

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	R25-18
BOARD CONSIDERATION OF	)	(Rulemaking – Procedural)
ENVIRONMENTAL JUSTICE IN	)	
BOARD PROCEEDINGS	)	

NOTICE OF FILING**TO: Persons on Attached Service List**

PLEASE TAKE NOTICE THAT on Wednesday, October 29, 2025, I caused to be electronically filed with the Clerk of the Illinois Pollution Control Board, via the “COOL” System, the Comment of the Illinois Attorney General’s Office, a true and correct copy of which is attached hereto and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,
Ex rel. KWAME RAOUL, Attorney General
 of the State of Illinois

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CERTIFICATE OF SERVICE

I, Caitlin Kelly, an Assistant Attorney General, do certify that on October 29, 2025, I caused true and correct copies of the Notice of Filing and the Comment of the Illinois Attorney General's Office to be served via electronic mail upon the persons with email addresses named on the Service List.

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COMMENT SUBMITTED BY
THE ILLINOIS ATTORNEY GENERAL’S OFFICE

The Illinois Attorney General’s Office, on behalf of the People of the State of Illinois (“People”), provide these comments in response to the September 18, 2025 order of the Illinois Pollution Control Board (“Board”) regarding the Board’s consideration of environmental justice in Board proceedings. The Illinois Attorney General’s Office applauds the Board’s continued commitment to environmental justice and its efforts to ensure the full protection of all Illinoisians.

In issuing this order, the Board directed several questions to the Attorney General and its Public Access Counselor. Answers to these questions are provided in the attached letter from the Public Access Counselor Leah Bartelt to Chairman Currie. A true and correct copy of the October 15, 2025 letter is attached hereto as Exhibit 1.

The Board also included general questions in the order concerning the Board’s authority to adopt rules that contemplate environmental justice concerns. As described below, the Board not only has the authority to adopt such rules, but it is statutorily mandated to do so.

I. The Board has a statutory mandate to add environmental justice considerations to Board Regulations.

The Board has asked whether “a statutory mandate ... would be necessary in order to add environmental justice considerations to specific Board regulations....” Order of the Board, Sept. 18, 2025. Environmental justice considerations are already contemplated in Illinois law, particularly in the Illinois Civil Rights Act, 740 ILCS 23/1 *et seq.*, and the Illinois Environmental

Protection Act, 415 ILCS 5/1 *et seq.* Adding environmental justice considerations to specific Board Regulations therefore falls within the Board's existing authority.

A. “Environmental justice considerations” require examining the disparate impact of environmental burdens on communities.

“Environmental justice” is a term and movement that promotes the equal access of all persons to a healthy environment, and protection from environmental harm. Certain communities, including communities of color, communities with a high proportion of residents that speak a language other than English, and low-income communities have historically shouldered a disproportionate burden of environmental harms and resulting impacts to health. At the same time, these communities have the least access to environmental benefits such as clean air, water, and access to green spaces. This environmental injustice is a direct result from historical, explicitly discriminatory policies such as racial segregation, redlining, and lack of investment in certain areas.¹

The Illinois Environmental Protection Agency (“Illinois EPA”) refers to “environmental justice” as “the principle that all people should be protected from environmental pollution and have the right to a clean and healthy environment” and includes “protecting the environment of Illinois and the health of its residents” as well as “equity in the administration of the State’s

¹ See, e.g., Attorneys General of California, Massachusetts, and New York et al., *Multistate Guidance Affirming the Importance and Legality of Environmental Justice Initiatives*, https://illinoisattorneygeneral.gov/News-Room/Current-News/EJ%20Guidance%20-%20Final%20Draft%20for%20Publication.pdf?language_id=1 (last accessed Oct. 29, 2025); Attorneys General of New York, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Massachusetts, Maryland, Minnesota, New Jersey, Oregon, Pennsylvania, Vermont, Washington, and the District of Columbia, *Letter to EPA Administrator Michael S. Regan Re: Petition for Rulemaking Filed by the State of Florida and 22 Other States Regarding EPA’s Discriminatory Effect Regulations*, Sept. 5, 2024, https://stateimpactcenter.org/files/AG_Actions_NY_Response_FL_Rulemaking_Petition_9.5.24.pdf (last accessed Oct. 29, 2025).

environmental programs.”² Incorporating “environmental justice considerations” into Board rules would therefore encompass adopting rules to actively address and correct the disproportionate environmental burdens experienced by communities in Illinois.

B. The Illinois Civil Rights Act prohibits disparate impact discrimination in the administration of state programs, including programs for environmental protection.

