

ILLINOIS POLLUTION CONTROL BOARD  
November 6, 2025

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 26-3
	)	(Enforcement - Land)
FRANKLIN DISCOUNT TIRES, INC., an	)	
Illinois corporation,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by B.F. Currie):

On July 2, 2025, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Franklin Discount Tires, Inc. (Franklin Discount Tires) concerning its tire sales and service business located at 3101 Mannheim Road in Franklin Park, Cook County (Site).

On September 30, 2025, the People filed a motion to deem facts admitted and for summary judgment (Mot.). For the reasons below, the Board grants the People's motion and finds that Franklin Discount Tires violated Sections 55(a)(3), 55(c), 55(e), 55(k)(1), 55(k)(2), 55(k)(3), 55.8(a)(1), 55.8(a)(1.5), 55.9, and 55.10 of the Environmental Protection Act (Act) (415 ILCS 5/55(a)(3), 55(c), 55(e), 55(k)(1), 55(k)(2), 55(k)(3), 55.8(a)(1), 55.8(a)(1.5), 55.9, 55.10 (2024)) and Section 848.607(a) of the Board's used and waste tire management rules (35 Ill. Adm. Code 848.607(a)) as alleged in the People's complaint.

In this opinion and order, the Board first provides the procedural history of the case and a summary of the People's complaint. The Board then decides the People's motion to deem facts admitted and provides the uncontested facts. The Board next addresses the People's motion for summary judgment. The Board first provides statutory and regulatory authorities before granting the motion and then discussing an appropriate remedy and issuing its order.

**PROCEDURAL BACKGROUND**

On July 2, 2025, the People filed the complaint (Comp.), which the Board accepted for hearing on July 10, 2025. On August 5, 2025, the People filed proof of service upon Samir Sharabatee on July 5, 2025. As of the date of this order, Franklin Discount Tires has not answered the complaint.

On July 24, 2025, and on August 28, 2025, the Board's hearing officer conducted telephonic status conferences at which respondent did not appear.

On September 30, 2025, the People filed a motion to deem facts admitted and for summary judgement. Per Board Rules, a response was due by October 15, 2025. As of the date of this order, Franklin Discount Tires has not filed a response to the motion.

### **SUMMARY OF COMPLAINT**

#### **Count I**

The People allege that from at least April 23, 2019, to January 26, 2024, Franklin Discount Tires violated Section 55(a)(3) of the Act (415 ILCS 5/55(a)(3) (2024)) by causing or allowing the uncovered storage of between 90 and 200 used or waste tires at the Site without altering, reprocessing, converting, or otherwise taking any action to prevent the accumulation of water within the tires. Comp. at 5 (¶22). The People also allege that during that same time, Franklin Discount Tires violated Section 55(k)(1) of the Act (415 ILCS 5/55(k)(1) (2024)) by causing or allowing water to accumulate in used or waste tires at the Site. Comp. at 5 (¶23).

#### **Count II**

The People allege that from at least April 23, 2019, until January 30, 2021, Franklin Discount Tires violated Section 848.607(a) of the Board's used and waste tire management rules (35 Ill. Adm. Code 848.607(a)) by failing to retain copies of receipts provided by a tire transporter that received its used or waste tires. The People further allege that by doing so Franklin Discount Tires also violated Section 55(e) of the Act (415 ILCS 5/55(e) (2024)). Comp. at 8 (¶¶27, 28).

#### **Count III**

The People allege that Franklin Discount Tires violated Sections 55.8(a)(1) and (1.5) and Section 55.9 of the Act (415 ILCS 5/55.8(a)(1), 55.8(a)(1.5), 55.9 (2024)) by failing to collect a Tire User Fee for each tire sold, included as a distinct item separate from the selling price of the tire on the invoice. The People further allege that, by violating Section 55.8(a)(1) and (1.5), Franklin Discount Tires also violated Section 55(k)(2) of the Act (415 ILCS 5/55(k)(2) (2024)). Comp. at 12 (¶¶34, 35).

