

SECRETARY'S ENVIRONMENTAL JUSTICE AND EQUITY ADVISORY BOARD



INTERNAL OPERATING PROCEDURES

ARTICLE I.

Authority and Purpose

These operating procedures are adopted pursuant to the authority established in the Charter that created the North Carolina Department of Environmental Quality ("Department" or "DEQ") Secretary's Environmental Justice and Equity Advisory Board ("The Board") on May 2, 2018. The purpose of The Board is to fulfill the functions set out in Section II in the Charter (which is included as Appendix A of these Internal Operating Procedures).

In fulfilling its purpose, The Board shall:

1. Assist the Department in achieving the fair and equal treatment and meaningful involvement of North Carolinians regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations, and policies.
2. Advise the Department on the interests of Native American Indian Tribes as well as vulnerable, at-risk North Carolinians who face language barriers and disabilities.
3. Advise the Secretary on the consistent implementation of fair treatment and meaningful involvement of North Carolina citizens across the Department regarding new and ongoing complex permits, ongoing and proposed innovation, ongoing and future mitigation of contaminant exposures to human health and the environment, and other items deemed important by the Department.
4. Advise the Secretary on the integration of environmental justice and equity considerations into Departmental programs, policies and activities to mitigate the environmental or public health impacts in communities disproportionately burdened by environmental harms.

ARTICLE II.

Membership

Section 1. Members. - The Board shall be comprised of a minimum of 17 voting members.

Section 2. Appointment and Criteria. - Members of the Board shall be appointed by and serve at the pleasure of the Secretary. The members appointed by the Secretary shall include, but not be limited to representatives of academic institutions, environmental organizations, community organizations, and Native American Indian Tribes (see Section I of the Charter).

Section 3. Board Officers. - The Secretary shall designate one member as the Chair, and two members as Vice-Chairs to lead the work of The Board and preside over its meetings. One Vice-Chair will be responsible for facilitating the Board's internal communications. The other Vice-Chair will be responsible for coordinating the work of the Subcommittees and serving as presiding officer in the event of the Chair's absence.

Section 4. Filling Vacancies and Reappointment. - In the event of a vacancy, the Secretary shall fill the vacancy with an appointee who meets the criteria for the member who vacated his or her membership. The Secretary may reappoint any member at the Secretary's discretion. Members shall serve for a term of two years.

ARTICLE III.

Meetings

Section 1. Frequency. - The Board shall meet a minimum of four times per year by call of the Secretary. On the advice of the Chair, the Secretary shall determine the time, location, and goals for each meeting considering the action items and issues to be presented. The Board shall meet quarterly on the fourth Monday of the month. The meetings will be held during February, May, August and November. If the fourth Monday falls on a holiday, then the Board will vote (Article XIV) on whether to move that meeting forward or back by one week. DEQ staff will provide the meeting dates for the coming year before the start of every calendar year.

Section 2. Quorum. - A quorum is defined as a majority of duly appointed members of the Board, which must be present to convene a Board meeting.

Section 3. Special Meetings. - The Chair or the Vice-Chairs of the Board may call a special meeting or work session at their discretion. A member of the Board may request a call for a special meeting or work session by the Chair or Vice-Chairs, which must be either approved or denied within five business days. Members are advised to include DEQ staff on all communications in conjunction with these requests. Timely advance notice of all special meetings must be provided to all members of The Board member and DEQ staff. Notice to the public regarding special meetings and work sessions shall be given in accordance with N.C.G.S. § 143-318.12(b).

Section 4. Notice.

- A. In accordance with N.C.G.S. § 143-318.12, information concerning Board meetings shall be: posted on The Board's website, which is maintained on the DEQ Environmental Justice Web page: <https://deq.nc.gov/outreach-education/environmental-justice>; posted on the Secretary of State's Public Meetings Calendar, and emailed to the most up-to-date DEQ Environmental Justice stakeholder listserv.
- B. In accordance with the General Statutes of North Carolina, the Division of Public Affairs in DEQ, shall be responsible for the timely issuance of any applicable notices to those parties upon whom the right of legal notice of Board meetings, decisions, and official action is conferred.
- C. The Board may adopt special notice procedures, in addition to those expressed in this Section, as it deems necessary, provided those special notice procedures conform with the requirements of the General Statutes.