Adopting rules to address the disparate impact of environmental burdens falls squarely within the authority bestowed upon the Board by Illinois law. The Illinois Civil Rights Act prohibits units of State government, including the Pollution Control Board and the Illinois Environmental Protection Agency, from using criteria or methods of administration that “have the effect of subjecting individuals to discrimination because of their race, color, national origin, or gender.” 740 ILCS 23/5(a)(2). The Board is mandated, therefore, to ensure that Board and Illinois EPA actions, even those that are facially neutral, do not have the impact of subjecting individuals to discrimination. Furthermore, the Illinois Environmental Protection Act should be interpreted in a manner that promotes compliance with the Illinois Civil Rights Act, ensuring that the burdens of pollution and other environmental harm are not borne disproportionately and that permitting and enforcement are carried out in manners that do not perpetuate environmental injustice.

C. Environmental justice concepts are embedded in the Illinois Constitution and the Environmental Protection Act.

The Constitution provides that “[t]he public policy of the State and the duty of each person is to provide and maintain a healthful environment for the benefit of this and future generations. Illinois Const., Art. XI, § 1. Further, “[e]ach person has the right to a “healthful environment.” Id. at § 2. The Constitution also required the General Assembly to provide by law for the implementation and enforcement of the public policy set forth in Section 1, Id. at § 1, which it did

² Illinois EPA, *Environmental Justice (EJ) Policy*, <https://epa.illinois.gov/topics/environmental-justice/ej-policy.html> (last accessed Oct. 19, 2025).

in enacting the Illinois Environmental Protection Act (“Act”), which contains language that supports environmental justice considerations.

While the Act does not widely use the term “environmental justice,” the purpose and substantive provisions of the Act implicitly contain many environmental justice concepts. For example, the purpose of the Act, as described in Section 2(b), is to establish a state-wide program “to restore, protect and enhance the quality of the environment, and to assure that adverse effects upon the environment are fully considered and borne by those who cause them.” 415 ILCS 5/2(b). The inclusion of the terms “restore, protect and enhance” reflects a purpose of not only protecting the environment from further damage, but remediating past harm and making improvements. Read in conjunction with the Illinois Civil Rights Act, this broad curative and protective purpose requires seeking to ensure that all communities have equal access to clean air, water, and land without regard to race, color, national origin, or gender.

Further, the General Assembly established a direct connection between the health of the environment and the health, welfare, and quality of life of the people of Illinois. The legislative declarations concerning air pollution and water pollution identify the purposes of the Act’s prohibitions on air pollution and water pollution as to “restore, maintain, and enhance the purity” of the air and water of this State “*in order to protect health, welfare, property, and the quality of life...*” 415 ILCS 5/8, 11(b) (emphasis added). In other sections, the General Assembly also recognizes that improper disposal of refuse causes “serious hazards to public health and safety,” 715 ILCS 5/20(a)(2), that hazardous waste poses “special dangers to health,” 415 ILCS 5/20(a)(4), and that “excessive noise endangers physical and emotional health and well-being,” 415 ILCS 5/23. The Act’s strong focus on public health encompasses the environmental justice goal of

protecting the public health of all communities, including those disproportionately affected by pollution or with particular health vulnerabilities.

D. The Board has broad authority to implement environmental justice rules under the Act.

The Act empowers the Board to “determine, define and implement the environmental control standards applicable in the State of Illinois”, 415 ILCS 5/5(b), adopt the procedural rules needed “to accomplish the purposes” of the Act, 415 ILCS 5/26, as well as broad authority to adopt substantive regulations to protect against environmental damage in the State. 415 ILCS 5/27(a). In adopting regulations, the Act requires the Board to consider a number of factors, including “the existing physical conditions” and “the character of the area involved, including the character of surrounding land uses, zoning classifications, the nature of the existing air quality, or receiving body of water ... and the technical feasibility and economic reasonableness of measuring or reducing the particular type of pollution.” 415 ILCS 5/27(a). The “existing physical conditions” includes an evaluation of the environmental burdens already experienced by the area. The “character of the area involved” emphasizes the local context of the area, which includes the demographic, socioeconomic, and public health characteristics of the population, as well as the environmental burdens they already face. This provides legislative direction for the Board to consider a number of environmental justice considerations when adopting regulations.

E. The Board has the authority to implement environmental justice concepts in the enforcement of the Act.

In addition to rulemaking authority, the Act also grants the Board authority to enforce the Act. The language of the Act regarding enforcement provides opportunities for the Board to consider environmental justice concepts during the enforcement process, particularly when issuing orders and assessing penalties.

1. When issuing orders, the Board must consider the particular characteristics of the affected community.

Section 33 of the Act describes the Board's authority to issue orders in the enforcement process. When making orders, Section 33(c) requires the Board to consider multiple factors, including "the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people" and the "suitability or unsuitability of the pollution source to the area in which it is located..." 415 ILCS 5/33(c). These factors provide a basis for the Board to incorporate environmental justice considerations when issuing orders.

