



April 22, 2024

SUBMITTED VIA EMAIL

Governor's Environmental Justice Advisory Council

Jeff Hart
Governor's Office
Jeff.Hart@NC.Gov

Ronald G. Penny
Secretary, Department of Revenue
Ronald.penny@ncdor.gov

Re: Comments in Response to Department of Revenue's Draft Environmental Justice Goals and Measurable Outcomes

Dear Environmental Justice Advisory Council Members and Secretary Penny:

On behalf of North Carolina Sustainable Business Council, NC FIELD, Inc., North Carolina NAACP, Partners for Environmental Justice, West End Revitalization Association, 7 Directions of Service, Down East Coal Ash Environmental and Social Justice Coalition, Winyah Rivers Alliance, North Carolina Environmental Justice Network, McDowell Local Food Advisory Council, NC Sierra Club, CleanAIRE NC, Toxic Free NC, NC Black and Green Network, The Lilies Project, Emancipate NC, Danielle Koonce, Center for Biological Diversity, Dogwood Alliance, Wake Forest Environmental Law and Policy Clinic, UNC Environmental Justice Action Research Clinic, Duplin County Branch of NAACP, Neighbors for Better Neighbors, Environmental Justice Community Action Network and North Carolina Conservation Network, the Southern Environmental Law Center and Southern Coalition for Social Justice submit the following comments on the draft Environmental Justice Goals and Measurable Outcomes of the North Carolina Department of Revenue. On October 24, 2023, Governor Roy Cooper signed Executive Order 292: Advancing Environmental Justice for North Carolina ("EO 292").¹ Section 7 of the order directed each cabinet agency to develop and submit to the Governor's

¹ See Off. of Governor Roy Cooper, Exec. Order No. 292, Advancing Environmental Justice for North Carolina (Oct. 24, 2023), <https://governor.nc.gov/executive-order-no-292/open>.

Environmental Justice Advisory Council (“EJAC”) for public comment at least three draft environmental justice goals and measurable outcomes.²

Below we address strengths of the proposed goals³ and some ways that they could be improved to better serve environmental justice communities (“EJ communities”) in North Carolina. We have also provided alternate goals and measured outcomes that will better serve EJ communities based on the existing statutory authority of the Department of Revenue (“DOR” or “Department”). We hope that you will take these suggestions and alternate goals into consideration.

I. The Department’s draft goals fall short of EO 292’s vision for EJ communities, but a few changes may offer improvements.

A. The Department’s first goal should include additional materials to supplement the Department’s campaign to educate citizens regarding the prevalence of fraudulent tax preparers and, to be measurable, this campaign should specify dates for implementation and how outreach events will be located and structured.

The Department’s first goal notes the disproportionate harms of fraudulent tax preparers on wage earners and other low-income taxpayers, many of whom are members of EJ communities.⁴ While the Department should be careful not to conflate “low-income taxpayers” with EJ communities, we appreciate that the Department seeks to integrate environmental justice considerations into its work, though notice some apparent struggle to envision what that integration should look like. This first goal could be improved by a) a commitment to focus on identifying, arresting, and prosecuting fraudulent tax preparers in EJ communities, b) including additional educational resources in its outreach to EJ communities beyond those focused on tax preparer selection, and c) identifying methods of outreach to communities that may not have ready access to internet capabilities.

The preparations for these campaigns should begin sooner than December. Although many tax filers typically begin the tax process between January and March, starting this outreach earlier will allow for adjustments in response to community responses.

Education efforts should include other materials in addition to information on selecting a tax preparer. For example, education about the Internal Revenue Service

² *Id.* § 7.

³ See N.C. Dep’t of Revenue, Draft Environmental Justice Goals, <https://governor.nc.gov/revenue-environmental-justice-goals/download?attachment> (last visited Apr. 22, 2024).