Section 5. Member Participation. - Participation in quarterly, special, and emergency meetings will normally be conducted in-person at a location that can accommodate participation by Board members and key participants that allows for public attendance. Department staff will make reasonable efforts to allow for meeting participation via telephone connection. Where telephonic participation or telephonic monitoring by the public is possible, these accommodations will be made known in the notice that is distributed for the meeting. Board members who participate in a meeting via telephone will be extended the same authority and privileges as if they were physically present at the site of the meeting.

Section 6. Proceedings Open to the Public. - All Board meetings shall be made open to the public; provided, the Board may hold closed sessions as provided by N.C.G.S. § 143-318.11.

Section 7. Standard Order of Business. - The Board adopts the following Standard Order of Business; provided that for any given meeting, the order of business may be altered by the Chair or Vice-Chairs at their discretion, or upon a properly made motion and majority vote to more efficiently carry out the Board's business or for public convenience.

A. Preliminary and Administrative Matters

1. Call to order by the Presiding Officer
2. Reading of the Ethics Reminder and Members' disclosure of known actual and potential conflicts of interest
3. Approval of previous meetings minutes
4. Revisions or additions to agenda

B. Action Items

1. Subcommittee and other status reports

C. Adjournment

D. Public comment

During Daylight Savings months, and at the Presiding Officer's discretion, the public comment period may be moved to later hours in the day to allow for more participation from community members who work during standard 9am to 5pm business hours.

Section 8. Presiding Officer. - In the Chair's absence, the appointed Vice-Chair shall preside over the meeting. In the absence of both the Chair and Vice-Chairs, the DEQ staff member appointed to the Board pursuant to Section III (2) of the Charter will preside over the meeting.

ARTICLE IV.

Records Retention

Minutes and other records of all Board meetings will be retained by the Department's Title VI and EJ Coordinator and posted on the Board's website. For each meeting, minutes will be drafted by DEQ staff and will include summaries of the events, presentations, and conversations from the meeting. All meeting documentation will be maintained according to the retention schedule approved by the Assistant Secretary of the Environment.

ARTICLE V.

Public Comment

Section 1. Overview. - Comments are welcome at any time from members of the public. The Board encourages the public to follow these procedures to submit comments:

- A. Email: Send by email comments to Board members' DEQ email address (FirstName.Last Name@ncdenr.gov), and copy the Title VI Coordinator and other Title VI and EJ DEQ staff (ej@ncdenr.gov) on the message. If the email is sent to a Board member who is not an Officer of the Board, then DEQ staff will be responsible for forwarding the comment received to either the full Board or the Board Officers, using their best judgement and considering the sensitivity and timeliness of the subject.
- B. At meetings/In-person: The public is welcome to provide comments at all Board meetings at the prescribed time on the agenda (see Article III, Section 7, E) and may be done orally, either in-

person or by use of pre-recorded digital files, or in written format to the Chair or Vice-Chairs. Written comments are requested to support any oral comments provided, but not required. Members of the public may sign up to present oral comments at each meeting. Unless otherwise specified by the presiding officer, three minutes will be allotted for each individual to comment.

Section 2. Documentation and Response. - Within two weeks of each meeting, DEQ staff will compile all public comments received during the quarterly meeting and provide the compiled comments to the Chair and Vice-Chairs. NC DEQ staff will send public comment thank you letters on behalf of the Chair within this two-week timeframe. It is in the Chair and Vice-Chairs' discretion to determine whether to respond to the commenter directly, direct the comment to a Subcommittee for review, or take other action as appropriate.

ARTICLE VI.

Additions to Agenda

Section 1. General. - Members shall request a discussion item to be added to the agenda at least one month prior to the scheduled Board meeting. Requests will be sent to the Chair, Vice-chairs, and DEQ staff.