First, when assessing the "character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people," the Board is directed to consider who has been harmed as well as the severity of the injury. The injury caused by one instance of unlawful pollution, for example, may cause more injury to a community already suffering from multiple sources of pollution than it would in other circumstances. Similarly, the degree of injury of the release of an air toxin in a community with a higher-than-average rate of asthma may have more severe effects on health and welfare than the release of the same toxin in a community without that vulnerability. Contamination of drinking water in a low-income community that has less resources to access water filters will have a more severe impact than the same contamination in a wealthier area with better access. The Act directly contemplates this kind of environmental justice analysis by requiring an examination of the "character and degree" of injury. The "suitability or unsuitability of the pollution source to the area in which it is located" similarly empowers the Board to consider the community surrounding the pollution source and the resulting public health impacts.

2. The Board has the authority to consider environmental justice when assessing penalties.

The Act authorizes the Board to consider specific factors when determining penalties, including “the duration and gravity of the violation.” 415 ILCS 5/42(h). The “duration and gravity” of the violation directs the Board to assess penalties that reflect the severity and impact of environmental violations. A violation occurring in a community that is experiencing a disproportionate burden of environmental burdens may have a more severe effect, and the Board should evaluate the particular harm to human health and the environment in light of the unique characteristics of the community. Given the heightened vulnerability of environmental justice communities, penalties for violations that cause grave harm should be higher to reflect the severity of the violation.

F. Illinois law supports the adoption of cumulative impacts regulations.

The multiple sources of environmental pollution to which environmental justice communities are often repeatedly exposed can cause substantial damage to health and quality of life. If there are multiple pollution sources concentrated in one area, even if each source’s emissions are within a permitted range, emissions can combine to have a disproportionate effect over time. Because pollution sources are often concentrated near environmental justice communities, addressing these cumulative impacts is necessary to protect the health and well-being of residents of these communities.³ As the People noted in the comment submitted on February 25, 2025, states across the country are increasingly adopting “cumulative impacts laws,”

³ Nicolle S. Tulve et al., *Challenges and opportunities for research supporting cumulative impact assessments at the United States Environmental Protection Agency’s Office of Research and Development*, The Lancet, Jan 10, 2024, [https://www.thelancet.com/journals/lanam/article/PIIS2667-193X\(23\)00240-5/fulltext#:~:text=effort%20is%20needed.-,What%20are%20cumulative%20impacts%3F,and%20quality%20of%20life%20outcomes.&text=Cumul,ative%20impacts%20research%3A%20recommendations%20for%20EPA's%20Office%20of%20research%20and%20development](https://www.thelancet.com/journals/lanam/article/PIIS2667-193X(23)00240-5/fulltext#:~:text=effort%20is%20needed.-,What%20are%20cumulative%20impacts%3F,and%20quality%20of%20life%20outcomes.&text=Cumul,ative%20impacts%20research%3A%20recommendations%20for%20EPA's%20Office%20of%20research%20and%20development) (last accessed Oct. 29, 2025).

or laws requiring agencies to consider the cumulative impacts of multiple sources of pollution in their permitting decisions. *See, e.g.*, N.J. Stat. Ann. § 13:1D-157-161; N.Y. Env't. Conserv. Law § 70-0118; Minn. Stat. Ann. § 166.065. At least one state, Massachusetts, has implemented a cumulative impact regulatory structure without a specific environmental justice statute, relying on existing environmental law. *See* 310 Mass. Code Regs. 7.02(14).⁴ While Illinois does not have either a statute or cumulative impacts regulations, the Illinois EPA has made commitments to consider conducting some of this analysis in certain air construction permit applications for facilities located in areas of environmental justice concern, through an Informal Resolution Agreement with the US Environmental Protection Agency as a result of a civil rights investigation.⁵ Under the agreement, the Illinois EPA has the option to consider factors such as the particular vulnerabilities of the population, proximity of the proposed facility to schools, hospitals, and other sensitive populations; and past compliance history of the applicant; and may consider taking actions such as permit enhancements, additional inspections, and prioritizing grant funding if it determines that the permit would have disproportionate and adverse effects.

As described above, the Illinois Civil Rights Act prohibits the Board and the Illinois EPA from using criteria or methods of administration that “have the effect of subjecting individuals to discrimination because of their race, color, national origin, or gender.” 740 ILCS 23/5(a)(2). Cumulative impact regulations are an important tool to prevent the type of disparate impact discrimination prohibited by the Illinois Civil Rights Act. Historically discriminatory policies and

⁴ *See also* Massachusetts Department of Environmental Protection, *Cumulative Impact Analysis in Air Quality*, <https://www.mass.gov/info-details/cumulative-impact-analysis-in-air-quality-permitting> (last accessed Oct. 29, 2025).

