

CJWG Meeting Notes

WebEx - 11.17.21

Meeting Commence 12:00pm

Disclaimer: This is a summary, not a word for word translation

Agenda:

- A. Introductions
- B. Barriers & Opportunities Study input (30 minutes)
- C. DAC Criteria Legislative Review
- D. DAC Criteria:
 - o Progress from October 19 meeting
 - o Developing rules for DAC definition
- E. DAC Criteria: Preparing to Vote
 - o What would you like to see/review before a vote?
 - o Schedule

A)Introductions:

- Alanah Keddell-Tuckey, acting EJ Director/Public Outreach Specialist, DEC, Office of Environmental Justice
- Sonal Jessel, Policy and Advocacy Coordinator, WEACTION for Environmental Justice
- Eddie Bautista, Executive Director, NYC Environmental Justice Alliance
- Elizabeth Yeampierre, Executive Director, UPROSE
- Rahwa Ghirmatzion, Executive Director, PUSH Buffalo
- Lisa Covert, General Counsel, DEC
- Elizabeth Cooper, Executive Director of (ANCA) Adirondack North Country Association
- Chris Coll, Director of Energy Affordability and Equity Program, NYSERDA
- Neil Muscatiello, Director of the Bureau of Environmental and Occupational Epidemiology, Center for Environmental Health, DOH
- Joe McNearney, Director of Stakeholder Engagement, DOL
- Alex Dunn – Illume Advising, Consultant
- Amanda Dwelley – Illume Advising, Consultant
- Abigail McHugh-Grifa, Executive Director for Climate Solutions Accelerator
- Sameer Ranade, Climate Justice Advisor with Climate Action Council
- Donathan Brown, Assistant Provost and AVP for Faculty Diversity and Recruitment at the Rochester Institute of Technology
- Amy Klein, Chief Executive Officer, Capital Roots
- Jared Snyder, Deputy Commissioner of Climate, Air and Energy, DEC

B) Barriers & Opportunities Study input (30 minutes):

- Needs to be submitted by Jan.1,2022. Its purpose is to feed into the draft scoping plan by functioning as an implementation guide.
- After the Barriers report is released, we will immediately begin phase 2 where Sameer will visit the recommendations with every relevant program team and consult with the CJWG again.

- The final version of this will be merged into the scoping plan which will provide the policy substance. With that we can reach every community with the benefits.
 - ❖ **As of today, goal is to complete draft by Dec 3,2021.**
 - ❖ What does the CJWG want to see emphasized in the report especially with principles, recommendations, and guidelines?
 - ❖ Review of Draft barriers framework slide

Sonal: Does there need to be an acknowledgement of displacement or forced migration? How does that impact who is investing in which buildings and where?

Amanda: Thank you. Displacement and forced migration are being discussed. We've heard this concern from focus groups. We want to flag this in the recommendations and opportunities and reflect it here. Is there anything else missing anyone sees?

Eddie: He is not seeing a barrier. Procurement policies have not been updated in some cases in decades. This is an issue.

Sameer: Please elaborate Eddie on what type of procurement.

Eddie: Grants. UPROSE do you want to speak to the EJ grant problem/issue? I was thinking of the Green cemetery getting a \$50,000 EJ grant.

Elizabeth: Yes, we were really shocked that the cemetery received the grant to do EJ work. This was a classic example.

Eddie: That's an example of a procurement that's a slightly different model. That's an example of a program designed for EJ community-based organizations. The decision to grant money earmarked for EJ to a cemetery instead raises questions about the procurement policies.

Elizabeth: Brownfield is a great example of how an EJ community could get earmarked resources so they could be involved in community-based planning and brownfield remediation.

Rahwa: Has there been any conversation about how to integrate these concerns? How do you integrate community ownership into electrification?

Amanda: What type of community ownership would you like to see?

Rahwa: For me we want to be able to own systems within our front-line communities. We need time to train the workforce that would do that.

Amanda: Sameer to what extent does the scoping plan capture some of those ideas?

Sameer: Don't know the answer off the top of his head. We will see a draft of the scoping plan hopefully by end of 2021, early January 2022.