Section 2. Late Breakers. - Late Breakers are defined as unanticipated, yet Board-relevant events that occur between the one-month deadline for quarterly meeting agenda development and the date of the scheduled Board meeting.

- A. **Criteria.** The subject of the Late Breaker is unforeseen, unanticipated, or an act-of-God event or circumstance that in and of itself necessitates immediate action by or the timely awareness and attention of the Board (e.g. hurricane, extreme weather events, new authorization or permit action pending DEQ, or the discovery of a new or emerging compound of concern, etc.).
- B. **Requesting a Late Breaker.** Any member of the Board may request the addition of a Late Breaker to the agenda for an upcoming via email to the Chair, Vice-Chairs, and DEQ staff that describes: (i) the nature of the event or circumstance; (ii) how it relates to the functions and duties of the Board; (iii) and the proposed format by which the Late Breaker will be presented at the Board meeting (e.g. oral presentation, PowerPoint, request for outside expert testimony, etc.).
- C. **Timing.** Notwithstanding the conditions set out above, the Chair and Vice-Chairs will not consider requests for the addition of Late Breakers to a meeting agenda within 48 hours of the scheduled meeting date.
- D. **Addition to Agenda.** If, in the Chair and Vice-Chairs' discretion, a Late Breaker is added to the agenda for an upcoming meeting, the presiding officer shall: (i) announce the addition of the Late Breaking item during the presentation of Preliminary and Administrative Matters at the convening of the meeting and (ii) identify when on the agenda and for how long the Late Breaker will be discussed.
- E. **Alternatives.** If, in the Chair and Vice-Chairs' discretion, the request to add a Late Breaker to an upcoming agenda is denied, the Officers shall provide an alternative venue for the discussion, debate, or deliberation of the topic. Such alternatives may include: (i) directing the subject-relevant subcommittee to convene a meeting on the topic; (ii) adding the item to the subsequent quarterly meeting agenda; (iii) requesting additional information from DEQ staff and other outside experts; and (iv) any other alternative airing of the Officers' choosing.

Section 3. Public Additions. - Members of the public may submit, through any Board member, a request to bring a matter to the attention of the Board. The member of the Board shall bring the request to the Chair. The Chair is then responsible for evaluating all such public requests for consideration by the Board based on their appropriateness, timeliness, and the ability of the Board to evaluate the proposed item of business.

ARTICLE VII.

Subcommittees

Section 1. Creation. - A minimum of three subcommittees shall be established to discuss discrete matters in a smaller group setting. The subcommittee topic areas will be determined through consultation with DEQ to ensure relevant and important issues are addressed and advised. Furthermore, it is the intent of the Officers to use the subcommittees to effectively organize the Board's work that leverages the substantial knowledge, expertise, practical experiences, and community connections that exist in the Board collectively. At every November meeting, the Chair shall call a vote to determine if any existing subcommittee should be re-assigned to address a different topic area. At the time of adoption of these operating procedures, the subcommittees are (Appendix B):

1. Building Climate-Resilient Communities
2. Health/Cumulative Impacts, Environmental Regulation, and Public Engagement
3. Clean and Equitable Energy Transition
4. Economic Justice

Section 2. Membership. - The Chair and Vice-chairs of the Board shall appoint Board members to each subcommittee based upon a members' stated interest in the topic. In addition, the Chair and Vice-Chairs shall designate one of the appointed members as the Subcommittee Chair. Members shall serve indefinitely on their assigned subcommittees until such time as the work of the subcommittee is completed, the member is reassigned to another subcommittee, or their successors are chosen.

Section 3. Powers and Duties.