⁵ Informal Resolution Agreement between the Illinois EPA and the US EPA, EPA Compliant No. 01RNO-21-R5, Feb. 14, 2024, 10-12 https://epa.illinois.gov/content/dam/soi/en/web/epa/topics/environmental-justice/documents/grievance/021424%20Informal%20Resolution%20Letter%20and%20Agreement_EPA%20Complaint%20No.%2001RNO-21-R5.pdf (last accessed Oct. 29, 2025).

practices have led to the disproportionate siting of facilities that cause environmental hazards in communities of color, with resulting negative impacts on health and quality of life.⁶ Continuing to issue permits for facilities that are sources of pollution in these communities, while racially neutral, can have a disparate impact on communities of color that runs afoul of the Illinois Civil Rights Act. Indeed, the Illinois EPA has been investigated by the US Environmental Protection Agency for this type of disparate impact discrimination resulting from permitting decisions under federal civil rights laws and has entered into agreements to prevent future discrimination.⁷ By implementing cumulative impact regulations that require examining the potential discriminatory impacts of permitting decisions, the Board can prevent future violations of the Illinois Civil Rights Act. This type of analysis is also supported by the Board's authority to consider "the existing physical conditions" and the "character of the area involved" when issuing regulations under 415 ILCS 5/27(a). As noted above, these factors encompass evaluating the existing pollution levels of

⁶ See, e.g., Attorneys General of New York, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Massachusetts, Maryland, Minnesota, New Jersey, Oregon, Pennsylvania, Vermont, Washington, and the District of Columbia, *Letter to EPA Administrator Michael S. Regan Re: Petition for Rulemaking Filed by the State of Florida and 22 Other States Regarding EPA's Discriminatory Effect Regulation*, Sept. 5, 2024, https://stateimpactcenter.org/files/AG_Actions_NY_Response_FL_Rulemaking_Petition_9.5.24.pdf (last accessed Oct. 29, 2025).

⁷ See, e.g., Agreement between the Illinois Environmental Protection Agency and the United States Environmental Protection Agency, Jan. 13, 2005, <https://epa.illinois.gov/content/dam/soi/en/web/epa/documents/environmental-justice/grievances/robbins-resource-recovery/settlement-agreement.pdf> (last accessed Oct. 29, 2025) ("Among other things, this investigation addressed allegations of discrimination resulting from the failure to consider the potential for disparate or disproportionate impacts, including cumulative impacts, in the course of the Illinois EPA's permitting and enforcement decisions for [Robbins Resource Recovery Facility]); Letter from USEPA Office of Civil Rights to Keith Harley Re: Notification of Closure for Title VI Administrative Complaints, EPA File Nos. 03R-06-R5 & 13R-10-R5, Apr. 23, 2013, https://19january2021snapshot.epa.gov/sites/static/files/2015-02/documents/03r-06-r5_closure_letter_cmplt_redacted.pdf (last accessed Oct. 29, 2025) ("By letter dated January 27, 2009, OCR accepted the following allegation for investigation under Title VI Complaint No. 03R-06-R5: Whether Illinois EPA's issuance of an air construction permit to Geneva Energy to restart operations at a tire-to-energy facility in Ford Heights, Illinois has resulted in a disparate impact on the African American residents who live near the facility").

the area and the particular vulnerabilities of the surrounding community, essential components of a cumulative impacts analysis.

Further legislative direction for the Board's authority to implement cumulative impact regulations can be found in the sections of the Act concerning air pollution, 415 ILCS 5/9(a), water pollution, 415 ILCS 5/12(a), and Coal Combustion Residual Surface Impoundments, 415 ILCS 5/22.59(b)(1). Section 9(a) provides that no person shall "cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, *either alone or in combination with other sources....*" 415 ILCS 5/9(a) (emphasis added). Further, Section 10(A) provides the Board with broad authority to "adopt regulations to promote the purposes of this Title." 415 ILCS 5/10(A). As noted above, that purpose is "to restore, maintain, and enhance the purity of the air of this State in order to protect health, welfare, property, and the quality of life and to assure that no air contaminants are discharged into the atmosphere without being given the degree of treatment or control necessary to prevent pollution." 415 ILCS 5/8. Similarly, Section 12(a) provides that no person shall "cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, *either alone or in combination with matter from other sources....*" 415 ILCS 5/12(a) (emphasis added). In addition, Section 13(A) provides the Board with broad authority to "adopt regulations to promote the purposes and provisions of this Title." 415 ILCS 5/13(A). As noted above, that purpose is "to restore, maintain and enhance the purity of the waters of this State in order to protect health, welfare, property, and the quality of life, and to assure that no contaminants are discharged into the waters of the State, as defined herein . . . without being given the degree of treatment or control necessary to prevent pollution. . . ." 415 ILCS 5/11(b). Section 22.59(b)(1), concerning the discharge of contaminants from a coal

combustion residual (CCR) surface impoundment, also contains parallel language. *See* 415 ILCS 5/22.59(b)(1).

In including the phrase “either alone or in combination with other sources,” the General Assembly recognized that pollution does not occur in a vacuum, but rather multiple sources can combine to result in severe harm. Regulating pollution therefore requires an analysis not just of one source alone, but also of other sources in the same area. Considering the Illinois Civil Rights Act’s prohibition on disparate impact discrimination, 740 ILCS 23/5(a)(2), as well as the Board’s authority to consider the “character of the area involved” and the “nature of the existing air quality or other environmental conditions” when adopting regulations, 415 ILCS 5/27(a), there must also be an analysis of the potential impact on the surrounding community that includes a thorough consideration of public health and the particular vulnerabilities of that community.