⁴ See *id.*

("IRS") free file system would be helpful for low-income households who are particularly susceptible to fraudulent preparers because of a lack of resources for tax preparation software or other preparation tools and assistance. Additionally, information and filing assistance for those without access to broadband would be helpful to communities without computer or internet access.

The Department's outreach events could also include the information identified in the second draft goal regarding the Child Tax Credit ("CTC") and Earned Income Tax Credit ("EITC"), uniting these efforts both for greater efficiency and more effective outreach by reducing time and confusion associated with multiple events and processes. These outreach and education efforts should focus solely on the CTC and EITC but should also include other environmental justice relevant tax credits and opportunities, such as clean energy tax credits. Additionally, setting dates and locations for these events ahead of time and making them consistent from year to year would serve as an added layer of measurability for the Department's proposed outcomes. Finally, disseminating all materials in each language that is prevalently spoken in a particular community is essential to the success of these programs.

B. The Department's second goal of educating on the federal Child Tax Credit and the Earned Income Tax Credit can be combined with the first goal as an educational campaign that includes events, material distribution, and presence on social media.

As discussed above, while additional education and outreach focus on the Child Tax Credit and Earned Income Credit has appreciable anticipated benefits to EJ communities, these efforts and those in Goal 1 could be streamlined and combined, not only to make the most efficient use of Department resources but also to minimize the time demands and mental load on the communities the Department seeks to serve with these initiatives. Where resources are available, DOR should dedicate Departmental staff to assist communities with tax preparation questions.

Moreover, DOR should pay particular attention to the limits of social media platforms in its outreach, as many EJ communities are in rural areas with severely restricted access to broadband and 5G cellular networks. DOR should maintain information and assistance hotlines and should site Departmental staff in satellite offices within identified EJ communities during tax preparation season whenever possible.

Tracking filing increases is one important metric for assessing the success of DOR's information campaigns. If possible, tracking the credits and funds returned to the low-wealth-filer is another complimentary metric.

- C. The Department's third goal, adding environmental justice awareness to its current equity training program, should include all DOR staff, be informed by experts, and stand alone as its own training.*

The third draft goal of supplementing current DOR equity training with environmental justice awareness training is low-hanging fruit that could be improved and made more ambitious. First, the whole of DOR staff should partake in environmental justice training alone rather than incorporating environmental justice training into existing training sessions, as environmental justice issues are separate and distinct, if sometimes overlapping, with diversity, equity, and inclusion matters. Ideally, this training should not be limited only to individuals who interact with the public on a daily basis but should include all levels of agency personnel, particularly those individuals involved in policy decision-making and agency priority setting. Indeed, decision-making personnel should be the first priority targets of these training efforts. Environmental justice training programs should include at least one in-person session facilitated by an impacted community member.

Careful consideration of how to properly integrate environmental justice into DOR's full scope of work can be guided by outside expert consultants. The Department should revise this goal accordingly and specify timeframes for hiring consultants, developing its environmental justice training, and incorporating environmental justice training into its overall equity training and Departmental policies.

II. Additional areas the Department has the authority to address are the broadband and technology gaps that threaten to leave many individuals behind in the switch to electronic filing, as well as tax incentive opportunities that stand to benefit EJ communities.

As noted above, we have identified additional areas where the Department has the authority and ability to integrate consideration of EJ communities and help to alleviate the disparate impacts of systemic exclusion of EJ communities from decision-making processes. We hope DOR will take these alternate goals into consideration as the Department builds upon its draft goals.

