its own careful analysis, but to receive analysis and modeling information from the public. Many organizations have yet to complete their modeling and analyses of the rule and options for compliance; this is also the case for our state’s largest utility, Duke Energy. Without this critical information it is negligent to draft a plan. This process, however, should be undertaken carefully, yet expeditiously, in order for the state to submit a timely rule proposal and protect the options to participate in programs such as the CEIP. We urge DEQ and the EMC to draft a plan that:

1. Is PRECEDED by a robust stakeholder process;
2. Includes incentives for robust investment in renewable energy production, integration of that renewable energy into the electricity system, and energy efficiency measures;
3. Identifies measures such as voltage optimization to update and enhance the utility grid to reduce energy losses and enable data sharing that will make it possible to easily integrate renewable energy sources;
4. Includes the Clean Energy Incentives Program, which the state should incorporate into its rulemaking package if it completes the rulemaking development in a timely fashion, or, if more time is needed to prepare a comprehensive state plan, petition the EPA to protect North Carolina’s ability to participate in the CEIP in order to protect North Carolina’s ability to offer the program; and
5. Considers options for creating a trading-ready plan design to make it possible for North Carolina companies to access compliance instruments across the region and nationally, and consider whether a mass-based approach will better enable the state to take advantage of market mechanisms to reduce emissions.

We appreciate your time and careful consideration of these comments. For further information please contact Rachael Estes, Policy Analyst, NC Conservation Network, at rachael@ncconservationnetwork.org.

Signed:



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NC WARN
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River Guardian Foundation
Sound Rivers
Winyah Rivers Foundation
Appalachian Voices
Sustain Charlotte