#### **Count IV**

The People allege that from at least April 23, 2019, until April 20, 2021, Franklin Discount Tires violated Section 55.10 of the Act (415 ILCS 5/55.10 (2024)) by failing to file quarterly returns with the Illinois Department of Revenue (IDOR). The People further allege that, by doing so, Franklin Discount Tires also violated Section 55(k)(3) of the Act (415 ILCS 5/55(k)(3) (2024)). Comp. at 14-15 (¶¶35, 36).

#### **Count V**

The People allege that from at least January 27, 2021, until January 17, 2024, Franklin Discount Tires violated Section 55(c) of the Act (415 ILCS 5/55(c) (2024)) by failing to submit a

Used or Waste Tires Activity Notification Form notifying the Illinois Environmental Protection Agency (IEPA or Illinois EPA) of its activities as a tire retailer. Comp. at 16 (¶23).

### **Requested Relief**

On each of the five counts, the People requested that the Board order respondents to cease and desist from any future violations of the Act that were the subject of the complaint. In the complaint, the People also request that the Board impose the maximum civil penalty allowed in the Act - \$50,000 for each violation of the Act and \$10,000 for each day during which each violation continued. The People also requested that the Board order respondents to pay costs including attorney, expert witness, and consultant fees. As discussed below, in the Motion for Summary Judgment, after evaluating the 33(c) and 42(h) factors, the People ultimately request the Board impose a \$20,000 civil penalty on the respondent.

### **MOTION TO DEEM FACTS ADMITTED**

The Board's procedural rules provide that "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 answer." 35 Ill. Adm. Code 103.204(d)); *see* Mot. at 2 (¶5). Franklin Discount Tires failed to answer the complaint within 60 days after service, *i.e.*, by Wednesday, September 3, 2025. Franklin Discount Tires also failed to respond to the People's motion to deem facts admitted and so waives objection to the Board granting the motion. *See* 35 Ill. Adm. Code 101.500(d). Based on these factors, the Board grants the People's unopposed motion and deems admitted the material allegations in the People's complaint.

### **FACTS DEEMED ADMITTED**

Having granted the People's motion to deem facts admitted, the Board reviews the uncontested facts in the following subsections.

#### **Franklin Discount Tires' Location and Organization**

At all times relevant to the People's complaint, Franklin Discount Tires owned or operated and continues to own or operate businesses located at 3101 Mannheim Road in Franklin Park (Site). Comp. at 2 (¶5). Franklin Discount Tires sells new and used tires and provides related services. *Id.*

Franklin Discount Tires was incorporated in the State of Illinois on November 29, 2018, and at all times relevant to the complaint was in good standing and authorized to do business in the state. Comp. at 1 (¶3). As a corporation, Franklin Discount Tires is a "person" as the Act defines that term. *Id.* at 4 (¶17), citing 415 ILCS 5/3.315 (2024). At all times relevant to the complaint, Samir Sharabatee was and is Franklin Discount Tires' President, Secretary, and registered agent. *Id.* at 2 (¶4).

### **IEPA Inspections**

From April 23, 2019, to January 17, 2024, IEPA inspected the site six times. During the first inspection, IEPA found that “approximately 90 used or waste tires were stored at the Site outside in stacks on the ground and on racks, uncovered, in a manner that allowed water to accumulate in the tires.” Comp. at 2 (¶7). Also during that first inspection, Samir Sharabatee told IEPA that K&S Tire Recycling collects Franklin Discount Tires’ used and waste tires “but did not maintain or provide any receipts for their most recent pickup of used or waste tires or any receipts for other pickups.” Comp. at 6 (¶17).

At the time of IEPA’s first inspection, Samir Sharabatee reported to IEPA that “he was not aware of the requirements to charge a \$2.50 fee per tire sold, to include the fee as a distinct item on customer invoices, or to remit those fees to IDOR.” Comp. at 9 (¶19). He reported that Franklin Discount Tires “neither charged the Tire User Fee nor remitted it” to IDOR. *Id.* During that inspection, Samir Sharabatee also stated that he was not aware of the requirement that Franklin Discount Tires submit quarterly returns to IDOR. *Id.* at 13 (¶27).