- A. DOR must address the broadband gap to ensure EJ communities are included in the Department's transition to electronic filing.*

DOR is focused on expanding electronic filing as part of its efforts to mitigate climate impacts,⁵ but, while an important component of its overall sustainability goals,

⁵ *Climate Change & Clean Energy: Plans & Progress*, N.C. DEP'T OF REVENUE, <https://www.ncdor.gov/about-us/climate-change-clean-energy-plans-progress#Tab-WhatWereDoingToHelp-586> (last visited Apr. 22, 2024).

this plan has the potential to leave behind certain rural communities, including many EJ communities, if done without consideration for internet access inequities. Efforts to promote and expand electronic filing can marginalize rural EJ communities without reliable broadband access or adequate training in the electronic tax filing process. An estimated 4 million North Carolina residents do not have access to reliable broadband service.⁶ This particularly affects rural, low-income, and communities of color who may be left behind in this digital tax filing transition.⁷ Accordingly, dedicated efforts to engage rural EJ communities in this digital transition are critical.

In March 2023, the North Carolina Department of Information Technology (“DIT”) was awarded an Affordable Connectivity Program Outreach Grant, which offers qualifying households discounts for monthly internet service and devices.⁸ Because many North Carolina internet providers offer eligible households high-speed internet plans for no more than \$30, eligible families who participate in the Affordable Connectivity Program can receive high-speed broadband for little to no cost.⁹ These individuals can find details and enrollment options at ncbroadband.gov,¹⁰ but the onus is on the government to communicate these opportunities to the communities who lack internet access to find or be made aware of these programs.

DOR, as a governmental agency aiming to increasingly digitize its processes, should invest time and effort in mitigating North Carolina’s broadband gap in line with its duty to “exercise general and specific supervision over the valuation and taxation of property throughout the State.”¹¹ This duty includes supervising the process of tax collection through digitized means. Through collaborations with DIT, DOR could use broadband accessibility data (available at <https://www.ncbroadband.gov/data-reports>), in conjunction with the NC Environmental Justice Mapping Tool and Environmental Justice Hub, to identify strategies for improving internet accessibility throughout the State so EJ communities will not be further marginalized by this digital tax transition.

⁶ Shelby Harris, *No Internet, No Telehealth: Rural North Carolina Residents Struggle to Connect with Doctors Virtually*, NC HEALTH NEWS (Oct. 22, 2022), <https://www.northcarolinahealthnews.org/2022/10/22/no-internet-no-telehealth/>.

⁷ See *Examining Gaps in Digital Inclusion in North Carolina*, AMERICAN IMMIGRATION COUNCIL (2022), https://www.americanimmigrationcouncil.org/sites/default/files/examining_gaps_in_digital_inclusion_in_north_carolina.pdf.

⁸ See Press Release, *North Carolina Awarded \$500,000 to Help More People Afford High-Speed Internet*, GOVERNOR ROY COOPER (Mar. 17, 2023), <https://governor.nc.gov/news/press-releases/2023/03/17/north-carolina-awarded-500000-help-more-people-afford-high-speed-internet>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ N.C. GEN. STAT. § 143B-218 (1981)

B. The Department should track and vet businesses in EJ communities that receive state and federal tax incentives to evaluate benefits to surrounding communities and should use its authority and discretionary awards to incentivize and support community-owned and small businesses in EJ communities.

North Carolina businesses are afforded the opportunity to receive a panoply of state tax benefits and discretionary awards. For instance, the Job Development Investment Grant Program (“JDIG Program”) is a discretionary investment grant that provides cash grants to new and existing companies.¹² The One North Carolina Fund is another discretionary incentive program that awards money to competitive job-creation projects.¹³ Tax incentives, like those offered to natural gas facilities and manufacturers, are another way in which the Department of Revenue’s operations interact with EJ communities.¹⁴ Tax incentives for polluting businesses can exacerbate environmental injustices by adding more pollution to communities already overburdened by air and water pollution from industry. We urge DOR to structure these tax incentives to avoid adding more pollution burden to already polluted communities.