- A. Subcommittees may adopt, at their discretion, any internal operating procedures necessary for the discharge of their business; provided, no procedures adopted by any subcommittee shall be inconsistent with these procedures or any other rules adopted by the Board at-large, or with any statutes applicable to the Board.
- B. The Chair of each subcommittee shall report on the work of the subcommittee and shall make any majority recommendations of the subcommittee.
- C. The Chair of each subcommittee shall prepare updates, conduct research of new topics to bring to the attention of the Board, and express their opinions and recommendations. These **shall** be done in the form of a written overview and verbal update that the chair of each subcommittee will present at the following full board meeting. The subcommittee chair is responsible for passing along all decisions agreed upon by the subcommittee to the Board officers or the Board at-large. Subcommittee chairs shall adhere to the timeline guidance for submittal of items to the agenda as provided in Article VI.
- D. Goals, objectives, tactics, and key performance indicators and metrics will be developed for each subcommittee and will be reviewed annually by DEQ staff in consultation with the subcommittee chairs.

Section 4. Meetings. - Subcommittees shall meet at least once during the three months between quarterly Board meetings. DEQ staff are available to assist subcommittee chairs in meeting the requirements for meeting notices as provided in Article IV of these procedures.

Section 5. Miscellaneous. - At the Chair's discretion, new issue-specific subcommittees may be created as necessary to fulfill the duties of the Board or requests of the Secretary.

ARTICLE VIII.
Official Actions

Section 1. Overview. - As stated in Section II of the Board's Charter, the Board shall advise the Secretary

of DEQ on matters requested by DEQ or any topics deemed important at that time by the Board Chair or Vice-Chairs. Such advice may be provided to the Secretary at any time, as deemed appropriate by the Chair and approved majority vote of the Board.

Section 2. Majority Rule. - Official Board actions must be motioned by and voted on by the Board and receive a majority consensus (agreed upon by over ½ of the Board members present at the meeting).

Section 3. Advice to the Secretary of DEQ. - Official advice provided to the Secretary of DEQ may be made in the form of written reports, formal letters, electronic media (videos, audio recordings, etc.) or any other format deemed appropriate by the Board, as approved by majority consensus. The Board will only consider motions for advice that are based on scientific evidence and contain data from reputable or peer-reviewed sources which are footnoted with electronic links to the evidence used to support the position or advice provided.

A. Process for Preparing Advice to the Secretary.

1. The Advisory Board will review, evaluate, and comment on any proposed advice document received that meets the criteria outlined above.
2. In the event members of the Board disagree with the tenor, scope, and/or content of a proposed advice document, the Chair and Vice-Chairs shall lead the Board towards resolution of the matter in a manner that is consistent with the mission and goals that established of the Advisory Board.
3. The Officers will share the proposed advice documents with expert DEQ staff for review, evaluation, and feedback. The purpose of this step is to ensure that the position and recommendations of the Board are consistent with and supported by the underlying science.
4. The Board Officers together with the primary author/s of the proposed advice document will review the feedback received from DEQ staff and revise the advice document accordingly, as necessary.

B. Preparation and Submittal of Dissenting or Minority Reports. Despite the adoption by the Board majority of a resolved advice statement as described in subsection A of this section, a member or group of Board members may prepare and submit a dissenting or minority report that states the member or member's position as it differs from the advice statement approved by the Board majority. All dissenting or minority reports shall be read into the record by a sponsoring Board member, recorded, and included, in full, in the meeting minutes.

Section 4. Need for Additional Information. - If the Board or a Subcommittee drafting the action item does not feel they have a complete picture, understanding of the subject matter, or specific details pertinent to the action item, officers of the Board or Subcommittee chairs may request a presentation on the issue from DEQ. DEQ may provide presentations and other materials at times between meetings depending on the timeframe or urgency of the issue at hand (permit approval deadlines, new and emerging topics of concern, hurricane season, etc.). Presentations may occur either in-person or online.

Section 5. Type of Official Action. - Official actions of the Board may include:

- A. Approval of past meeting minutes
- B. Additions to agenda
- C. Advice to the Secretary of DEQ
- D. Creation of new subcommittees or dissolution of existing subcommittees

Section 6. Timeline. - All Official actions will be reviewed by the DEQ Secretary within 5 business days of

receipt. It is in the Secretary's discretion regarding what action, if any, will be taken.

ARTICLE IX.
Conflicts of Interest

Section 1. Members' Duty. - Members of the Board are responsible for protecting themselves against actual and potential conflicts in the discharge of their duties.