Subsequent inspections continued to find that between 100-200 used or waste tires remained stored at the facility in an improper manner. During the sixth inspection on January 17, 2024, Samir Sharabatee presented four receipts from K&S Tire Recycling, Inc. indicating that it had collected used or waste tires from the Site. Comp. at 7 (¶23). On the date of the sixth inspection, IDOR reported that Franklin Discount Tires had submitted a quarterly return for the third quarter of 2023. Comp. at 14 (¶32). At the time of the sixth inspection, Franklin Discount Tires had submitted a Used or Waste Tire Activity Notification to IEPA. Comp. at 16 (¶19). Additionally, on January 26, 2024, Franklin Discount Tires sent IEPA a picture “showing the waste tires outside at the Site had been covered with a tarp.” Comp. at 3 (¶13).

### **Franklin Discount Tires’ Operations**

At the Site, Franklin Discount Tires engaged in the “storage” of “tires” that were “used tires” or “waste tires” or both as the Act defines those terms. Comp. at 4 (¶19), citing 415 ILCS 5/54.09, 54.10, 54.13, 54.16 (2024). Tires present at the site during IEPA’s inspections were not altered, converted, covered, or reprocessed as the Act defines those terms. Comp. at 5 (¶21), citing 415 ILCS 5/54.01, 54.02, 54.03, 54.07 (2024).

### **MOTION FOR SUMMARY JUDGMENT**

The People move the Board for summary judgment in its favor on the five counts of the complaint. Mot. at 1, 4, citing 35 Ill. Adm. Code 101.516(b). A party has 14 days after receiving a motion for summary judgment to respond. *See* 35 Ill. Adm. Code 101.516(a). If it does not respond, “the party waives objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion.” 35 Ill. Adm. Code 101.500(d). Franklin Discount Tires did not respond to the People’s motion or file a motion to extend the response deadline. The Board finds that by failing to respond, Franklin Discount Tires has waived any objection to the Board granting the People’s motion for summary judgment.

### **Statutory and Regulatory Authorities**

Section 3.315 of the Act defines “person” as “any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.” 415 ILCS 5/3.315 (2024).

Section 54.01 of the Act provides in its entirety that

‘[a]ltered tire’ means a used tire which has been altered so that it is no longer capable of holding accumulations of water, including, but not limited to, used tires that have been shredded, chopped, drilled with holes sufficient to assure drainage, slit longitudinally and stacked so as not to collect water, or wholly or partially filled with cement or other material to prevent the accumulation of water. ‘Alteration’ or ‘altering’ means action which produces an altered tire. 415 ILCS 5/54.01 (2024).

Section 54.02 of the Act provides in its entirety that

‘[c]onverted tire’ means a used tire which has been manufactured into a usable commodity other than a tire. ‘Conversion’ or ‘converting’ means action which produces a converted tire. Usable products manufactured from tires, which products are themselves capable of holding accumulations of water, shall be deemed to be ‘converted’ if they are stacked, packaged, boxed, containerized or enclosed in such a manner as to preclude exposure to precipitation prior to sale or conveyance. 415 ILCS 5/54.02 (2024).

Section 54.03 of the Act provides in its entirety that “[c]overed tire’ means a used tire located in a building, vehicle or facility with a roof extending over the tire, or securely located under a material so as to preclude exposure to precipitation.” 415 ILCS 5/54.03 (2024).

Section 54.07 of the Act provides in its entirety that “[r]eprocessed tire’ means a used tire which has been recapped, retreaded or regrooved and which has not been placed on a vehicle wheel rim.” 415 ILCS 5/54.07 (2024).

Section 54.09 of the Act provides in its entirety that “[s]torage’ means any accumulation of used tires that does not constitute disposal. At a minimum, such an accumulation must be an integral part of the systematic alteration, reuse, reprocessing or conversion of the tires in the regular course of business.” 415 ILCS 5/54.09 (2024).