States that have implemented cumulative impacts regulations have adopted measures that require a cumulative impacts assessment evaluating the potential impact of a new or expanded source on existing pollution levels and allowing or mandating the permitting agency to deny a permit if the assessment determines that the source will have a disproportionate impact on public health. *See, e.g.,* N.J. Admin. Code § 7:1C-1.1 *et seq.*; 310 Mass. Code Regs. 7.02(14). Meaningful opportunities for community input is also an important part of the process. *See* N.J. Admin. Code § 7:1C-4.1 to 7:1C-4.4 (requiring a public hearing to be held in the affected community where the permit applicant must present information from the assessment of potential impact of the proposed permit and a public comment period). Existing Illinois law provides support for adopting a comprehensive cumulative impacts regulatory structure in Illinois that would require a thorough analysis of disparate impacts of a proposed permit, require mitigation measures for permits that would result in adverse impacts, and denial of permits where the harm is unable to be mitigated.

II. Illinois has a history of environmental injustice.

In issuing this order, the Board asked for examples of overlooked demographics in Illinois in matters concerning environmental justice. To understand and identify communities affected by environmental injustice, it is necessary to examine how these injustices emerge and the causes behind them. In Illinois, there are many communities that today experience a disproportionate burden of environmental harm.

The environmental justice movement gained widespread attention in 1987 after the publication of the landmark study, *Toxic Wastes and Race*, which documented the increased siting of hazardous waste facilities in communities of color.⁸ Since then, multiple scholars have confirmed that there are clear racial disparities in the distribution of polluting facilities across the country,⁹ with many demonstrating a direct connection to practices such as redlining, discrimination in zoning and transportation policies, and the use of racial covenants.¹⁰ These practices were historically used in Illinois and the effects are still felt today.

Illinois is one of the most racially segregated states in the country, having the highest percentage of Black residents that live in census tracts that are at least 90% Black.¹¹ Chicago,

⁸ United Church of Christ Commission for Racial Justice, *Toxic Waste and Race in the United States: A National Report on the Racial and Socio-Economic Characteristics of Communities with Hazardous Waste Sites*, 1987, <https://www.nrc.gov/docs/ml1310/ml13109a339.pdf> (last accessed Oct. 21, 2025).

⁹ See Marianne Engelmann Lado, *No More Excuses: Building a New Vision of Civil Rights Enforcement in the Context of Environmental Justice*, 22 U. Pa. J.L. & Soc. Change 281 (2019).

¹⁰ For a detailed description of how these policies have contributed to the disproportionate distribution of environmental burdens in communities of color, see Attorneys General of New York, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Massachusetts, Maryland, Minnesota, New Jersey, Oregon, Pennsylvania, Vermont, Washington, and the District of Columbia, *Letter to EPA Administrator Michael S. Regan Re: Petition for Rulemaking Filed by the State of Florida and 22 Other States Regarding EPA's Discriminatory Effect Regulation*, Sept. 5, 2024, https://stateimpactcenter.org/files/AG_Actions_NY_Response_FL_Rulemaking_Petition_9.5.24.pdf (last accessed Oct. 29, 2025).

¹¹ Alden Loury, *While things have improved, Chicago remains the most segregated city in America*, WBEZ Chicago, Jun. 19, 2023, <https://www.wbez.org/race-class-communities/2023/06/19/chicago-remains-the-most-segregated-big-city-in-america> (last accessed Oct. 29, 2025).

where two thirds of Illinois residents live, is also heavily segregated.¹² This segregation can be traced to many historical policies, such as discrimination in zoning. Studies examining Chicago's first zoning ordinance from 1923 have found that neighborhoods occupied by first-generation immigrants and Black migrants escaping the Jim Crow South were targeted for the most permissive zoning, allowing the growth of industrial development in these neighborhoods while white neighborhood were protected through residential zoning.¹³ This allowed the concentration of industrial development in communities of color, which is still observed today. For example, Chicago's Southeast Side, consisting of predominantly Latino and Black communities,¹⁴ is Chicago's largest industrial corridor by land area¹⁵ and home to 250 facilities that are regulated by USEPA,¹⁶ over 75 of which have been investigated for noncompliance with the Clean Air Act since 2014.¹⁷

Illinois was also heavily affected by the process of redlining, a practice whereby neighborhoods in large US cities were assigned one of four categories by the Home Owners' Loan Corporation (HOLC), spanning from "Best" (A) to "Hazardous" (D), as a measure of their creditworthiness.¹⁸ These classifications were largely based on the racial makeup of the neighborhood, with communities of color given the worst ratings and therefore prevented from

¹² See Jogn R. Logan and Brian J. Stults, *Metropolitan Segregation: No Breakthrough in Sight*, Diversity and Disparities Project, Brown University (2021), <https://s4.ad.brown.edu/Projects/Diversity/Data/Report/report08122021.pdf> (last accessed Oct. 29, 2025).

