

ILLINOIS POLLUTION CONTROL BOARD
July 29, 2021

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 21-6
)	(IEPA No. 93-21-AC)
BARRY D. WARD,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by C.M. Santos):

On April 12, 2021, the Illinois Environmental Protection Agency (IEPA) timely filed an administrative citation against Barry D. Ward. *See* 415 ILCS 5/31.1(c) (2020); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Ward’s property located at 65 Payne Drive in Goreville, Johnson County. The property is commonly known to IEPA as the “Goreville/Ward, Barry D.” site and is designated with Site Code No. 0878555021. For the reasons below, the Board finds that Ward violated the Environmental Protection Act (Act) and orders Ward to pay \$1,500 in civil penalties.

Under the Act, an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Agency or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations. *See* 415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1(c), 42(b)(4), 42(b)(4-5), 55(k) (2020); 35 Ill. Adm. Code 108.

In this case, IEPA alleges that on February 5, 2021, Ward violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2020)) by causing or allowing the open dumping of waste in a manner resulting in litter at the Johnson County site. IEPA asks the Board to impose on Ward the statutory \$1,500 civil penalty.

As required, IEPA served the administrative citation on Ward within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2020); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by May 6, 2021. On May 10, 2021, Ward timely filed a petition. The petition was timely filed because it was postmarked on or before the filing deadline. *See* 415 ILCS 5/31.1(d) (2020); 35 Ill. Adm. Code 101.300(b), 108.204(b).

The Board accepted Ward’s petition but directed Ward to file an amended petition addressing specified deficiencies by June 21, 2021. *See, e.g., County of Jackson v. Dan Kimmel*, AC 06-21 (Feb. 16, 2006) (accepting as timely filed a petition that failed to include grounds for appeal but requiring an amended petition to cure the deficiency). If Ward did not file an

amended petition by Monday, June 21, 2021, the Board stated that Ward's petition will be dismissed and a default order will be entered against him imposing the statutory \$1,500 civil penalty. *See IEPA v. Ray Logsdon Estate*, AC 05-54 (Apr. 21, 2005).

Ward did not file an amended petition. Accordingly, the Board finds that Ward violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2020)). The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation. *See* 415 ILCS 5/42(b)(4-5) (2020); 35 Ill. Adm. Code 108.500(a). Because there is one violation of Section 21(p) and no indication in the record that this is a second or subsequent adjudicated violation, the total civil penalty is \$1,500. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

This opinion constitutes the Board's finding of fact and conclusions of law.

ORDER

1. The Board finds that Barry D. Ward violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2020)).
2. Barry D. Ward must pay a civil penalty of \$1,500 no later than Monday, August 30, 2021, which is the first business day following the 30th day after the date of this order. Barry D. Ward must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number and case name must appear on the certified check or money order.
3. Barry D. Ward must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2020)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2020)).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the

order. 415 ILCS 5/41(a) (2020); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Illinois Environmental Protection Agency Attn: Michelle M. Ryan, Asst. Counsel 1021 N. Grand Ave. E. PO Box 19276 Springfield, Illinois 62794-9276	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601 don.brown@illinois.gov
Barry D. Ward 65 Payne Drive PO Box 311 Goreville, Illinois 62939	

IT IS SO ORDERED.

I, Tim Fox, Acting Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 29, 2021, by a vote of 4-0.



Tim Fox, Acting Clerk
 Illinois Pollution Control Board