Section 54.10 of the Act provides in its entirety that “[t]ire’ means a hollow ring, made of rubber or similar materials, which was manufactured for the purpose of being placed on the wheel rim of a vehicle.” 415 ILCS 5/54.10 (2024).

Section 54.12b of the Act provides in its entirety that “[t]ire transporter’ means a person who transports used or waste tires in a vehicle.” 415 ILCS 5/54.12b (2024).

Section 54.13 of the Act provides in its entirety that “[u]sed tire” means a worn, damaged, or defective tire that is not mounted on a vehicle.” 415 ILCS 5/54.13 (2024).

Section 54.16 of the Act provides in its entirety that “[w]aste tire” means a used tire that has been disposed of.” 415 ILCS 5/54.16 (2024).

Section 55(a)(3) of the Act provides in its entirety that no person shall, “[e]xcept at a tire storage site which contains more than 50 used tires, cause or allow the storage of any used tire unless the tire is altered, reprocessed, converted, covered, or otherwise prevented from accumulating water.” 415 ILCS 5/55(a)(3) (2024).

Section 55(c) of the Act provides in its entirety that

[a]ny person who sells new or used tires at retail or operates a tire storage site or a tire disposal site which contains more than 50 used or waste tires shall give notice of such activity to the Agency. Any person engaging in such activity for the first time after January 1, 1990, shall give notice to the Agency within 30 days after the date of commencement of the activity. The form of such notice shall be specified by the Agency and shall be limited to information regarding the following:

- (1) the name and address of the owner and operator;
- (2) the name, address and location of the operation;
- (3) the type of operations involving used and waste tires (storage, disposal, conversion or processing); and
- (4) the number of used and waste tires present at the location. 415 ILCS 5/55(c) (2024).

Section 55(e) of the Act provides in its entirety that “[n]o person shall cause or allow the storage, disposal, treatment or processing of any used or waste tire in violation of any regulation or standard adopted by the Board.” 415 ILCS 5/55(e) (2024).

Section 55(k)(1) of the Act provides that “[n]o person shall [c]ause or allow water to accumulate in used or waste tires.” 415 ILCS 5/55(k)(1) (2024).

Section 55(k)(2) of the Act provides in its entirety that “[n]o person shall [f]ail to collect a fee required under Section 55.8 of this Title [Tire retailers].” 415 ILCS 5/55(k)(2) (2024).

Section 55(k)(3) of the Act provides that “[n]o person shall [f]ail to file a return required under Section 55.10 of this Title [Tax returns by retailer].” 415 ILCS 5/55(k)(3) (2024).

Section 55.8(a)(1) of the Act provides in pertinent part that “[a]ny person selling new or used tires at retail or offering new or used tires for retail sale in the State shall beginning on June 20, 2003 (the effective date of Public Act 93-32), collect from retail customers a fee of \$2 per new or used tire sold and delivered in this State, to be paid to the Department of Revenue and deposited into the Used Tire Management Fund. . . .” 415 ILCS 5/55.8(a)(1) (2024).

Section 55.8(a)(1.5) of the Act provides in its entirety that “[a]ny person selling new or used tires at retail or offering new or used tires for retail sale in the State shall beginning on July 1, 2003, collect from retail customers an additional 50 cents per new or used tire sold and delivered in the State; the money collected from this fee shall be deposited into the Emergency Public Health Fund.” 415 ILCS 5/55.8(a)(1.5) (2024).

Section 55.9 of the Act, entitled “Collection of fee,” provides in pertinent part that “[r]etailers shall collect the fee from the purchaser by adding the fee to the selling price of the tire. The fee imposed by Section 55.8 shall be stated as a distinct item separate and apart from the selling price of the tire. . . .” 415 ILCS 5/55.9 (2024).

Section 55.10 of the Act, entitled “Tax returns by retailer,” provides in pertinent part that, except as otherwise provided,

[f]or returns due after January 31, 2010, each retailer of tires maintaining a place of business in this State shall make a return to the Department of Revenue on a quarter annual basis, with the return for January, February, and March of a given year being due by April 20 of that year; with the return for April, May, and June of a given year being due by July 20 of that year; with the return for July, August, and September of a given year being due by October 20 of that year; and with the return for October, November, and December of a given year being due by January 20 of the following year. 415 ILCS 5/55.10 (2024).