- A. Actual Conflict of Interest: In circumstances involving an actual conflict of interest, the member must immediately discontinue their involvement in the matter, including relevant discussions of the matter with other Board members or staff to the Board. Members who excuse themselves for actual conflict of interest must provide a written or oral statement to the Board Chair, which will be included in the minutes of the Board.

- B. Potential Conflict of Interest: Members recusing themselves for a potential conflict of interest should make a statement, either verbal or written, regarding the potential conflict, which statement will be recorded in the meeting minutes. Unless a member with a potential conflict of interest places it in the public record, the member must withdraw from further participation in the matter. When a member withdraws from a matter due to a potential conflict of interest, no further explanation is required. In the event the potential conflict of interest is disclosed in writing, the presiding officer shall read the disclosure publicly before deliberation or discussion of the matter begins. A member with a potential conflict of interest who decides to participate in the pending matter must disclose the potential conflict of interest in the meeting when the agenda item is called, the nature of the members' potential conflict of interest, and their reason why it does not cause them to withdraw from further participation in the matter.

Section 2. Presiding Officer. - In the event the Chair excuses or recuses themselves from participation in any item before the Board for an actual, potential, or perceived conflict of interest, a Vice-Chair shall serve as presiding officer for that item.

Section 3. Return to the Board. - Any board member who removes themselves from the discussion the result of declared conflict of interest, may return to the Board discussion once the discussion of the topic of interest is completed.

ARTICLE X.
Attendance

The regular attendance at quarterly Board meetings is a duty of each appointed member. Members shall make every effort to communicate their anticipated absence or attendance at meetings to DEQ staff. If attendance plans change, members shall notify DEQ staff within 48 hours of the meeting, or as soon as a conflict arises, whichever applies.

ARTICLE XI.
Voting

Section 1. Authorized to Vote. - Except as otherwise provided by other Articles of these Procedures, all Board members shall be entitled to make motions, second, and vote on all matters before the Board.

Section 2. Chairs' Discretion. - The Chair of the Board and the Chair of any subcommittee may choose to not vote on any issue before the body over which that Chair is presiding. If a tie vote occurs, the motion fails.

Section 3. Staff Responsibility. - DEQ staff will record and report the results of each vote called. The report of each vote taken by the Board will be included in the meeting minutes.

Section 4. Extraordinary Circumstances. - Motions to call the previous question or otherwise limit debate

shall be considered extraordinary measures and shall require the affirmative vote of $\frac{3}{4}$ of those members present and voting.

ARTICLE XII.

Members and Public Engagement

Section 1. Participation in external engagements. - As members of the Board are considered experts in their field of practice, it is recognized that there will be requests for Board members to commit to speaking engagements or other participation external to Board-sanctioned events. In the event of such invitations, it is up to the individual Board member to decide whether or not to accept such a request. If a Board member elects to participate, the Board member must disclose that they are not speaking or presenting on behalf of the Board on any matters that have not been voted on and reported as official actions of the Board (as those actions are defined in Article IX).

Section 2. Presentation Template. - DEQ staff have created and distributed to all Board members an overview presentation about the Board, its makeup, duties, and responsibilities to provide consistency for when members participate in speaking engagements about the Board. Additional support may be requested from DEQ if a Board member desires.

Section 3. DEQ Process for Outside Requests. - If a request for public engagement is received by DEQ as opposed to individual Board members, DEQ staff will forward the request to the Chair and Vice-chairs, who will determine the best fit for that request. The Board Officer will forward the request to the individual(s) who is identified as most appropriate for that subject matter or venue. If no specific individuals are identified, the Board Officer will forward the request to all members of the Board.

ARTICLE XIII.

Amendments

These procedures may be amended at any regular or special Board meeting by a majority consensus vote of all members, present or not; provided that a copy of the amendment is distributed by mail, electronically or otherwise, to each Board member at least seven days prior to the consideration of the amendment for adoption.

Effective Date: November 23, 2020



James Johnson, Chair