

AIR & WASTE MANAGEMENT ASSOCIATION LAKE MICHIGAN SECTION

UNION LEAGUE CLUB ENVIRONMENTAL COMMITTEE

APRIL 16, 2024

ILLINOIS EPA AND ENVIRONMENTAL JUSTICE

JOHN J. KIM, DIRECTOR, IEPA

ENVIRONMENTAL JUSTICE

The Illinois EPA is committed to protecting the health of the citizens of Illinois and its environment and to promote environmental equity to the fullest legal and practicable extent

The Illinois EPA supports the objectives of achieving environmental equity for all Illinoisans



ENVIRONMENTAL JUSTICE

The Illinois EPA's EJ policy identifies goals including ensuring communities are not disproportionately impacted, strengthening the public's involvement, ensuring development of common practices, and ensuring the continued evaluation and adaptation of EJ strategies



DEFINITION

Illinois EPA defines EJ as the principle that all people should be protected from environmental pollution and have the right to a clean and healthy environment

EJ includes protecting Illinois' environment and its residents' health, equity in administration of environmental programs, and opportunities for meaningful public involvement



TOOLS

EJ Start GIS mapping tool

- Census block group with low-income and/or minority population > 2x the statewide average

EJ Screen mapping/screening tool

- Includes environmental and socioeconomic indicators

Solar for All

- Uses indicators and CalEnviroScreen formula approach



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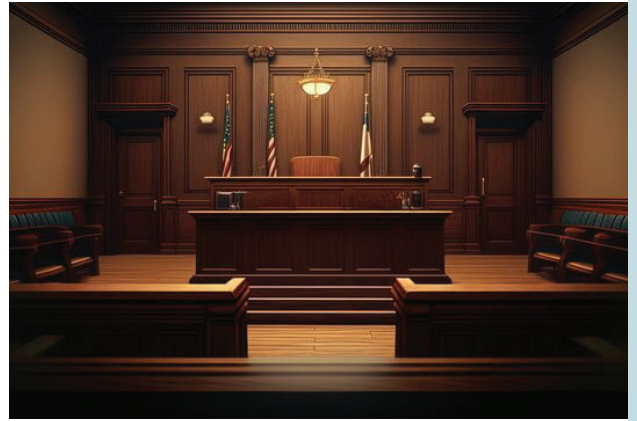


ENFORCEMENT

Illinois EPA EJ Enforcement Policy

Principles:

- Community members are entitled to access non-confidential information related to enforcement process to help understand activities and participate in decisions
- Increased monitoring, inspection, and investigation are necessary
- Responsible parties are required to address impacts of violations

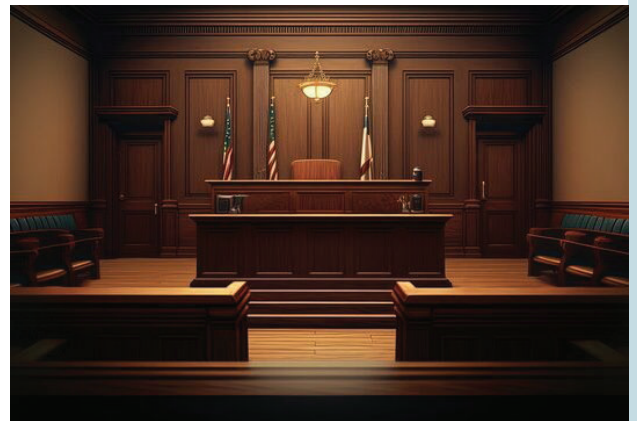


ENFORCEMENT

Illinois EPA EJ Enforcement Policy

Strategies:

- Strengthen communication with community
- Provide educational/technical support
- Work with EJ Commission
- Place emphasis on monitoring, inspection, and enforcement
- Work closely with government partners
- Expand mitigation projects, SEPs
- Explore use of escrow penalties



ENFORCEMENT

Illinois EPA EJ Enforcement Policy

Reporting:

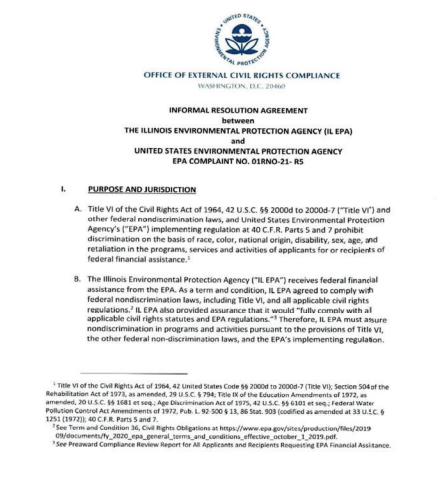
- Monitoring, inspection, enforcement data on Illinois EPA website
- Provide convenient, anonymous process for public to report potential violations
- Engage community members consistent with Illinois EPA's Language Access Plan to understand impacts and assist in mitigation projects/SEPs



INFORMAL RESOLUTION AGREEMENT

Background:

- September 26, 2019 – General Ill submitted construction permit application for scrap metal recycling facility
- Proposal involved a shredder, material separation systems, emissions units related to metals processing
- October 1, 2019 – EJ notification letter sent
- October 30, 2019 – Letter received from NGOs expressing concern for project
- January 2020 – Air dispersion modeling received
- March 20, 2020 – Final permit application submitted



INFORMAL RESOLUTION AGREEMENT

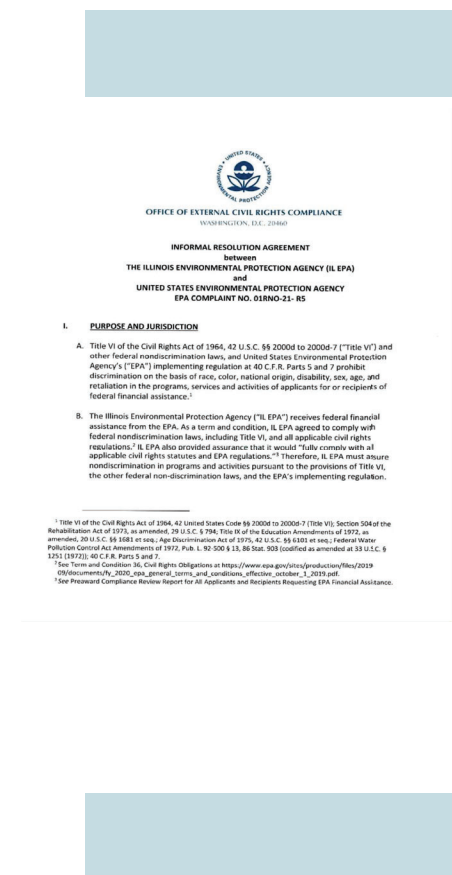
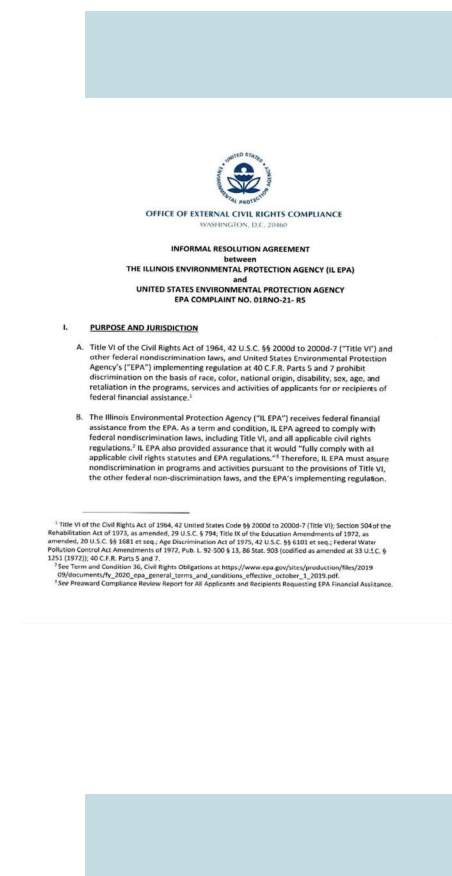
Background:

- March 30, 2020 – Illinois EPA issued notice of virtual public hearing and public comment period
- May 14, 2020 – Virtual public hearing held, afternoon and evening sessions (21 people submitted comments, 200 participated in hearing)
- June 15, 2020 – Public comment period closed (329 commenters submitted comments)
- June 25, 2020 – Illinois EPA issued state construction permit

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Challenge:

- August 20, 2020 – Formal complaint received from Southeast Environmental Task Force (SETF) and other non-governmental organizations pursuant to Illinois EPA's EJ Complaint Procedure alleging discrimination under Title VI of the federal Civil Rights Act
- December 18, 2020 – Illinois EPA issued letter response to complaint March 30, 2020, concluding Illinois EPA's actions did not constitute discriminatory action and agreeing to assess the language translation process for improvement



