

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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|--------------------------|---|---------------------------|
| 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 Monday, February 24, 2025, I caused to be electronically filed with the Clerk of the Illinois Pollution Control Board, via the “COOL” System, the Illinois Attorney General’s Comments for the People of the State of Illinois, true and correct copies of which are 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, caused to be served on Monday, February 24, 2025, a true and correct copy of Illinois Attorney General's, Comments, true and correct copies of which are attached hereto and hereby served upon the persons listed on the Service List via electronic mail or electronic filing, as indicated.

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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 regarding the August 22, 2024 order of the Illinois Pollution Control Board (“Board”) opening a docket to explore the creation of a Board procedural rule to provide guidance to the Board when considering environmental justice issues in its proceedings. The People support the opening of this docket and the Board’s important efforts to promote environmental justice in the State of Illinois. For the reasons stated below, the People echo the comments filed by the Illinois Environmental Protection Agency (“IEPA”) on February 10, 2025, and respectfully request that the Board hold this docket open for an additional period of at least six (6) months, until at least August 22, 2025, to allow for time to consider changes due to potential new legislation during the Illinois General Assembly’s 2025 Spring Session as well as changes at the federal level that may impact the State.

As the Board recognized in opening this docket, environmental justice is a crucial consideration in every environmental law decision and is vitally important for protecting the constitutional right to a healthful environment for all citizens of Illinois. Too many communities in the State are overburdened with environmental harm, often as a result of the legacy of past discriminatory policies,¹ and proactive action must be taken at all levels of government to address

¹ See, e.g., Environmental Defense Fund, *Illinois Warehouse Boom: Tracing the Growth of Mega-Warehouses and Their Health Impacts*, Apr. 23, 2024, [https://globalcleanair.org/wp-content/blogs.dir/95/files/IL Warehouse Boom Report EDF 4-24-24.pdf](https://globalcleanair.org/wp-content/blogs.dir/95/files/IL_Warehouse_Boom_Report_EDF_4-24-24.pdf) (finding that 1 in 6 Illinois

these disproportionate burdens. This includes the Board's adoption of rules to consider environmental justice in its proceedings.

Both Illinois and Federal law contain many provisions that require the consideration of environmental justice concepts, further emphasizing the importance of the Board's action in this area. As noted by IEPA in their February 10, 2025 comments, these sources of law include Article XI of the Illinois Constitution, establishing the right of "each person" in Illinois to a healthful environment, as well as Sections 9 and 12 of the Illinois Environmental Protection Act, which recognizes the cumulative impact of multiple sources of pollution by prohibiting acts that cause or tend to cause air pollution and water pollution "either alone or in combination with ... other sources." 415 ILCS 5/9 and 12 (2022). This is especially important for environmental justice communities, where the cumulative impact of multiple sources of pollution in a concentrated area can have significant health impacts.² Additionally, environmental justice concepts are encompassed by Federal and State civil rights laws that prohibit State agencies such as the PCB from undertaking activities that have the effect of subjecting individuals in the State to discrimination on the basis of race, color, national origin, and gender. *See* 40 C.F.R. § 7.35; 740 ILCS 23/5 (2022). It is therefore imperative that the Board adopt rules to ensure that such discrimination does not occur in its proceedings.

residents lives within a half mile of a mega-warehouse and face higher rates of air pollution, with a disproportionate number of those being from low-income and minority communities.); City of Chicago, *Air Quality and Health Report*, 2020, [https://www.chicago.gov/content/dam/city/depts/cdph/statistics and reports/Air Quality Health doc FI NALv4.pdf](https://www.chicago.gov/content/dam/city/depts/cdph/statistics_and_reports/Air_Quality_Health_doc_FI_NALv4.pdf) (finding that Black and Latinx communities in Chicago are especially vulnerable to air pollution and its resulting health impacts, citing the history of segregation and poor investment in these communities); 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/> (noting that people of color in Illinois are twice as likely to live in areas with lead service lines than their white counterparts).

² U.S. Environmental Protection Agency ("USEPA"), *Interim Framework for Advancing Consideration of Cumulative Impacts*, Nov. 2024, 4-7, <https://www.epa.gov/system/files/documents/2024-11/epa-interim-cumulative-impacts-framework-november-2024.pdf>.

States across the country are increasingly recognizing the importance of environmental justice in their decisions affecting environmental law. Several states have passed environmental justice laws, particularly “cumulative impacts laws,” or laws requiring agencies to consider the cumulative impact 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. § 116.065. There has been a push in recent years to take similar action in Illinois and the current legislative session may produce additional environmental justice-related legislation. Given this possibility, the Illinois Attorney General concurs with IEPA’s conclusion that it would be a better use of Board resources to extend this subdocket until after the conclusion of the current legislative session. The Illinois Attorney General also shares IEPA’s request that the Board issue further guidance as to the scope of the new rules the Board seeks to adopt.

In conclusion, the Illinois Attorney General appreciates the Board’s attention and consideration of environmental justice and respectfully requests that the Board: (i) hold open this subdocket for a period of at least six months, until August 22, 2025; and (ii) issue further guidance on the desired scope of rule amendments.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney General
of the State of Illinois

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