

ILLINOIS POLLUTION CONTROL BOARD  
September 18, 2025

|                                |   |                           |
|--------------------------------|---|---------------------------|
| IN THE MATTER OF:              | ) |                           |
|                                | ) |                           |
| BOARD CONSIDERATION OF         | ) | R 25-18                   |
| ENVIRONMENTAL JUSTICE IN BOARD | ) | (Rulemaking – Procedural) |
| PROCEEDINGS                    | ) |                           |

ORDER OF THE BOARD (by B.F. Currie)

On August 22, 2024, the Board opened this rulemaking to “explore the creation of a Board procedural rule that will provide guidance to the Board when considering environmental justice issues, including the selection of environmental justice screening tools for identifying areas of environmental justice concern, in its proceedings.” The Board received public comment from the Illinois Environmental Protection Agency and from the Office of the Illinois Attorney General that asked the Board hold open this docket for a period of time to account for the possibility that one of several environmental justice bills then under consideration by the General Assembly could become a law that would address issues at the heart of this rulemaking.

The Board agreed to hold open this rulemaking until August 22, 2025, and to review the status of those proposed bills by September 4, 2025. The five proposed bills were not adopted by the 104th General Assembly. 104th Gen. Assem., House Bills 1230, 1608, Senate Bills 1307, 1686, 1794, 2025 Sess. The Board has since received public comment from several participants in this rulemaking.

The Board appreciates the detailed proposal from the Office of the Illinois Attorney General addressing accessibility, as well as the comments received from Sierra Club, Earthjustice and the Environmental Law and Policy Center. Before the Board proceeds in this rulemaking, it has several legal, statutory, and budgetary questions that will be directed to the participants. The Board asks that participants file written responses to these questions by October 31, 2025.

While the Attorney General’s comment provides suggested amendments to the Board’s procedural rules on accessibility issues, Sierra Club, Earthjustice, and the Environmental Law and Policy Center requested guidance from the Board as to whether there are particular rules into which the Board would like to add environmental justice considerations. “In addition to the selection of environmental justice screening tools, are there particular types of standards that the Board believes will be helpful to it in considering environmental justice?” PC 3 at 1.

The Board continues to believe the issue of enhancing environmental justice considerations is vital to the State of Illinois. In the sub-docket the Board opened to investigate four issues that arose in the coal combustion residuals rulemaking, several environmental groups provided the Board robust information on (1) what tools other states use for evaluating environmental justice areas, (2) suggestions on how to select indicator factors, and (3) revised definition of “areas of environmental justice concern”.

The Coal Ash Pollution Prevention Act – signed into law in 2019 – created a new section of the Act, 22.59. That new section directed IEPA to propose and the Board to adopt new rules on coal combustion residual (CCR) surface impoundments. 415 ILCS 5/22.59(a) (2024). The General Assembly found that:

Meaningful participation of State residents, especially vulnerable populations who may be affected by regulatory actions, is critical to ensure that environmental justice considerations are incorporated in the development of, decision-making related to, and implementation of environmental laws and rulemaking that protects and improves the well-being of communities in this State that bear disproportionate burdens imposed by environmental pollution. *Id.* at 22.59(a)(5).

Section 22.59 required that the Board’s rules “must, at a minimum” meet 11 criteria set by the General Assembly, including “specify a method to prioritize CCR surface impoundments required to close under RCRA if not otherwise specified by the United States Environmental Protection Agency, so that the CCR surface impoundments with the highest risk to public health and the environment, and areas of environmental justice concern are given first priority.” 415 ILCS 5/22.59(g)(9) (2024). IEPA proposed, and the Board adopted, new Section 845.700 which set the deadline by which owners and operators had to file closure or retrofit permits by February 1, 2022. Section 845.700(g) created a closure prioritization list which assigned surface impoundments into categories from 1 to 7, with 1 being the highest priority to close. Category 3 included CCR surface impoundments located in areas of environmental justice concern.

In the CCR surface impoundment rulemaking, the Board received testimony and discussed the environmental justice issues at length in its first and second notice orders and in its final adoption order. Owners and operators of Category 3 impoundments were required to submit either a construction permit application containing a final closure plan or a construction permit application to retrofit the CCR surface impoundment by February 1, 2022. Since that deadline had passed when the Board considered the proposals in the sub-docket, the Board declined to make any additions relating to environmental justice to Part 845 as the Board fulfilled the mandate from Section 22.59(g)(9) of the Act.

### **General Questions**

The Board opened this rulemaking to explore whether there are other parts of the Board rules that could benefit from the addition of evaluating environmental justice concerns. For example, can the Board add language to Part 813 landfills permitting requirements to ensure that the Illinois Environmental Protection Agency (IEPA) considers environmental justice factors when permitting landfills? Or can the Board include consideration of environmental justice factors in selection of corrective action objectives under Part 742 Tiered Approach to Corrective Action Objectives (TACO)? The Board asks the participants in this rulemaking to identify any specific rules where environmental justice considerations could be added. The Board also asks, generally, if participants believe a statutory mandate – similar to that found in Section 22.59 – would be necessary in order to add environmental justice considerations to specific Board regulations. For example, could the Board amend Section 103.502 to emphasize evaluation of environmental justice considerations when the Board makes civil penalty determinations?