❖ Amanda discusses Draft principles and opportunities framework slide

Discussion:

Illume: How can we support grass roots organizations and municipal governments in finding both human and financial resources?

Elizabeth: If we separate organizations from community, you're not going to get that kind of meaningful engagement.

Abby: What jumps out to her is that most of them are outcomes of systemic racism and white supremacy culture. Was there an intention to not go there? What does this mean in terms of leveling the playing field?

Amanda: We think there will be a separate section in the report to address that.

Eddie: Elizabeth can you speak on how the role CONED plays can be a barrier?

Elizabeth: Summer from our office can share specific information on that. Basically, CONED was a huge obstacle. Getting predevelopment cost was easier than navigating CONED's challenges.

Amanda: We would love to see anything you or Summer can provide on that. We will review notes from this discussion and members are welcome to email Sameer their thoughts.

Alanah:

- ❖ Presented the definition for DACS and the purpose for establishing the criteria for disadvantaged communities.
- ❖ Went over the 40% benefits goal being the minimum with 60% of funding available for communities that don't fall under DACS.
- ❖ We're working on something to present to the public that is easily digestible.

Eddie: Direct investments vs benefits? Where is that in the agency calculus?

Chris: At the agency level we are aligning around looking at investments as the primary benefit metric we count. We want to make sure we account for other impacts/cobenefits. We are looking at our next CJWG to discuss where we are as a state on this topic.

Eddie: Thanks Chris. I hope NYSERDA is seeing themselves more so in the agency bucket mostly because NYSERDA is where most clean energy funding comes from.

Chris: Distinction lies between is it a clean energy or an energy efficiency investment. Our portfolio will be part of accounting.

C) DAC Criteria Legislative Review:

Overview of Legislature Criteria-Alanah

There was an issue if we could use the individual household criteria in the DAC definition. There was a question of legislative interpretation between DEC and NYSERDA. DEC's stance was that individual criteria could not be used. But we are fine with using individual criteria definition strictly for the purpose of determining the socio-economic criteria and benefits and investments language. There was some disagreement regarding the definition. We have come to an agreement and are ok to move forward.

Eddie: Brought up a recent DEC permitting decision in Sunset Park and asked if UPROSE would like to share. He is assuming these criteria apply to permitting decisions.

He's hearing the central debate between household, and nationwide can someone explain in layman's terms what is the disagreement? What can we as a working group do about it?

Elizabeth: This decision has a desperate impact in EJ communities. There is concern. It seems EC staff have not had training on how to apply CLCPA. (Elizabeth explained the situation in Sunset Park.)

Eddie: What he is hearing from UPROSE is the issue of why DEC did not apply CLCPA consideration to this permit is because CLCPA deals with GHG emissions reduction not co-pollutants which is clearly wrong. Not looking to pick on DEC. The scope of CLCPA is only now being understood by agencies. Eddie is seeing potential lawsuits. It seems like interpretation changes from agency to agency.

D) DAC Individual Criteria

Progress from October & Developing Rules for DACS

Elizabeth: If there is a training to provide consistency throughout state agencies, we want to see that. What does the guidance look like?

Alanah: DEC is still determining whether individual (household) criteria can be used for permitting. So, question is can an individual household be considered a DAC with regards to permitting.

Eddie: If co-pollutants are part of the law then they need to be part of DEC's permitting decision. Permitting is one discussion, individual criteria is another.

Jared: We take our obligations under CLCPA very seriously. That includes any impact on DACS in permitting decisions. I am not aware of the Sunset Park specific permit. Elizabeth can you share the name of the facility? I am happy to look into it. Sounds like there's some miscommunication there.

Eddie: I appreciate that Jared. Do DEC administrative law judges and permitting staff realize co-pollutants must be taken into account in permitting? It is not just GHG emissions.

Jared: Eddie that's why I want to understand what the facility is. I agree that the CLCPA is not limited to GHG emissions. There is actually a sentence that addresses co-pollutants. Let me go back and see what happened there. We fully understand the concern of disproportionate impacts is primarily the co-pollutants as opposed to the GHG emissions.

