

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney	)	
General of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 2026-003
	)	
FRANKLIN DISCOUNT TIRES, INC.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

NOTICE OF FILING

To: Persons on Attached Service List

PLEASE TAKE NOTICE that I have today caused to be filed with the Clerk of the Illinois Pollution Control Board by electronic filing the following People's Motion to Deem Facts Admitted and for Summary Judgment, a true and correct copy of which is attached hereto and hereby served upon you.

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

By: /s/ Taylor Desgrosseilliers
Taylor Desgrosseilliers
Assistant Attorney General
Environmental Bureau
69 W. Washington Street, 18th Floor
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Dated: September 30, 2025

Service List

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
60 E. Van Buren St., Suite 630
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FRANKLIN DISCOUNT TIRES INC.

SHARABATEE, SAMIR
3101 MANNHEIM RD
FRANKLIN PARK, IL 60131-2398
(U.S. Mail)

CERTIFICATE OF SERVICE

I, Taylor Desgrosseilliers, an Assistant Attorney General, do certify that on this 30th day of September 2025, I caused to be served a copy of the foregoing Notice of Filing and Motion to Deem Facts Admitted and Motion for Summary Judgment upon the persons listed on the attached Service List via the methods described.

/s/ Taylor Desgrosseilliers
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PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney	)	
General of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 26-003
	)	(Enforcement - Land)
FRANKLIN DISCOUNT TIRES, INC.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

MOTION TO DEEM FACTS ADMITTED AND FOR SUMMARY JUDGMENT

Now comes the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, pursuant to Sections 103.204 and 101.516 of the Illinois Pollution Control Board's Procedural Rules, 35 Ill. Adm. Code 103.204 and 101.516, and hereby moves for the entry of an order deeming all material facts in Complainant's Complaint admitted against Respondent, FRANKLIN DISCOUNT TIRES, INC., as to Counts I through V of the Complaint. Further, Complainant moves this Illinois Pollution Control Board ("Board") for summary judgment as to Counts I through V of the Complaint against Respondent FRANKLIN DISCOUNT TIRES, INC. In support thereof, Complainant states as follows:

1. On July 2, 2025, the Complainant filed its Complaint against Respondent FRANKLIN DISCOUNT TIRES, INC. ("Respondent") for alleged violations that occurred at Respondent's business, located at 3103 Mannheim Road, Franklin Park, Cook County, Illinois ("Site"), which sells new and used tires and provides related services. As of the date of the filing of this Motion, the Site is located in an area of Environmental Justice ("EJ") concern as identified using the Illinois EPA EJ Start Map. Complainant alleged that Respondent, as the owner and operator of the Site, failed to properly store used or waste tires, which allowed water to accumulate

in tires, in violation of Sections 55(a)(3) and 55(k)(1) of the Act, 415 ILCS 5/55(a)(3) and 55(k)(1) (2024); failed to maintain records of tire disposal, in violation of Section 55(e) of the Act, 415 ILCS 5/55(e) (2024), and Section 848.607(a) of the Board Used and Waste Tire Regulations, 35 Ill. Adm. Code 848.607(a); failed to collect the retail tire fee from customers, in violation of Sections 55.8(a)(1) and (1.5), 55.9, and 55(k)(2) of the Act, 415 ILCS 5/55.8(a)(1) and (1.5), 55.9, and 55(k)(2) (2024); failed to file a return required by the Act, in violation of Sections 55.10 and 55(k)(3) of the Act, 415 ILCS 5/55.10 and 55(k)(3) (2024); and failed to notify the Illinois EPA of tire retail activity, in violation of Section 55(c) of the Act, 415 ILCS 5/55(c) (2024).

2. On August 5, 2025, Complainant filed its Proof of Service of the July 2, 2025 Complaint with the Board.

3. The Proof of Service indicates that Respondent was served with the Complaint on July 5, 2025. A true and correct copy of the Proof of Service is attached hereto as Exhibit 1.

4. As of the date of the filing of this Motion, Respondent has not filed an Answer to the Complaint, nor has Respondent filed any other responsive pleading or motion.