Section 848.607(a) of the Board’s used and waste tire rules provides in its entirety that,

[u]pon receiving used or waste tires, a tire transporter must provide a receipt to the person from whom the used or waste tires are received. The person from whom the used or waste tires are received and the tire transporter must each keep a copy of the receipt. The receipt must include all of the following: the signature of the person from whom the used or waste tires are received; the tire transporter's signature; the name and registration number of the tire transporter; the name, address, and telephone number of the site from which used or waste tires were transported; the date the used or waste tires were transported from the site; the number or weight, in tons, of used or waste tires transported from the site; and the destinations of the used or waste tires. 35 Ill. Adm. Code 848.607(a).

### **Standard for Summary Judgment**

Summary judgment is appropriate when the pleadings, depositions, admissions, affidavits, and other items in the record show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. 35 Ill. Adm. Code 101.516(b); Adames v. Sheahan, 233 Ill. 2d 276, 295, 909 N.E.2d 742, 753 (2009); Dowd & Dowd, Ltd. v. Gleason, 181 Ill. 2d 460, 483, 693 N.E.2d 358, 370 (1998). When determining whether a genuine issue of material fact exists, the record “must be construed strictly against the movant

and liberally in favor of the opponent.” Adames, 233 Ill. 2d at 295-96, 909 N.E.2d at 754; Purtill v. Hess, 111 Ill. 2d 229, 240, 489 N.E.2d 867, 871 (1986).

### **Ruling on Motion for Summary Judgment**

The facts deemed admitted establish that Franklin Discount Tires is a “person” that owned or operated and continues to own or operate a business that is a “site.” Comp. at 2, 4 (¶¶5, 17). At its Site, Franklin Discount Tires engaged in the storage of “tires” that were “used tires” or “waste tires” or both. *Id.* at 4 (¶19). During inspections of the Site, IEPA observed tires that were not altered, converted, covered, or reprocessed. *Id.* at 5 (¶21). During those inspections, IEPA observed between 90 and 200 used or waste tires stored in stacks on the ground and in racks uncovered in a manner that allowed water to accumulate in the tires. *Id.* at 2-3 (¶¶7-11). In one inspection, some of the tires at the Site contained water. *Id.* at 2 (¶10).

When determining whether there is a genuine issue of material fact, the Board must construe the record strictly against the People as the moving party and liberally in favor of Franklin Discount Tires as the non-moving party. Doing so, the Board finds no genuine issue of material fact concerning the People’s allegations in Count I.

Therefore, on Count I the Board grants the People’s motion for summary judgment, finding that Franklin Discount Tires violated Sections 55(a)(3) and 55(k)(1) of the Act (415 ILCS 5/55(a)(3), 55(k)(1) (2024)).

The People allege in Count II that Franklin Discount Tires violated Section 848.607(a) of the Board’s used and waste tire rules, which provides that a tire transporter must provide a receipt to the person from whom used or waste tires are received and that the person from whom the used or waste tires are received and the tire transporter must each keep a copy of the receipt. The People further allege that, by doing so, Franklin Discount Tires violated Section 55(e) of the Act, which provides that no person shall cause or allow the storage, disposal, treatment, or processing of any used or waste tires in violation of any regulation or standard adopted by the Board.

The facts deemed admitted establish that Franklin Discount Tires failed to retain or provide copies of receipts from a tire transporter documenting the collection of used or waste tires for disposal. Comp. at 6-7, 8 (¶¶17-21, 27).

Therefore, on Count II the Board grants the People’s motion for summary judgment, finding that Franklin Discount Tires violated Section 848.607(a) of the Board’s used and waste tire management rules and by doing so violated Section 55(e) of the Act (415 ILCS 5/55(e) (2024); 35 Ill. Adm. Code 848.607(a)).