Elizabeth: Thanked Eddie for lifting this topic.

Jared: Thank you for that Elizabeth. It is unfortunate. From the top down we take this very seriously. It's important we have a definition for DACS that we can apply in permitting.

Alanah: We do have 9 regions and we are trying to make sure everyone is communicating on this issue. I apologize if there are other issues like what's happening in Sunset Park. We depend on our regional staff to make us aware of them. Please reach out to me directly if there are any other issues.

❖ Explanation of individual household criteria- Alanah

Abigail: Does our definition have to be restricted to geographic areas? What does this mean for rural communities?

Alex: The idea here is that the CJWG is the defining group to help with the definition. Individual criteria is one option to add to the criteria. That is ok for investments and benefits. In that sense yes individual criteria can be added to the regionally geographically based criteria. Chris and Alanah agree with Alex's summary.

Review of critical decisions slide:

- 44 indicators in approach
- Designate 35-40% of state
- Adding low-income households hoping to fill geographic definition gap
- Interactive approach
- Revisited framing principles

Framing principles from 9/29 meeting:

- Don't want to leave people behind
- Income is an important indicator of responding or adapting
- Want agencies to design and target efforts geographically
- Initial investments should go to hardest hit
- Consider who is least able to participate in transition to clean energy/economy
- Beware unintended consequences

Chris: At NYSERDA we have an annual budget around \$160-200 million for household initiatives. As a working group we need to look at the category of low energy assistance. This entails grants in the form of HEAP, utility bill credits etc. Total budget for NY state is around \$700-\$800 million/year. Statewide we're looking at nearly \$1 billion going to households each year.

Abby: Concerned money for individual households might go away.

Eddie: What is the current distribution of funding when it comes to all these buckets? Is funding for HEAP enough to reach everyone in NY who needs it?

- ❖ Conclusion from Illume: Not all LMI households can be covered by a geographic definition.

How to define low income and LMI

- Low income <60% state median income
- Moderate <80% median income
- ❖ Further presentation of slides by Illume

Discussion

Rahwa: If a household is in a DAC but not income qualifying will we be able to catch that?

Alex: I don't think there's a clear answer. Depends on how things are implemented.

Chris: Until we land on a final set of criteria it's hard to say what we are leaving out. There are implementation considerations.

Eddie: Is it possible to take these percentages of households across the state and show the racial breakup/composition? Studies show middle income African American communities face higher environmental burdens than lower income white communities.

Chris: If you go to NYSERDA we have an LMI tool (data from 2015). We did breakdown income, housing type, race and ethnicity, and geographic location. We can speak to Eddie's point after this call. This information is public.

Abigail: Chris, which programs would you see as relevant? -Chris explains.

E) DAC Criteria: Preparing to Vote

Recap of Key Question

- How is the working group feeling about individual criteria versus geographic criteria?
- How to define lower income for individual definition.

- If there are other layers, what percentage of state should be designated a geographic DAC?
- Feelings/Thoughts from group?
 - Rahwa: I like having both geographic and individual
 - Sonal: likes both
 - Abigail: likes both
 - Amy: likes both
 - Donathan: likes both
 - Eddie: Stuck on question of racial breakdown.

Abigail: When we say individual criteria, we are talking about household income level correct? -Yes

Alex: Should we tinker with anything?

Amy: To Alex I would take the 80% AMI off the table.

Chris: The majority of affordable housing goes up to 80% AMI. For our next meeting maybe I can pull something together.

Amanda: I believe 80% is the threshold for rental assistance programs in NY. Thus 80% needs to remain on the table.

E) Schedule

- Alanah will be sending out polls with dates from 11/30/21—12/17/2021.
- Main goal is to vote prior to 12/17/2021.
- Alanah will close the poll on 11/19/2021.
- Our goal is to pick two meetings. Last meeting will be the voting meeting.
- We need 100% participation for the December vote.
- If anyone would like to offer an alternative time please email Alanah.
- Confirmed, the December vote will be remote.
- FYI, we may need back-to-back meetings to avoid a January 2022 vote.
- Contact Illume if there are technical numbers anyone needs.

Meeting End 3:03pm