¹³ See Allison Shertzer et al., *Zoning and Segregation in Urban Economic History*, 94 Reg'l Sci. & Urban Econ, 103652 (2022).

¹⁴ See Chicago Metropolitan Agency for Planning, Community Data Snapshots for South Chicago, South Deering, the East Side, and Hegewisch, <https://cmap.illinois.gov/data/community-data-snapshots/> (last accessed Oct. 29, 2025).

¹⁵ Jasmine Anderson, *An End to Sacrifice Zoning in Chicago*, 28 Pub. Int. L. Rep. 10, 12 (2022).

¹⁶ USEPA, *Southeast Chicago Ambient Air Quality Analysis*, <https://www.epa.gov/il/southeast-chicago-ambient-air-quality-analysis> (last accessed Oct. 29, 2025).

¹⁷ USEPA, *Environmental Issues in Southeast Chicago*, <https://www.epa.gov/il/environmental-issues-southeast-chicago> (last accessed Oct. 29, 2025).

¹⁸ University of Richmond, *Mapping Inequality: Redlining in New Deal America*, <https://dsl.richmond.edu/panorama/redlining/> (last accessed Oct. 29, 2025).

obtaining mortgages or charged significantly higher interest rates.¹⁹ Cities affected by redlining in Illinois include Aurora, Chicago, Decatur, East St. Louis, Joliet, Peoria, Rockford, and Springfield.²⁰ Formerly redlined communities have been found to have poorer environmental conditions today than neighborhoods that were given higher grades, including higher levels of pollution and noise and fewer green spaces.²¹ The formerly redlined Southside of Peoria, for example, has the highest concentration of Black residents in the city²² and has historically been the home of a large amount of industrial activity, including a coal-fired power plant that was shut down in 2022 and linked to respiratory issues among residents.²³

The Environmental Defense Fund recently linked the legacy of redlining to locations of warehouses and distribution centers in Illinois, noting that Black populations in Illinois are 137% more likely to live within a half mile of a warehouse than would be expected based on population, with that number jumping to 195% for Latino population.²⁴ Because there are thousands of truck

¹⁹ See Illinois Department of Public Health, *Illinois Maternal Morbidity and Mortality Report 2016-2017*, Apr. 2021, 11-12, <https://dph.illinois.gov/content/dam/soi/en/web/idph/files/maternalmorbiditymortalityreport0421.pdf> (last accessed Oct. 29, 2025).

²⁰ See University of Richmond, *Mapping Inequality: Redlining in New Deal America*, <https://dsl.richmond.edu/panorama/redlining/map#loc=4/37.5794/-86.4168> (last accessed Oct. 22, 2025).

²¹ See, e.g., Haley M. Lane et al., *Historical Redlining is Associated with Present-Day Disparities in U.S. Cities*, 9 Env't. Sci. Tech. Lett. 345 (2022); Cesar O. Estien et al., *Historical Redlining is Associated with Disparities in Environmental Quality Across California*, 11 Env't. Sci. Tech. Lett. 54 (2024); Bev Wilson, *Urban Heat Management and the Legacy of Redlining*, 86 J. Am. Plan Ass'n. 443 (2020).

²² Shabnam Danesh, *How the Legacy of Redlining in Peoria Persists to the Present Day*, Central Illinois is Proud, Feb. 28, 2024, <https://www.centralillinoisproud.com/hidden-history/black-history-month/how-the-legacy-of-redlining-in-peoria-persists-to-the-present-day/> (last accessed Oct. 29, 2025).

²³ Nicole Greenfield, *The Revitalization of this Former Coal Town Starts Now*, NRDC, Apr. 1, 2020, <https://www.nrdc.org/stories/revitalization-former-coal-town-starts-now#:~:text=Kyle%20and%20the%20other%20advocates,of%20socioeconomic%20and%20racial%20injustice.%E2%80%9D> (last accessed Oct. 29, 2025).

²⁴ Environmental Defense Fund, *Illinois Warehouse Boom*, https://aqmx.org/sites/default/files/resources/IL_Warehouse_Boom_Report_EDF_4-24-24.pdf (last accessed Oct. 29, 2025).

trips to and from these warehouses and distribution centers, people living nearby are exposed to increased air emissions from these mobile sources.²⁵

Communities of color in Illinois have also faced a lack of investment in the infrastructure necessary to protect public health and the environment, such as sewer systems. The City of Cahokia Heights, a predominantly Black community with a median income of \$20,587 according to 2020 U.S. Census data,²⁶ has suffered for decades from a failing sewer system. For years, when it would rain, raw sewage would flood into residents' homes and in the streets, leaving residents to deal with the aftermath.²⁷ Hundreds of sanitary sewage overflows have resulted in sewage discharging into nearby waterways.²⁸ The Attorney General, along with the Department of Justice, have negotiated a consent decree with the City that will require significant repairs over several years.²⁹ A lawsuit was also filed against nearby East St. Louis, which also suffers from a poorly maintained sewer system.³⁰