5. Section 103.204(d) and (e) of the Board's Procedural Rules, 35 Ill. Adm. Code 103.204(d) and (e), provides as follows:

- (d) Except as provided in subsection (e), the respondent must file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by the answer, unless respondent asserts a lack of knowledge sufficient to form a belief. Any facts constituting an affirmative defense must be plainly set forth before hearing in the answer or in a supplemental answer, unless the affirmative defense could not have been known before hearing.
- (e) If the respondent timely files a motion under Section 103.212(b) or 35 Ill. Adm. Code 101.506, the 60-day period to file an answer described in subsection (d) will be stayed. The stay will begin when the motion is filed and end when the Board disposes of the motion.

6. By failing to answer the Complaint on or before September 3, 2025, and by failing to file a motion staying the 60-day period in which to file an Answer as required by Section 103.204(d) and (e) of the Board's Procedural Rules, 35 Ill. Adm. Code 103.204(d) and (e), Respondent has admitted the material allegations asserted in the Complaint.

7. Complainant therefore requests that the Board enter an order finding that pursuant to Section 103.204(d) and (e), 35 Ill. Adm. Code 103.204(d) and (e), Respondent has admitted all material allegations asserted in the Complaint.

8. Complainant's Complaint sufficiently states facts establishing the following violations of the Act and Board Used and Waste Tire Regulations against Respondent:

Count I: Failure to properly store used or waste tires, allowing water to accumulate in tires: Sections 55(a)(3) and 55(k)(1) of the Act, 415 ILCS 5/55(a)(3) and 55(k)(1) (2024).

Count II: Failure to maintain records of tire disposal: Section 55(e) of the Act, 415 ILCS 5/55(e) (2024), and Section 848.607(a) of the Board Used and Waste Tire Regulations, 35 Ill. Adm. Code 848.607(a).

Count III: Failure to collect the retail tire fee from customers: Sections 55.8(a)(1) and (1.5), 55.9, and 55(k)(2) of the Act, 415 ILCS 5/55.8(a)(1) and (1.5), 55.9, and 55(k)(2) (2024).

Count IV: Failure to file a return required by the Act: Sections 55.10 and 55(k)(3) of the Act, 415 ILCS 5/55.10 and 55(k)(3) (2024).

Count V: Failure to notify the Illinois EPA of tire retail activity: Section 55(c) of the Act, 415 ILCS 5/55(c) (2024).

9. Section 101.516(b) of the Board's Procedural Regulations, 35 Ill. Adm. Code 101.516(b), provides as follows:

- (b) If the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law, the Board will enter summary judgment.

10. If the Board finds that Respondent has admitted all material allegations in Complainant's Complaint, then the record shows that there is no issue of material fact remaining for review. Therefore, pursuant to Section 101.516(b) of the Board's Procedural Regulations, 35 Ill. Adm. Code 101.516(b), Complainant is entitled to summary judgment in its favor as a matter of law.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, respectfully requests that that Board issue an order in favor of Complainant and against Respondent FRANKLIN DISCOUNT TIRES, INC., as follows:

- A. Finding all material allegations in the Complaint admitted against Respondent;
- B. Finding that Respondent violated Sections 55(a)(3), 55(c), 55(e), 55(k)(1), (2), and (3), 55.8(a)(1) and (1.5), 55.9, and 55.10 of the Act, 415 ILCS 5/55(a)(3), 55(c), 55(e), 55(k)(1), (2), and (3), 55.8(a)(1) and (1.5), 55.9, and 55.10 (2024), and Section 848.607(a) of the Board Used and Waste Tire Regulations, 35 Ill. Adm. Code 848.607(a);
- C. Granting summary judgment in favor of Complainant and against Respondent on Counts I through V of the Complaint; and
- D. Assessing a civil penalty in the amount of at least Twenty Thousand Dollars (\$20,000.00) against Respondent for its violations of the Act and Board Used and Waste Tire Regulations.

COMPLAINANT'S ARGUMENT IN SUPPORT OF ITS PROPOSED REMEDY

The July 10, 2025 Board Order in this cause provides, in pertinent part:

Accordingly, the Board further directs the hearing officer to advise the parties that in summary judgment motions and responses, at hearing, and in briefs, each party should consider: (1) proposing a remedy for a violation, if any (including whether to impose a civil penalty), and supporting its position with facts and arguments that

address any or all of the Section 33(c) factors; and (2) proposing a civil penalty, if any (including a specific total dollar amount and the portion of that amount attributable to the respondent's economic benefit, if any, from delayed compliance), and supporting its position with facts and arguments that address any or all of the Section 42(h) factors. . . .

