

ILLINOIS POLLUTION CONTROL BOARD
July 25, 2013

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 13-10
) (IEPA No. 207-12-AC)
HUGHES TIRE & BATTERY COMPANY,) (Administrative Citation)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by J.A. Burke):

For the reasons below, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action. The Illinois Environmental Protection Agency (IEPA) timely filed an administrative citation on September 4, 2012, against Hughes Tire & Battery Company (Hughes). IEPA alleged that on July 27, 2012, Hughes violated Section 55(k)(1) of the Environmental Protection Act (Act) (415 ILCS 5/55(k)(1) (2010)) by causing or allowing water to accumulate in used tires. The violation allegedly took place at Hughes' facility located at 120 East 1st Avenue in Milan, Rock Island County. The property is commonly known to IEPA as the "Hughes Tire & Battery" site and is designated with Site Code No. 1610400022.

The Board accepted Hughes' amended petition contesting the administrative citation on November 15, 2012. On July 16, 2013, the parties filed a "stipulation of settlement and dismissal of respondent's petition for administrative review" (Stip.). The stipulation relates to both this administrative citation and a related administrative citation docketed as IEPA v. Hughes Tire & Battery, AC 13-11. Under the terms of the stipulation, Hughes admits that it violated Section 55(k)(1) of the Act (415 ILCS 5/(k)(1) (2010)) by causing or allowing water to accumulate in used tires, and agrees to pay the statutory civil penalty of \$3,000 for a second adjudicated offense. Stip. at 2. Hughes also agrees to diligently comply with, and cease and desist from, further violations of the Act (415 ILCS 5/1 *et seq.* (2010)), and the Board's rules and regulations (35 Ill. Adm. Code Subtitles A through H). *Id.* The stipulation further states that the condition at the site that led to the issuance of this administrative citation has been remediated. *Id.* at 3. In addition, the Agency agrees not to refer the violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a civil enforcement action. *Id.*

The civil penalty for violating any provision of Section 55(k) is \$1,500 for each violation, except that the penalty amount is \$3,000 for each violation that is the person's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2010); 35 Ill. Adm. Code 108.500(a).

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2010)), the Board therefore finds that Hughes violated Section 55(k)(1) of the Act (415 ILCS 5/55(k)(1) (2010)). Section 42(b)(4-5) of the Act (415 ILCS 5/42(b) (4-5) (2010)) establishes a civil penalty of \$3,000 for this violation.¹ The Board accordingly assesses a civil penalty of \$3,000.

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

ORDER

1. The Board accepts the stipulation and proposed settlement.
2. The Board finds that Hughes Tire & Battery Company (Hughes) violated Section 55(k)(1) of the Environmental Protection Act (Act) (415 ILCS 5/55(k)(1) (2010)).
3. Hughes must pay a civil penalty of \$3,000 no later than August 26, 2013, which is the first business day following the 30th day after the date of this order. Hughes must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Hughes' social security number or federal employer identification number must be included on the certified check or money order.
4. Hughes 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
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
6. To effectuate the terms of the settlement, the Board will dismiss the related administrative citation, IEPA v. Hughes Tire & Battery Company, AC 13-11.

¹ The Board previously found Hughes violated Section 55(k)(1) of the Act. See IEPA v. Hughes Tire & Battery Company, AC 12-47 (June 7, 2012); IEPA v. Hughes Tire & Battery Company, AC 12-46 (June 7, 2012).

7. The Board dismisses Hughes's petition to contest the administrative citation.

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) (2010); *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.

I, John Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 25, 2013, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board