The impacts of industrial and other sources of pollution as well as the lack of investment have very real health impacts on communities of color in Illinois. State-wide, non-Hispanic Black individuals have six times as many emergency room visits for asthma as white individuals and are

²⁵ *Id.*

²⁶ 2020 U.S. Census Data, *Cahokia Heights Community Data Profile*, <https://www.dhs.state.il.us/OneNetLibrary/27897/documents/FVP/RPSA/Cahokia-Heights-Community-Data-Profile.pdf> (last accessed Oct. 29, 2025).

²⁷ Catharine Smith, *'If White People were Still Here, This Wouldn't Happen': the Majority-Black Town Flooded with Raw Sewage*, The Guardian, Feb. 21, 2021, <https://www.theguardian.com/us-news/2021/feb/11/centreville-illinois-flooding-sewage-overflow>.

²⁸ Office of the Illinois Attorney General, *Attorney General Raoul Files Lawsuits to Address Chronic Sewer Failures in Cahokia Heights, East St. Louis*, Dec. 11, 2024, <https://illinoisattorneygeneral.gov/news/story/attorney-general-raoul-files-lawsuits-to-address-chronic-sewer-failures-in-cahokia-heights-east-st-louis> (last accessed Oct. 29, 2025).

²⁹ *Id.*

³⁰ *Id.*

hospitalized over three times more frequently (four times more frequently for children aged 0-4).³¹ People of color in Illinois are also significantly more likely to live in communities with known contaminated lead services lines,³² and Black children disproportionately test high for blood levels of lead.³³ South Chicago, a neighborhood within the Southeast Side discussed above, has higher rates of chronic disease than Chicago as a whole, including adult asthma, COPD, and lung cancer;³⁴ and the rate of children born with a very low birthweight is twice that of the rest of Chicago.³⁵ The City of Chicago recently found an 11.4-year life expectancy gap between Black and non-Black Chicagoans, noting that the gap is even greater for communities on the South and West Sides.³⁶ The South and West Sides were also identified by the City as the areas of greatest concern in a 2020 report on Air Quality that examined both environmental and socioeconomic indicators, noting that “the parts of the city bisected by major highways with high concentrations of industry are over-burdened, experiencing high levels of both pollution and vulnerability.”³⁷ Residents of Cahokia Heights, the city affected by poor sewer infrastructure, have been found to test high for

³¹ Illinois Department of Public Health, Division of Patient Safety and Quality, *Hospital Discharge 2016-2019*, <https://dph.illinois.gov/content/dam/soi/en/web/idph/files/publications/asthma-trends-hospital-discharge-data-2016-2019.pdf> (last accessed Oct. 29, 2025).

³² Justin Williams, *Data Points: The Environmental Injustice of Lead Lines in Illinois*, Metropolitan Planning Council, Nov. 10, 2020, <https://metroplanning.org/data-points-the-environmental-injustice-of-lead-lines-in-illinois/> (last accessed Oct. 29, 2025).

³³ See Illinois Department of Public Health, *Illinois Lead Program 2022 Annual Surveillance Report*, Nov. 2023, p. 8-12, <https://dph.illinois.gov/content/dam/soi/en/web/idph/publications/idph/topics-and-services/environmental-health-protection/lead-poisoning-prevention/lead-surveillance-report-2022.pdf> (last accessed Oct. 29, 2025).

³⁴ Chicago Health Atlas, *South Chicago*, <https://chicagohealthatlas.org/neighborhood/1714000-46?place=south-chicago&tab=data> (last accessed Oct. 29, 2025).

³⁵ *Id.*

³⁶ Chicago Department of Public Health, *Healthy Chicago 2025 Strategic Plan*, 7, <https://www.chicago.gov/content/dam/city/depts/cdph/community-health/healthy-chicago/Healthy-Chicago-Report-v10-EN.pdf> (last accessed Oct. 29, 2025).

³⁷ City of Chicago, *Air Quality and Health Report*, 5 (2020), https://www.chicago.gov/content/dam/city/depts/cdph/statistics_and_reports/Air_Quality_Health_doc_FINALv4.pdf (last accessed Oct. 29, 2025).

parasitic and bacterial infections that have been linked to gastric cancer.³⁸ These disparate impacts are the type of public health emergencies that the Environmental Protection Act was passed to address and the Board should consider this background in implementing rules to address environmental justice.