As one of its environmental justice goals, DOR should create a database of businesses receiving state and federal benefits and grants to promote government transparency and benefit EJ communities. If these investments purport to create jobs, for example, these companies should report whether the individuals hired are from the communities in which the primary business activity is located. Overall reinvestment and return of wealth to communities should also be assessed and included in reports generated by the grant beneficiary, along with listing potential costs of any accompanying externalities, like additional health care costs anticipated from exposure to industrial pollution or impacts to property values from industrial processes sited nearby. Wherever possible, in the terms of each incentive program, awards should be given to locally owned businesses. The balance of locally owned and operated versus out of town, out of state, and international businesses that receive tax incentives should be published on an annual basis.

Additionally, while these tax incentives are sometimes provided to promote clean energy and investment in EJ communities, it is imperative that government investment in these initiatives are true clean energy projects, not greenwashing energy projects

¹² N.C. GEN. STAT. § 143B-437.52 (2018).

¹³ N.C. GEN. STAT. § 143B-437.71 (2021).

¹⁴ N.C. GEN. STAT. § 105-164.13 (2023).

such as energy harnessed from wood pellets¹⁵ or industrial animal operations.¹⁶ While hog waste lagoons at industrial animal operations emit methane, these hog operations cause extreme pollution to the communities where they are located, and biogas—or waste-to-energy—projects can create even more air and water pollution, adding to the cumulative effects of pollution in EJ communities.¹⁷ Wood pellet companies, such as Enviva, Inc., misleadingly market their products as “renewable” and “carbon neutral” and receive green business incentives for their operations.¹⁸ However, wood pellet plants exacerbate problems of deforestation and air pollution that harm EJ communities and still emit carbon dioxide, resulting in sum negative climate as well as environmental justice effects.¹⁹ DOR has the ability track and publish the tax incentives that such businesses receive, and DOR should prioritize oversight of these incentives and solicit public feedback when incentives are given to polluting businesses in EJ communities.

Publishing this database of incentive recipients is essential to improve transparency and public involvement in decision-making processes and to assess whether incentive programs are achieving their intended purposes. As it currently stands, DOR tracks and publishes its annual Economic Incentives Report, but this yearly reporting only tracks state incentives and provides little information about the recipients.²⁰ At a minimum, DOR should track the economic benefits generated by and identify potential costs of these programs through an environmental justice lens. These accountability metrics will benefit both EJ communities and DOR as it continues to administer these programs. This could include collaboration with other departments, such as the Department of Commerce, and consultants to ensure incentives provide the benefits they purport to create.

DOR has the authority and duty to administer a holistic and inclusive tax system. If the Department plans to continue its transition to digital filing systems, it should use this opportunity to invest in broadband access throughout EJ communities for an equitable tax program. Additionally, tracking tax incentives for businesses in EJ

¹⁵ See Eric Niiler, *How ‘Green’ Are Wood Pellets as a Fuel Source?*, WIRED (Feb. 18, 2021, 8:00 AM), <https://www.wired.com/story/how-green-are-wood-pellets-as-a-fuel-source/> (providing an overview of many lawsuits against and issues with wood pellet manufacturing as a green energy source).

¹⁶ Melba Newsome, *Turning Hog Waste Into Biogas: Green Solution or Greenwashing?*, YALE ENV’T 360 (Sept. 9, 2021), <https://e360.yale.edu/features/turning-hog-waste-into-biogas-green-solution-or-greenwashing>.

¹⁷ *Id.*

¹⁸ See, e.g., Press Office, *USDA Announces \$43 Million Investment to Advance Innovation in Wood Products and Wood Energy Economies through Investing in America Agenda*, USDA (June 9, 2023), <https://www.fs.usda.gov/news/releases/usda-announces-43-million-investment-advance-innovation-in-wood-products>.

¹⁹ Justin Catanoso, *Whistleblower: Enviva claim of ‘being good for the planet...all nonsense’*, MONGABAY (Dec. 5, 2022), <https://news.mongabay.com/2022/12/envivas-biomass-lies-whistleblower-account/>.