The People allege in Count III that Franklin Discount Tires violated Sections 55.8(a)(1) and (1.5) and Section 55.9 of the Act providing that it must collect a Tire User Fee for each tire sold, included as a distinct item separate from the selling price of the tire on the invoice. The People further allege in Count III that, by doing so, Franklin Discount Tires violated Section 55(k)(2) of the Act providing that it must not fail to collect a fee required under Section 55.8.



The facts deemed admitted establish that Franklin Discount Tires sold new or used tires at retail and was required to collect from retail customers a fee of \$2.50 per tire by adding the fee as a separate item to the sale price of the tire. Comp. at 12 (¶32). The facts deemed admitted also establish that Franklin Discount Tires failed to collect a Tire User Fee for each tire sold and failed to list the fee as an item separate from the sale price of the tire. *Id.* (¶33).

Therefore, on Count III the Board grants the People's motion for summary judgment, finding that Franklin Discount Tires violated Sections 55.8(a)(1), 55.8(a)(1.5) and 55.9 of the Act (415 ILCS 5/55.8(a)(1), 55.8(a)(1.5), 55.9 (2024)).

The People allege in Count IV that Franklin Discount Tires violated Section 55.10 of the Act providing that tire retailers doing business in the State must file quarterly returns with IDOR. The People further allege that, by doing so, Franklin Discount Tires violated Section 55(k)(3) of the Act providing that no person shall fail to file a return required under Section 55.10 of the Act.

The facts deemed admitted establish that at all times relevant to the complaint Franklin Discount Tires owned or operated and continues to own or operate businesses selling new and used tires in Illinois. Comp. at 2 (¶5). The facts deemed admitted also establish that Franklin Discount Tires failed to file required quarterly returns with IDOR. Comp. at 9-10, 14 (¶¶19-24, 35).

Therefore, on Count IV the Board grants the People's motion for summary judgment, finding that Franklin Discount Tires violated Sections 55.10 and 55(k)(3) of the Act (415 ILCS 5/55(k)(3), 55.10 (2024)).

The People allege in Count V that Franklin Discount Tires violated Section 55(c) of the Act providing that any person who sells new or used tires at retail or operates a tire storage site or a tire disposal site containing more than 50 used or waste tires must give notice of that activity to IEPA.

The facts deemed admitted establish that at all times relevant to the complaint Franklin Discount Tires owned or operated and continues to own or operate businesses selling new and used tires in Illinois. Comp. at 2 (¶5). The facts deemed admitted also establish that Franklin Discount Tires began selling new and used tires at retail for the first time on or before April 23, 2019. *Id.* at 16 (¶21). During inspections of the Site, IEPA observed between 90 and 200 used or waste tires. *Id.* at 2-3 (¶¶7-11). From at least January 27, 2021, to January 17, 2024, Franklin Discount Tires did not submit a Used or Waste Tires Activity Notification Form notifying IEPA of its retail tire activities. *Id.* (¶¶17-18, 22).

Therefore, on Count V the Board grants the People's motion for summary judgment, finding that Franklin Discount Tires violated Section 55(c) of the Act (415 ILCS 5/55(c) (2024)).

### **REMEDY**

Having found that Franklin Discount Tires violated Sections 55(a)(3), 55(c), 55(e), 55(k)(1), 55(k)(2), 55(k)(3), 55.8(a)(1), 55.8(a)(1.5), 55.9, and 55.10 of the Act (415 ILCS 5/55(a)(3), 55(c), 55(e), 55(k)(1), 55(k)(2), 55(k)(3), 55.8(a)(1), 55.8(a)(1.5), 55.9, 55.10 (2024)) and Section 848.607(a) of its used and waste tire rules (35 Ill. Adm. Code 848.607(a)), the Board must determine an appropriate remedy including any civil penalties. The People request that the Board assess a civil penalty of no less than \$20,000. Mot. at 4, 6, 10.