## **Accessibility**

At the outset, the Board notes that it routinely provides language interpretation when requested by participants. For example, the Board provided Spanish language interpretation at the Clean Cars and Trucks rulemaking hearing, R24-17, during the public comment portion of the Coal Combustion Residual Surface Impoundment rulemaking, R20-19, and Korean language interpretation during the Drycleaner Environmental Response Trust Fund rulemaking, R21-19. The Board pays for the expense of these interpreters.

Additionally, the Board's established practice is to include the date, time, and location of all hearings in notices published in newspapers. Indeed, the Environmental Protection Act requires this (415 ILCS 5/28(a) (2024)) as do the Board's own procedural rules (35 Ill. Adm. Code 102.416). In addition, the Board's website, [pcb.illinois.gov](http://pcb.illinois.gov), lists all upcoming Board meeting dates under the "Clerks Office and COOL" tab. That section of the Board's website also shows all scheduled upcoming Board hearings and meetings. Any member of the public may view the scheduled date, time and location of a hearing or meeting by viewing the calendar on the Board's public website. The "Current Agendas" tab provides pdf copies of the current Board meeting agenda, any upcoming Closed Deliberative Session agenda, and any upcoming Brown Bag Lunch seminar agenda.

Finally, the Board notes that its website has a translation button on the home page that allows users to translate the contents of the website into six different languages: Spanish, Arabic, Mandarin, Polish, Tagalog, and Hindi.

## **Questions directed at the Attorney General and its Public Access Counselor**

1. Does the Public Access Counselor have any guidance for public bodies on the subject of allowing virtual public participation at meetings like the Board's bi-monthly meetings via videoconferencing or telephone in compliance with the Open Meetings Act?
2. Can the Public Access Counselor provide examples of other State agencies or public bodies who hold public meetings in compliance with the Open Meetings Act that also allow for virtual public comment?
3. Does the Public Access Counselor have any guidance for public bodies like the Board on the subject of offering interpretive language services for meetings held in compliance with the Open Meetings Act?
4. Does the Public Access Counselor suggest a preferred video conferencing platform like Webex, Zoom, or Microsoft Teams for allowing virtual public participation at meetings held in compliance with the Open Meetings Act?

### **Questions directed at IEPA**

5. The issue of environmental justice screening methodologies was raised in the R20-19 rulemaking and an IEPA witness testified at hearing as to the tools the agency uses. At that time, IEPA was using the EJ Start GIS screening tool, which relied on census block group or areas within one mile of a census block group with income below poverty and/or minority population greater than twice the statewide average to identify areas of environmental justice concern. Has IEPA updated its EJ Start tool since 2020 to include consideration of pollution burden on communities? If so, please describe how it has been updated. Has IEPA considered expanding the buffer zone used in EJ Start?

6. If EJ Start has not been updated, please comment on whether the Illinois Power Agency's (IPA's) screening tool, Illinois Solar for All, which uses both environmental and demographic indicators, could be used in conjunction with EJ Start to identify areas of environmental justice concern.

7. What is the current availability of USEPA's EJ Screen program and its data? Is the program available to the public to use? Does the availability of EJ Screen have any implication on the use of IPA's Illinois Solar for All?

8. Please comment on whether the Board's procedural rules should be amended to specify environmental justice tools that must be used if consideration of environmental justice factors are required by any Board regulations.

9. Section 103.504(b) of the Board's rules allows the Board to require civil penalty payments to be directed to the Environmental Protection Trust Fund "or other fund as specified by the Board." 35 Ill. Adm. Code 103.504. Does IEPA have any plans to create an environmental justice-specific fund or other mechanism to ensure affected communities receive a portion of collected civil penalties?

10. When assessing the impact of a facility's operations in an area of environmental justice concern, how does IEPA account for the cumulative effect of emissions from other pollution sources in that same area?

### **Questions directed at commenters / any other participant**

11. In order to better tailor this rulemaking to any unique circumstances in Illinois, the Board invites participants to provide examples of overlooked demographics in this state in matters concerning environmental justice. Concrete examples provided in the record of this rulemaking will assist the Board in developing the appropriate rules.

12. Should the Board prioritize certain subject matter areas when amending its rules to include environmental justice considerations? That is, are there areas where there is a more immediate need for the additional consideration?

**Questions directed at DoIT**

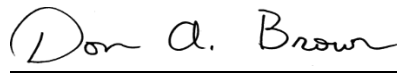
The Illinois Department of Innovation & Technology (DoIT) is not currently a participant in this rulemaking, so the Board plans on issuing a separate letter to DoIT that includes technical feasibility and budgetary questions regarding videoconferencing issues. Once issued, the Board will place the letter in this docket and will also place any response it receives from DoIT in the docket.

**ORDER**

The Board directs participants to file written responses to the above questions by October 31, 2025.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 18, 2025, by a vote of 5-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk  
Illinois Pollution Control Board