Pursuant to the July 10, 2025 Board Order, Complainant is proposing a remedy for Respondent's violations of Sections 55(a)(3), 55(c), 55(e), 55(k)(1), (2), and (3), 55.8(a)(1) and (1.5), 55.9, and 55.10 of the Act, 415 ILCS 5/55(a)(3), 55(c), 55(e), 55(k)(1), (2), and (3), 55.8(a)(1) and (1.5), 55.9, and 55.10 (2024), and Section 848.607(a) of the Board Used and Waste Tire Regulations, 35 Ill. Adm. Code 848.607(a).

Complainant therefore requests that the Board assess a civil penalty against Respondent.

Impact on the Public Resulting from Respondent's Alleged Non-Compliance

In determining whether a civil penalty is warranted, the Board must consider the factors set forth in Section 33(c) of the Act, 415 ILCS 5/33(c) (2024). *Toyol Am., Inc. v. Illinois Pollution Control Board*, 2012 IL App (3d) 100585, ¶ 28 (3d Dist. 2012). The factors provided in Section 33(c) bear on the reasonableness of the circumstances surrounding the violation. *People v. John Prior d/b/a Prior Oil Co. and James Mezo d/b/a Mezo Oil Co.*, (PCB 02-177), Slip Op. at 29 (May 6, 2004). Section 33(c) of the Act, 415 ILCS 5/33(c) (2024), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;

4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Complainant states the following:

1. Respondent's violations created conditions conducive to the proliferation of mosquitos and other disease vectors, thereby threatening human health and the environment. Further, the Illinois EPA's information gathering responsibilities were hindered by Respondent's violations.

2. There is social and economic benefit to the Site.

3. Operation of the Site was and is suitable for the area in which it is located.

4. Properly storing used or waste tires, maintaining tire disposal records, collecting retail tire fees, filing returns required by the Act, and notifying the Illinois EPA of tire retail activity are both technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board and Illinois EPA regulations.

In consideration of these factors, the Board should assess a civil penalty in the amount of at least Twenty Thousand Dollars (\$20,000.00) against Respondent for its violation of the Act and Board Used and Waste Tire Regulations.

Explanation of Civil Penalty Requested

Section 2(b) of the Act, 415 ILCS 5/2(b) (2024), provides:

It is the purpose of this Act, as more specifically described in later sections, to establish a unified, state-wide program supplemented by private remedies, to restore, protect and enhance the quality of the environment, *and to assure that adverse effects upon the environment are fully considered and borne by those who cause them.* (Emphasis added.)

The primary purpose of civil penalties is to aid in the enforcement of the Act. *See People v. McHenry Shores Water Co.*, 295 Ill. App. 3d 628, 638 (2d Dist. 1998). Civil penalties should reflect the severity of the violation(s) of the Act. *Southern Illinois Asphalt Company, Inc. v. Pollution Control Board*, 60 Ill. App. 2d 204, 208 (5th Dist. 1975). However, the Act authorizes civil penalties regardless of whether violations resulted in actual pollution. *ESG Watts, Inc. v. Illinois Pollution Control Board*, 282 Ill. App. 3d 43, 52 (4th Dist. 1996). Moreover, the award of a civil penalty “serves the legislative purpose of aiding enforcement of the Act, for through penalties upon those who blatantly disregard applicable rules and regulations, others, who might consider cutting corners at the expense of the environment, are deterred.” *Wasteland, Inc. v. Illinois Pollution Control Board*, 118 Ill. App. 3d 1041, 1055 (3d Dist. 1983) (subsequently cited by the First District; *see e.g. Standard Scrap Metal Co. v. Pollution Control Board*, 142 Ill. App. 3d 655, 665 (1st Dist. 1986)).

