

On January 10, 2017, the People and CII filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2014)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2014)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Robinson Daily News* on January 25, 2017. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2014); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. *See* 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of CII's operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2014)), which bears on the reasonableness of the circumstances surrounding the alleged violations. CII neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2014)), which may mitigate or aggravate the civil penalty amount. CII agrees to pay a civil penalty of \$235,000 and perform compliance activities specified in the stipulation. The People and CII have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

The parties have agreed to language allowing them to modify the stipulation and proposed settlement. The Board notes, however, that any modification made by the parties and not accepted by the Board in a subsequent Board order is not enforceable under the Act. *See* People v. Reliable Materials Lyons, PCB 12-52, slip op. at 2 (Aug. 21, 2014).

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

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Rain CII Carbon, LLC must pay a civil penalty of \$235,000 no later than March 20, 2017, which is the first business day following the 30th day after the date of this order. Rain CII Carbon, LLC must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name and case number must appear on the face of the certified check or money order.
3. Rain CII Carbon, LLC must submit payment of the civil penalty to:

Illinois Environmental Protection Agency
Fiscal Services Division

1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Rain CII Carbon, LLC must send a copy of the certified check or money order and any transmittal letter to:

Evan J. McGinley
Environmental Bureau
Illinois Attorney General's Office
69 West Washington Street, Suite 1800
Chicago, Illinois 60602

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. Rain CII Carbon, LLC must undertake all compliance activities specified in the stipulation and proposed settlement.
6. Rain CII Carbon, LLC must cease and desist from future violations of the Environmental Protection Act, Board regulations, and permit that were the subject of the complaint.

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, Don A. Brown, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 16, 2017 by a vote of 5-0.



Don A. Brown, Assistant Clerk
Illinois Pollution Control Board