III. Conclusion

The People commend the Board's continued examination of environmental justice issues. The Illinois Civil Rights Act and the Illinois Environmental Protection Act together provide clear legislative direction and statutory authority for the Board to implement environmental justice considerations in substantive regulations, including by adopting regulations to address the cumulative impacts of pollution. Given the significant disparate impacts of environmental burdens felt by communities across Illinois, there is a very real need for regulatory action to counteract historically discriminatory policies and create positive change. The People would therefore welcome further action by the Board to use its broad authority under the Environmental Protection Act to enact rules that incorporate environmental justice considerations. Doing so will help create a more just and sustainable future and provide a path to ensuring that all Illinois citizens enjoy their Constitutional right to a healthful environment. Illinois Const., Art. XI, § 2.

³⁸ Tracy Hinson, *Parasites, Bacteria Infecting High Rates of Cahokia Heights Residents, Study Finds*, KSKD, Aug. 8, 2023, <https://www.ksdk.com/article/news/health/parasites-bacteria-infections-in-cahokia-heights-residents-study-finds/63-91984e6f-4016-4dec-9858-a2e36b6f3e82> (last accessed Oct. 29, 2025).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney General
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DATE: October 29, 2025

EXHIBIT 1

October 15, 2025

Ms. Barbara Flynn Currie
Chairman
Illinois Pollution Control Board
60 East Van Buren Street, Suite 630
Chicago, Illinois 60605

RE: Board Consideration of Environmental Justice in Board Proceedings
R 25-18

Dear Chairman Currie:

The Public Access Bureau has received the Illinois Pollution Control Board's September 18, 2025, Order in the above-referenced matter requesting the Office of the Attorney General and its Public Access Counselor to answer four questions.

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?*

The Public Access Counselor is empowered to interpret the Open Meetings Act (OMA) (5 ILCS 120/1 *et seq.* (West 2024)) as it applies to meetings of public bodies. Section 2(a) of OMA¹ requires all meetings of public bodies to be "open to the public" except for the portion of a meeting that can be lawfully closed pursuant to section 2(c) of OMA.² Section 2.06(g) of OMA³ states that "[a]ny person shall be permitted an opportunity to address public

¹5 ILCS 120/2(a) (West 2024).

²5 ILCS 120/2(c) (West 2024). This portion of the meeting is commonly referred to as "closed" or "executive" session.

³5 ILCS 120/2.06(g) (West 2024).

officials under the rules established and recorded by the public body." The Public Access Bureau has previously determined that when the public is allowed to attend and participate in a meeting in-person, OMA does not require that body also to offer the public virtual attendance or virtual participation options such as videoconferencing or teleconferencing.⁴

At the same time, no provision of OMA prohibits a public body from offering virtual participation options for members of the public, or from livestreaming meetings for public viewing, or recording meetings and posting those recordings to a website after the meeting has concluded. Virtual participation and remote viewing options promote transparency and facilitate access to meetings for people who are unable to travel to meeting locations, and public bodies may choose to offer these options as a courtesy to members of the public.

Because section 2.06(g) of OMA requires public bodies to establish and record rules for public comment, this office encourages any public body that offers the public the opportunity to comment virtually to ensure that its public comment rules address those options and set forth any requirements it may impose for participating in that manner (such as advance notification to a designated officer or employee). Public bodies may also wish to list those requirements on meeting notices or agendas so that the public can easily locate those rules.

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?*

Because the Public Access Bureau does not survey public bodies about their meeting procedures, this office cannot provide examples. Additionally, this office has not issued Public Access Counselor binding opinions or non-binding determination letters concerning public bodies with statewide authority that offer virtual public comment options for members of the public.

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?*

⁴See, e.g., Ill. Att'y Gen. PAC Req. Rev. Ltr. 85330, issued April 14, 2025; Ill. Att'y Gen. PAC Req. Rev. Ltr. 67055, issued March 16, 2021. The only exception is when "the Governor or the Director of the Illinois Department of Public Health has issued a disaster declaration related to public health concerns because of a disaster as defined in Section 4 of the Illinois Emergency Management Agency Act, and all or part of the jurisdiction of the public body is covered by the disaster area[.]" (2) the public body meets without a quorum physically present, and (3) "attendance at the regular meeting location is not feasible due to the disaster." 5 ILCS 120/7(e)(1), (e)(4) (West 2024). None of those conditions are operative at present, as the COVID-19 disaster declarations expired in 2023 and no new disaster declarations have been issued since.

No provision of OMA requires a public body to offer interpretive language services for meetings.⁵ To the extent that the Board offers such services upon request, this office encourages the Board to incorporate into its rules and display on its website an explanation of how an individual may request interpretative language services for an upcoming meeting. If it wishes, the Board may also include this information in its meeting notices or agendas.

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?*

This office has not identified a preferred video conferencing platform for meetings.

Very truly yours,



LEAH BARTELT
Public Access Counselor
Public Access Bureau

⁵Because the authority of the Public Access Counselor is limited to OMA and the Freedom of Information Act (5 ILCS 140/1 *et seq.* (West 2024)), this office offers no guidance on any other State or federal statutes that might require such services. 15 ILCS 205/7 (West 2024).