

days after the date of service. 415 ILCS 5/31.1(c) (2014). Compliance with the Act's 10-day filing requirement is a jurisdictional prerequisite for the Board to hear or enter a default judgment on an administrative citation. *See, e.g., IEPA v. Nancy Koltzenburg d/b/a K & N Excavating and Rentals* AC 08-37 (Sept. 16, 2008) slip op. at 1; *see also County of Perry v. Mike Tilley*, AC 07-3, slip op. at 1 (Aug. 17, 2006) (dismissal for lack of jurisdiction after citation was filed with the Board more than 10 days after date of service). In this case, the administrative citation was filed with the Board 24 days after service on Nosler; therefore the Board dismisses the administrative citation to Nosler for lack of jurisdiction.

To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2014); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by October 14, 2015. Bott failed to timely file a petition. Accordingly, the Board finds that Bott violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act.

The civil penalty for violating any provision of Sections 21(p)(1), (p)(3), and (p)(7) 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) (2014); 35 Ill. Adm. Code 108.500(a). Because there are three violations of Sections 21(p) and no indication in the record that any of these is a second or subsequent adjudicated violation, the total civil penalty is \$4,500. 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 dismisses the administrative citation against Henry Nosler (Nosler) and finds that Brandon Bott d/b/a B&B Construction (Bott) violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2014)).
2. Bratt must pay a civil penalty of \$4,500 no later than December 7, 2015, which is the first business day following the 30th day after the date of this order. Bratt must pay the civil penalty by check, made payable to the County of Vermilion, Illinois. The case number, case name, and respondent's social security number or federal employer identification number must be included on the check.
3. Bratt must send the check and the remittance form to:

Vermilion County Health Department
200 South College Street
Danville, IL 61832

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2014)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

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) (2014); *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 T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 5, 2015, by a vote of 5-0.



John T. Therriault, Clerk
Illinois Pollution Control Board