Section 42 of the Act provides guidance for calculating civil penalties for violations of the Act. In particular, Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), provides in pertinent part, as follows:

- a) Except as provided in this Section, any person that violates any provision of this Act or any regulation adopted by the Board, or any permit or term or condition thereof, or that violates any order of the Board pursuant to this Act, shall be liable for a civil penalty of not to exceed \$50,000 for the violation and an additional civil penalty of not to exceed \$10,000 for each day during which the violation continues;

Consideration of Section 42(h) Factors

Section 42(h) of the Act, 415 ILCS 5/42(h) (2024), provides as follows:

In determining the appropriate civil penalty to be imposed..., the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a 'supplemental environmental project,' which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Complainant states as follows:

1. Respondent failed to store used and/or waste tires such that water was prevented from accumulating in them. This violation began on April 23, 2019, and was resolved on January 26, 2024, when Respondent provided Illinois EPA with photographs showing the used and/or waste tires were stored such that water was prevented from accumulating. Respondent failed to retain copies of receipts for tire disposal. This violation began on April 23, 2019, and was resolved January 30, 2021, when Respondent provided copies of receipts for tire disposal to Illinois EPA. Respondent failed to collect the retail tire fee from customers. This violation began on April 23,

2019, and was resolved January 22, 2024, when Respondent provided copies of receipts for tire sales that included the retail tire fee as a separate line item to Illinois EPA. Respondent failed to file returns required by the Act. This violation began on April 23, 2019, and was resolved on April 20, 2021, when the Illinois Department of Revenue notified Illinois EPA that Respondent had submitted its quarterly return. Finally, Respondent failed to notify the Illinois EPA of its activities as a tire retailer. This violation began on January 27, 2021, and continued until January 17, 2024, when Respondent registered as a tire retailer. Respondent violated the Act and Board Used and Waste Tire Regulations for between two to five years, depending on the specific violation at issue.

2. The question of good faith, or the lack thereof, is pertinent to a determination of sanctions. *Wasteland, Inc.*, 118 Ill.App.3d at 1054. Here, Respondent failed to act diligently in this matter, as evidenced by its failure to act to remedy the violations for years, even after Illinois EPA conducted six separate inspections and notified Respondent of the existence of likely violations following each inspection.

3. The Twenty Thousand Dollar (\$20,000.00) civil penalty requested by Complainant includes any economic benefit that Respondent may have accrued as a result of its noncompliance.

4. In the absence of a civil penalty sufficient to deter other persons similarly situated under the Act, no regulated entity “would ever be inclined to comply with Illinois’ environmental requirements.” *See Standard Scrap Metal Co.*, 142 Ill.App.3d at 664. Accordingly, a significant civil penalty is warranted. As such, a civil penalty in the amount of at least Twenty Thousand Dollars (\$20,000.00) will serve to deter further violations by Respondent and to otherwise aid in enhancing voluntary compliance with the Act and Board Regulations by Respondent and other persons similarly subject to the Act and Board Regulations.

5. To Complainant's knowledge, Respondent has had no previously adjudicated violations.

6. Self-disclosure is not at issue in this matter.

7. Respondent did not offer to perform a supplemental environmental project.

8. A Compliance Commitment Agreement was not at issue in this matter.

In furtherance of the purposes of the Act “to assure that adverse effects upon the environment are fully considered and borne by those who cause them, 415 ILCS 5/2(b) (2024), and based on the duration of the violations and Respondent’s lack of diligence to comply with Sections 55(a)(3), 55(c), 55(e), 55(k)(1), (2), and (3), 55.8(a)(1) and (1.5), 55.9, and 55.10 of the Act, 415 ILCS 5/55(a)(3), 55(c), 55(e), 55(k)(1), (2), and (3), 55.8(a)(1) and (1.5), 55.9, and 55.10 (2024), and Section 848.607(a) of the Board Used and Waste Tire Regulations, 35 Ill. Adm. Code 848.607(a), the Board should assess against Respondent a civil penalty of no less than Twenty Thousand Dollars (\$20,000.00).

Based on the facts of this case and consideration of Section 42(h) of the Act, 415 ILCS 5/42(h) (2024), the Board should assess Respondent a civil penalty in the amount of at least Twenty Thousand Dollars (\$20,000.00).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, respectfully requests that the Board grant its Motion to Deem Facts Admitted and for Summary Judgment against Respondent, FRANKLIN DISCOUNT TIRES, INC., and award the relief requested by assessing against Respondent a civil penalty in the amount of at least Twenty Thousand Dollars (\$20,000.00), and take such other action as the Board believes to be appropriate and just.

Respectfully submitted,

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

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