When reviewing the record to determine a remedy, including whether to impose a civil penalty, the Board considers the factors of Section 33(c) of the Act. 415 ILCS 5/33(c) (2024); *see* Mot. at 5. If after considering the Section 33(c) factors the Board concludes to impose a civil penalty, the Board then considers the factors of Section 42(h) of the Act to determine the appropriate amount of the civil penalty. 415 ILCS 5/42(h) (2024); *see* Mot. at 7.

### **Section 33(c)**

Section 33(c) of the Act provides that,

[i]n 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:

- (i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
- (ii) the social and economic value of the pollution source;
- (iii) 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;
- (iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
- (v) any subsequent compliance. 415 ILCS 5/33(c) (2024).

### **People's Motion**

First, the People argue that the violations “created conditions conducive to the proliferation of mosquitos and other disease vectors, thereby threatening human health and the environment.” Mot. at 6. The People add that the violations hindered IEPA’s information-gathering responsibilities. *Id.* On the second and third factors, the People acknowledge that “[t]here is social and economic benefit to the Site” and that “[o]peration of the Site was and is

suitable for the area in which it is located.” *Id.* On the fourth factor, the People assert that “[p]roperly 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.” *Id.* Finally, the People acknowledge that Franklin Discount Tires has subsequently complied with the Act and Board rules. *Id.*

### **Board Discussion**

The Board agrees with the People and finds that Franklin Discount Tires’ numerous violations created conditions that threatened human health and the environment and hindered IEPA’s information-gathering responsibilities. The Board weighs this factor against it.

The Board agrees that there is social and economic benefit to the Site and that operating the Site is suitable for its location. The Board weighs both the second and third factors in favor of Franklin Discount Tires.

The Board agrees with the People that it is technically practicable and economically reasonable to properly store used or waste tires, maintain tire disposal records, collect retail tire fees, file required returns, and notify IEPA of tire retail activity. The Board weighs this factor against Franklin Discount Tires.

Finally, although the Board accepts the People’s position that Franklin Discount Tires subsequently complied with the Act and Board rules, it notes the violations alleged in Count I continued for approximately five years, those in Counts II, III, and IV for approximately two years, and those in Count V for approximately three years. During that time, IEPA conducted six inspections of the Site. Based on these factors, the Board does not weigh this factor in favor of Franklin Discount Tires.

Franklin Discounts Tires’ numerous violations of the Act and Board rules continued for as long as nearly five years. Those violations both threatened human health and the environment and impeded IEPA’s responsibilities. While there is social and economic benefit of the Site and its operation, complying with the used and waste tires requirements there is technically practicable and economically reasonable. Violating numerous requirements significantly diminished those benefits. Based on its consideration of the record in light of the Section 33(c) factors, the Board concludes that those factors favor requiring Franklin Discount Tires to pay a civil penalty.

### **Section 42(h)**

Having concluded that the Section 33(c) factors warrant requiring a civil penalty, the Board next applies the factors of Section 42(h) to consider the People’s requested civil penalty of \$20,000.

Section 42(h) provides that,

[i]n 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. 415 ILCS 5/42(h) (2024).

### **People’s Motion**

First, the People point to the duration of the violations, that, for nearly five years, Franklin Discount Tires “failed to store used and/or waste tires such that water was prevented from accumulating in them.” Mot. at 8. For nearly two years, Franklin Discount Tires “failed to retain copies of receipts for tire disposal.” *Id.* For nearly five years, Franklin Discount Tires

“failed to collect the retail tire fee from customers.” *Id.* For nearly two years, Franklin Discount Tires “failed to file returns required by the Act.” *Id.* at 9. Finally, for nearly two years, Franklin Discount Tires “failed to notify the Illinois EPA of its activities as a tire retailer.” *Id.*

Second, the People argue that Franklin Discount Tires “failed to act diligently in this matter, as evidenced by its failure to act to remedy the violations for years, even after the Illinois EPA conducted six separate inspections and notified Respondent of the existence of likely violations following each inspection.” Mot. at 9, citing Wasteland, Inc. v. IPCB, 118 Ill. App. 3d 1041, 1054 (3rd Dist. 1983).