INFORMAL RESOLUTION AGREEMENT

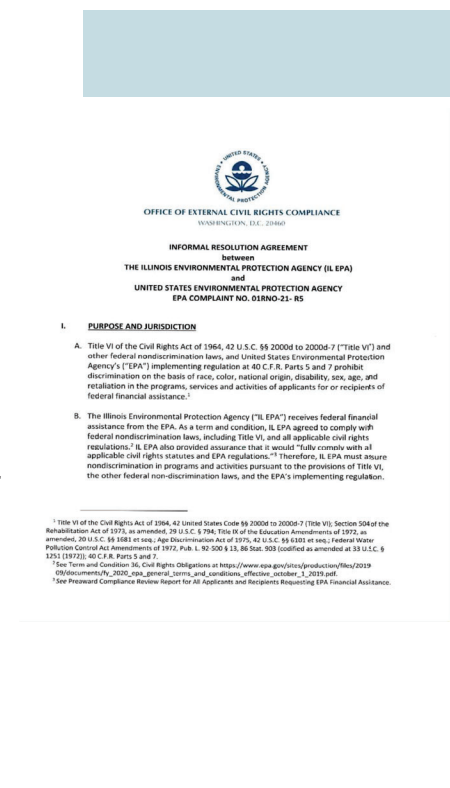
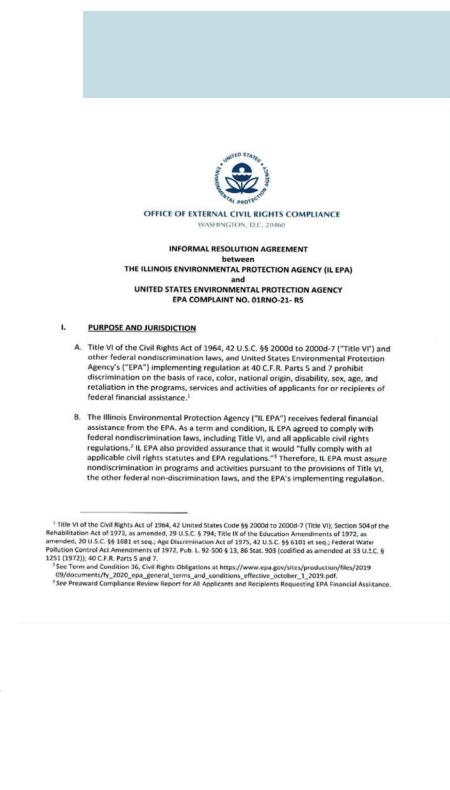
Challenge:

- January 25, 2021 – USEPA’s External Civil Rights Compliance Office (ECRCO) accepted a similar complaint from SETF and the Chicago Southeast Coalition to Ban Petcoke
- February 11, 2021 – ECRCO and Illinois EPA discuss options for resolution of complaint (negotiation of an Informal Resolution Agreement (IRA) or formal investigation by ECRCO), agreeing on the IRA option
- February 23, 2024 – ECRCO notifies Illinois EPA it has resolved the complaint via IRA

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Terms:

- IRA does not constitute an admission by Illinois EPA of a violation of, or a finding of compliance or noncompliance by ECRCO with, Title VI
- Nothing in the IRA constitutes a “rule” for purposes of the Illinois Administrative Procedure Act



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Illinois EPA permit processes in IRA involve construction permits for projects in area of EJ concern as determined by Illinois EPA:

- New source that will require a Clean Air Act Permit Program (CAAPP) permit or Federally Enforceable State Operating Permit (FESOP) permit;
- Existing source with a CAAPP or FESOP permit seeking an increase in permitted emissions; or
- Existing source that seeks an increase in permitted emissions that will require a new CAAPP or FESOP permit for first time

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Existing practices:

- Review application to determine whether source is in area of EJ concern
- Issue EJ notification letter
- Evaluate whether proposed emissions increases can be reduced
- Identify potential permit enhancements to address potential impacts
- Engage in public outreach as appropriate
- Conduct public hearings as appropriate



OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE
WASHINGTON, D.C. 20460

INFORMAL RESOLUTION AGREEMENT
between
THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (IL EPA)
and
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
EPA COMPLAINT NO. 038NO-23- 85

