

**NEW YORK STATE CLIMATE JUSTICE WORKING GROUP**

**BYLAWS**

**I. TITLE AND STATUTORY AUTHORITY**

The Climate Justice Working Group is established pursuant to Article 75 Section 0111 of the Environmental Conservation Law.

**II. REPRESENTATIVES OF THE CLIMATE JUSTICE WORKING GROUP**

- (a) The Climate Justice Working Group (“Working Group”) shall consist of at least thirteen (13) voting representatives: representatives from environmental justice communities, the Department of Environmental Conservation (DEC), the Department of Health, New York State Energy Research and Development Authority, and the Department of Labor.
- (b) Environmental justice community representatives shall be representatives of communities of color, low-income communities, and communities bearing disproportionate pollution and climate change burdens, or shall be representatives of community-based organizations with experience and a history of advocacy on environmental justice issues, and shall include at least three representatives from New York city communities, three representatives from rural communities, and three representatives from upstate urban communities.
- (c) Any existing Working Group representative may provide recommendations to DEC for future candidates. Any environmental justice community representative in New York State may also express interest in future candidacy at any given time, and provide a resume for DEC’s consideration.
- (d) There shall also be one alternate member whose term shall be for three years. The alternate member is expected to attend all proceedings of the Working Group in-person but may deliberate or vote only when a quorum is not met.
- (e) Beginning on the date of these Bylaws, terms of the Working Group representatives shall be for three years. This does not apply to the DEC Director of the Office of Environmental Justice (DEC OEJ Director). Representatives may be considered for a subsequent term and are encouraged to continue participating until a successor is named.
- (f) Any environmental justice community representative may resign at any time by providing advance written notification to the DEC OEJ Director. If a representative resigns before the conclusion of the term, the representative is encouraged to continue participating until a successor becomes part of the Working Group.
- (g) Working Group representatives are expected to attend and actively participate in meetings. Failure to provide notification of absence to the DEC OEJ Director prior to the meetings or failure to attend 66% of meetings in any given year without an extraordinary circumstance may result in potential removal from the Working Group.
- (h) Any violation of these Bylaws or resolutions adopted by the Working Group by any Working Group representative may result in abstention from powers and duties, or removal from the Working Group.

**III. OFFICERS/LEGAL COUNSEL**

- (a) The DEC OEJ Director shall be responsible for presiding over the meetings of the Working Group and the administration of its affairs. The DEC OEJ Director may assign a delegate to facilitate meetings.
- (b) The DEC Office of General Counsel shall provide legal assistance to the Working Group collectively, through coordination with the DEC OEJ Director, and not to any individual representative thereof, except as otherwise noted in these bylaws for questions concerning conflicts of interests or gifts, in which case individual outreach may occur.

#### **IV. POWERS AND DUTIES**

- (a) The Working Group shall have the powers and duties set forth in Section 0111 of Article 75 of the Environmental Conservation Law, including but not limited to the power to establish criteria to identify disadvantaged communities for the purposes of co-pollutant reductions, greenhouse gas emissions reductions, regulatory impact statements, and the allocation of investments related to Article 75 of the Environmental Conservation Law. In addition, the Working Group has the duty to meet no less than annually to review the criteria and methods used to identify disadvantaged communities and may modify such methods to incorporate new data and scientific findings. The Working Group shall also review identities of disadvantaged communities and modify such identities as needed.
- (b) Each representative of the Working Group is allowed one vote for purposes of approving any official Working Group action.
- (c) The Working Group may also have consultation or advisory duties as set forth in the Climate Leadership and Community Protection Act or other legislation.

#### **V. MEETINGS**

- (a) Meetings of the Working Group shall be called by the DEC OEJ Director.
- (b) Whenever possible, the DEC OEJ Director shall provide the Working Group with written notice at least ten (10) days prior to each meeting of the time, place, and purpose of such meeting. Such notice shall be accompanied, if practicable, by such background information as the DEC OEJ Director determines may be necessary for fulsome discussion at the meeting.
- (c) The DEC OEJ Director shall furnish public notice of all meetings in accordance with the requirements of Article 7 of the Public Officers Law. Meetings of the Working Group shall be open to the public pursuant to the provisions of such law.
- (d) A quorum of the Working Group shall be equal to a majority of the whole number of voting representatives of the Climate Justice Working Group. No action which requires a vote may be taken by the Working Group without a quorum present, as outlined in Section V(g)-(v) below.
- (e) The DEC OEJ Director shall provide for the keeping of minutes of the proceedings of the Working Group and for the preservation of documentary records pertaining to the actions and proceedings of the Working Group, which may be performed by the DEC OEJ Director's designee.
- (f) All official decisions or actions by the Working Group shall require an affirmative vote of a quorum of representatives of the Working Group.
- (g) In compliance with Public Officers Law (POL) § 103-a(2)(a), the Working Group, following a public hearing, authorized by resolution on October 20, 2022, the use of videoconferencing as described in POL § 103-a.
- (h) The following procedures are hereby established to satisfy the requirement of POL § 103-a(2)(b) that any public body which in its discretion wishes to permit its representatives to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance.

