

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 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 respondents 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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount.

Under the proposed stipulation, the respondents admit the alleged violations and collectively agree to pay a total civil penalty of \$85,000. The People assert that the economic benefit of \$15, 642 is included in this total, and is split between respondents in their penalty amounts, although respondents' position is that they derived no economic benefit. Meijer Stores Limited Partnership must pay a civil penalty of \$60,000 and Rockford Construction Company a civil penalty of \$25,000. Respondents do not guarantee each other's payment obligations.

The People and respondents have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. This docket is now closed.

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. Meijer Stores Limited Partnership, through its attorney of record, must pay a civil penalty of \$60,000. Rockford Construction Company must pay a civil penalty of \$25,000. Each payment must be made no later than September 16, 2006, which is the first business day after the 30th day after the date of this order. Each respondent must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated to the Environmental Protection Trust Fund. The case number, case name, and each respondent's federal employer identification number must be included on the certified check, money order, or electronic funds transfer statement.
3. Each respondent, through its attorney of record, must send the certified check, money order, or electronic funds transfer at the indicated address:

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

4. Each respondent must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following person at the indicated address:

Jennifer A. Tomas
 Assistant Attorney General
 Environmental Bureau
 188 W. Randolph St., 20th Floor
 Chicago, Illinois 60601

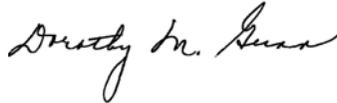
James Allen Day
 Assistant Counsel
 Illinois Environmental Protection Agency
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62794-9276

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
6. Each respondent must cease and desist from the alleged violations.

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) (2004); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 17, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board