I. PURPOSE AND JURISDICTION

- Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 ("Title VI") and other federal nondiscrimination laws, and United States Environmental Protection Agency's ("EPA") implementing regulation at 40 C.F.R. Parts 5 and 7 prohibit discrimination on the basis of race, color, national origin, disability, sex, age, and retaliation in the programs, services and activities of applicants for or recipients of federal financial assistance.¹
- The Illinois Environmental Protection Agency ("IL EPA") receives federal financial assistance from the EPA. As a term and condition, IL EPA agreed to comply with federal nondiscrimination laws, including Title VI, and all applicable civil rights regulations.² IL EPA also provided assurance that it would "fully comply with all applicable civil rights statutes and EPA regulations."³ Therefore, IL EPA must assure nondiscrimination in programs and activities pursuant to the provisions of Title VI, the other federal non-discrimination laws, and the EPA's implementing regulation.

¹ Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq.; Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq.; Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 935 (codified as amended at 33 U.S.C. § 1371) (1972); 40 C.F.R. Parts 5 and 7.
² See Term and Condition 36, Civil Rights Obligations at https://www.epa.gov/first/production/files/2019/08/documents/2020_09a_general_terms_and_conditions_official_version_1_2019.pdf.
³ See Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance.



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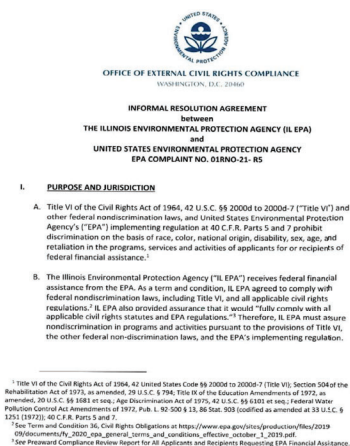
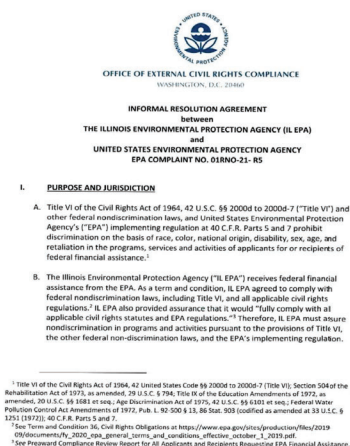
Procedural commitments:

- Review both past adjudications and compliance history in deciding whether to impose reasonable permit conditions to correct, detect, or prevent noncompliance
- Consider location of sensitive populations and various socioeconomic indicators as found in USEPA's EJ Screen

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Procedural commitments:

- If disproportionate and adverse effects will result from project, consider potential remedial actions including:
 - Refinements to permit
 - Air quality modeling
 - Prioritizing inspections
 - Enforcement initiatives of permitted source or contributing sources in affected area
- Share written explanation of compliance/enforcement history evaluation as part of public participation process



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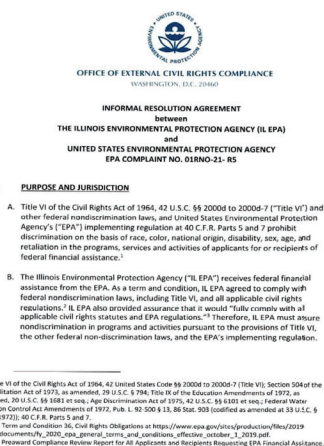
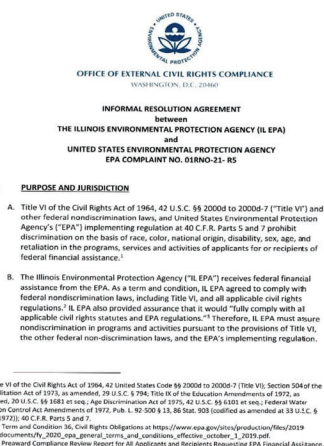
Procedural commitments:

- Update documents to align with IRA:
 - EJ notification letter
 - Notice of Non-discrimination form
 - EJ grievance procedure
 - Public Participation Plan
 - Language Access Plan for Persons with Limited English Proficiency
 - Plan for Ensuring Meaningful access to Persons with Disabilities

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USEPA/ECRCO will monitor commitments to IRA

IRA will not be affected by future EJ legislation in Illinois so long as no conflict exists between IRA terms and new legislation





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