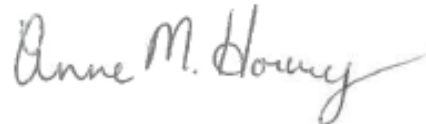
²⁰ See, e.g., *Economic Incentives Report*, N.C. DEP’T OF REVENUE, <https://www.ncdor.gov/2023-economic-incentives-report> (last visited Apr. 22, 2024).

communities will provide for meaningful changes in EJ communities. We invite any further discussion regarding these goals, and we hope the Department will take these alternate goals into consideration.

Sincerely,

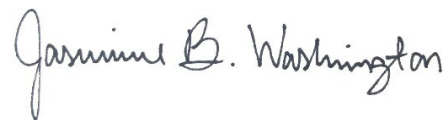
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James Huey
Counsel for Environmental Justice
james@scsj.org

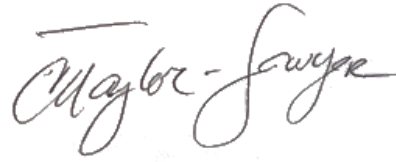
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Anne Harvey
Chief Counsel for Environmental Justice
anne@scsj.org

SOUTHERN COALITION FOR SOCIAL JUSTICE
P.O. Box 51280
Durham, NC 27727
919-323-3380

A handwritten signature in black ink, appearing to read "Jasmine B. Washington". The signature is written in a cursive style with a long, sweeping tail.

Jasmine Washington
Associate Attorney
jwashington@selcnc.org



Chandra Taylor-Sawyer
Senior Attorney
ctaylor@selcnc.org

SOUTHERN ENVIRONMENTAL LAW CENTER
601 W. Rosemary Street, Suite 220
Chapel Hill, NC 27516
919-967-1450

cc (via e-mail):

Mckinley Wooten
mckinley.wooten@ncdor.gov

Dr. James Johnson
johnsonj@kenan-flagler.unc.edu

Jennifer Mundt
Jennifer.Mundt@commerce.nc.gov

Cara Bridges
Cara.Bridges@ncdps.gov

Demico Guy
deguy07@gmail.com

Justin Flores
Jffloc@gmail.com

On Behalf of:

George Jones
Executive Director
Partners for Environmental Justice

Omega and Brenda Wilson
Co-Founders/Directors
West End Revitalization Association

Dr. Crystal Cavalier
CEO
Seth Harris
Programs Director
7 Directions of Service

Danielle Koonce

Yesenia Cuello
Executive Director
NC FIELD, Inc.

Hannah Connor
Environmental Health Deputy Director
Center for Biological Diversity

Rania Masri
Co-Director
North Carolina Environmental Justice
Network

Scott Schang
Director
Wake Forest Environmental Law and
Policy Clinic

Jefferson Currie II
Lumber Riverkeeper
Winyah Rivers Alliance

Grace Fitzgerald
Community Project Manager
McDowell Local Food Advisory Council

Lindsay Savelli
Program Manager
UNC Environmental Justice Action
Research Clinic

Vicki Lee Parker-High
Executive Director
North Carolina Sustainable Business
Council

Erin Carey
Acting Director
NC Sierra Club

Jeff Robins
Executive Director
CleanAIRE NC

Kendall Wimberley
Policy Advocate
Toxic Free NC

Khrystle Bullock-Sam
Working Group Member
NC Black and Green Network

Caroline Armijo
Director
The Lilies Project

Deborah Maxwell
President
North Carolina NAACP

Jaelyn Miller
Staff Attorney
Emancipate NC

Adam Colette
Programs Director
Dogwood Alliance

James Smith
President
Duplin County Branch of NAACP

Will Hendrick
Environmental Justice Director
North Carolina Conservation Network

Christopher Taylor
Equitable & Economic Engagement
Coordinator
Neighbors for Better Neighborhoods

Denise Robinson
Deputy Executive Director
Environmental Justice Community
Action Network

Bobby Jones
President
Down East Coal Ash Environmental and
Social Justice Coalition