- (i) Working Group representatives shall be physically present at any meeting of the Working Group unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
- (j) For purposes of these procedures, the term “extraordinary circumstances” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the representative’s physical attendance at such meeting.
- (k) If a representative is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the representative must notify the DEC OEJ Director no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given. If extraordinary circumstances present themselves on an emergent basis within four days of a meeting, the Working Group shall update its notice as soon as practicable to include that information. If it is not practicable for the Working Group to update its notice, the Working Group may reschedule its meeting.
- (l) Any representative who has a disability as defined in section two hundred ninety-two of the Executive Law, where such disability renders such representative unable to participate in-person at any such meeting location where the public can attend, shall be considered present for purposes of fulfilling the quorum requirements for the Working Group at any meetings conducted through videoconferencing pursuant to POL § 103-a, provided, however, that the remaining criteria set forth in POL § 103-a are otherwise met; and provided, further, that the Working Group maintains at least one physical location where the public can attend such meeting.
- (m) If a representative is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to a disability, the representative must notify the DEC OEJ Director, and provide confirmation of the disability, no later than four business days prior to the scheduled meeting.
- (n) If there is a quorum of representatives participating at a physical location(s) open to the public, in compliance with Section V(l)-(m) above, the Working Group may properly convene a meeting. A representative who is participating from a remote location that is not open to in-person physical attendance by the public, with the exception of representatives with a disability, as outlined in Section V(l)-(m) above, shall not count toward a quorum of the Working Group but may participate and vote if there is a quorum of representatives at a physical location(s) open to the public.
- (o) Except in the case of executive sessions conducted pursuant to POL § 105, the Working Group shall ensure that its representatives can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. This shall include the use of first and last name placards physically placed in front of the representatives or, for representatives participating by videoconferencing from private locations due to extraordinary circumstances, such representatives must ensure that their full first and last name appears on their videoconferencing screen.
- (p) The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL § 103-a shall include which, if any, representatives participated by videoconferencing from a private location due to such extraordinary circumstances.
- (q) The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will (or may) be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.
- (r) The Working Group shall provide that each open portion of any meeting conducted using

extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the Working Group website within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.

- (s) If representatives of the Working Group are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the Working Group shall provide the opportunity for representatives of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The Working Group shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.
- (t) Open meetings of the Working Group conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall be broadcast pursuant to the requirements of POL § 103(f) and shall utilize technology to permit access by representatives of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, “disability” shall have the meaning defined in Executive Law § 292.
- (u) The in-person participation requirements of POL § 103-a(2)(c) shall not apply during a state disaster emergency declared by the governor pursuant to Executive Law § 28 or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to § 24 of the Executive Law if the Working Group determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the New York State Climate Justice Working Group to hold an in-person meeting.
- (v) These procedures shall be conspicuously posted on the Working Group website at <https://climate.ny.gov/Our-Climate-Act/Climate-Justice-Working-Group>.

## **VI. TREATMENT OF CONFIDENTIAL INFORMATION**

- (a) Confidential Information received by a representative by virtue of a representative’s position on the Working Group shall not be used for their personal benefit or for the benefit of any other person or organization outside of the Working Group, or to further their own personal advantage or financial interests or the financial interests of other entities or persons.
- (b) These confidentiality provisions shall apply to all Working Group representatives.
- (c) “Confidential Information” means confidential or proprietary information obtained as a result of participation as a representative of the Working Group that has been submitted to the Working Group by a commercial enterprise or derived from information obtained from a commercial enterprise and which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise, or information in which the Working Group was notified was confidential for other reasons not listed above.
- (d) All Confidential Information will be clearly identified and treated by the representatives in accordance with VI(f).
- (e) Confidential Information shall not include information that (i) has been or becomes publicly available; (ii) was previously known to the representative; (iii) is independently developed by the representative; (iv) is received from a third party who, to the knowledge of the representative, is entitled to disclose it; or (v) is disclosed by the representative with the owner of the confidential information’s prior written approval.
- (f) The representative shall protect and not disclose the Confidential Information of the Working Group, except that the representative may disclose Confidential Information to its employees,

so long as those employees have a need to review the information and are legally obligated to honor the confidentiality provisions herein.

## **VII. CONFLICTS OF INTEREST; GIFTS**

- (a) A “Conflict of Interest” includes any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of their duties in the public interest. A Conflict of Interest is not deemed to arise merely by virtue of a representative of the Working Group participating in activities or deliberations in the course of duties and in so doing providing advice from the perspective of the organization or entity to which the representative is affiliated. A Conflict of Interest may arise, however, when a representative of the Working Group or an entity to which such representative is affiliated, executes, or responds to a solicitation for, a contract for services in support of the work of the Working Group, whether it is with respect to a procurement by the Working Group, or one of its affiliated agencies.
- (b) These Conflict of Interest provisions shall apply to all Working Group representatives.
- (c) In the event any such representative believes, or has a question with respect to whether, a Conflict of Interest exists, the representative has a duty to disclose the potential Conflict of Interest to the DEC Office of General Counsel’s Ethics Counsel. The DEC Ethics Counsel will work with the representative to determine whether a Conflict of Interest does in fact exist, and if so, to mitigate or eliminate, most likely through a recusal framework, the Conflict of Interest.
- (d) Working Group representatives shall not accept gifts or anything of value where (a) it could reasonably be inferred that it is a gift intended to influence the representative in the performance of his or her Working Group duties; or (b) was given as a sign of appreciation for Working Group service. It is advised that a representative seek guidance from the DEC Ethics Counsel to determine the appropriate course of action in a particular circumstance.

## **VIII. AMENDMENTS**

- (a) These rules of procedure may be amended by resolution put forward by any representative of the Working Group and adopted by an affirmative vote of the Working Group.