



National Emission Standards for Hazardous Air Pollutants (NESHAP)<sup>2</sup> asbestos regulations and compliance methods, improperly disposing of the asbestos-containing waste material during the demolition through a failure to adequately wet and seal the material in leak-tight containers while wet, improperly disposing of the asbestos-containing material during the demolition through a failure to place the material in appropriate containers properly labeled, failing to label the containers of asbestos-containing waste removed during the demolition, failing to transport to a waste disposal site as soon as practical all asbestos-containing waste material generated during the demolition (Count III); and causing, threatening or allowing the discharge or emission of asbestos into the environment by failing to adequately wet, contain and properly dispose of all asbestos-containing material during the demolition (Count IV).

On October 20, 2011, the People and Cook 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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). In an order dated November 3, 2011, the Board directed the Clerk of the Board to provide notice of the stipulation, proposed settlement and request for relief from the hearing requirement. The newspaper notice was published in the *Hancock County Journal-Pilot* on November 23, 2011. 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) (2010); 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. 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 the Cook'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) (2010)), 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) (2010)), which may mitigate or aggravate the civil penalty amount. Cook admits to the violations and agrees to pay a civil penalty of \$8,000. The People and Cook have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

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. Kevin S. Cook, d/b/a KC Construction (Cook), must each pay a civil penalty of \$8,000 by February 6, 2012, which is the first business day following the 30th day

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<sup>2</sup> Section 9(b) of the Act provides that federal NESHAP "are applicable to the state and enforceable under the Act." 415 ILCS 5/9(b) (2010).

after the date of this order. Cook must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Cook's social security number or federal employer identification number must be included on the certified check or money order.

3. Cook 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

Cook must send a copy of the certified check or money order, and any transmittal letter to:

Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (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)).
5. Cook must cease and desist from future violations of the National Emission Standards for Hazardous Air Pollutants for asbestos, the Act and the Board's regulations that were the subject matter 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) (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 January 5, 2012, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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John Therriault, Clerk  
Illinois Pollution Control Board