Third, the People argue that their recommended penalty of \$20,000 includes any economic benefit that Franklin Discount Tires “may have accrued as a result of its noncompliance.” Mot. at 9. Fourth, the People argue that this recommended penalty “will serve to deter further violations” and will “aid in enhancing voluntary compliance with the Act and Board Regulations” by Franklin Discount Tires and others subject to those requirements. *Id.*, citing Standard Scrap Metal Co. v. IPCB, 142 Ill. App. 3d 655, 664 (1st Dist. 1986).

Fifth, the People state that, to their knowledge, Franklin Discount Tires has “no previously adjudicated violations.” Mot. at 10. Sixth, the People report that “[s]elf-disclosure is not at issue in this matter.” *Id.* Seventh, the People state that Franklin Discount Tires “did not offer to perform a supplemental environmental project” and that a Compliance Commitment Agreement was not at issue here. *Id.*

### **Board Discussion**

Franklin Discount Tires’ numerous violations continued for as long as approximately five years. As noted above in discussing Section 33(c), the Board agreed with the People and found that these violations threatened human health and the environment and hindered IEPA’s information-gathering responsibilities. Also, the duration of these violations shows a lack of diligence in complying with the requirements of the Act and Board rules. The Board weighs these first two Section 42(h) factors against Franklin Discount Tires.

The Board agrees with the People that the requested civil penalty of \$20,000 includes any economic benefit Franklin Discount Tires may have accrued as a result of its lengthy noncompliance and that this penalty will deter violations and ensure voluntary compliance with the Act. The Board weighs these factors against Franklin Discount Tires and finds that they support the People’s requested penalty.

Franklin Discount Tires does not have a previously adjudicated violation. This factor weighs in its favor. Neither self-disclosure nor a Compliance Commitment Agreement were at issue in this matter, and Franklin Discount Tires did not propose or perform a supplemental environmental project. The Board does not weigh these last three factors in favor of or against Franklin Discount Tires.

After applying the statutory factors to the record in this case, the Board finds that the civil penalty requested by the People is appropriate, based particularly on the duration of the

violations and the resulting threat to human health and the environment. The Board agrees with the People that the requested penalty amount will encourage future compliance and will recoup any economic benefit Franklin Discount Tires may have accrued from its noncompliance. In its order below, the Board assesses a civil penalty of \$20,000 against Franklin Discount Tires.

### **CONCLUSION**

The Board grants the People's unopposed motion and deems admitted the material allegations in the People's complaint to have been admitted by Franklin Discount Tires.

Based on the facts deemed admitted, the Board finds that there is no genuine issue of material fact and that the People are entitled to judgment as a matter of law. The Board grants the People's unopposed motion for summary judgment and finds that Franklin Discount Tires violated the Act and the Board's used and waste tire management rules. After considering the factors in Sections 33(c) and 42(h) of the Act (415 ILCS 5/33(c), 42(h) (2024)), the Board enters an order requiring Franklin Discount Tires to pay a civil penalty of \$20,000 as requested by the People. This opinion constitutes the Board's findings of fact and conclusions of law.

### **ORDER**

1. The Board grants the unopposed motion to deem facts admitted and for summary judgment against Franklin Discount Tires and finds that it violated Sections 55(a)(3), 55(c), 55(e), 55(k)(1), 55(k)(2), 55(k)(3), 55.8(a)(1), 55.8(a)(1.5), 55.9, and 55.10 of the Act (415 ILCS 5/55(a)(3), 55(c), 55(e), 55(k)(1), 55(k)(2), 55(k)(3), 55.8(a)(1), 55.8(a)(1.5), 55.9, 55.10 (2024)) and Section 848.607(a) of the Board's used and waste tire management rules (35 Ill. Adm. Code 848.607(a)) as alleged in the People's complaint.
2. Franklin Discount Tires must pay a civil penalty of \$20,000 no later than Monday, December 8, 2025, which is the first business day after 30 days after the date of this order. Payment must be made by certified check or money order payable to the Environmental Protection Trust Fund. The case number and case name must be included on the respective checks or money order.
3. Franklin Discount Tires must send the certified check or money order to:  
  
 Illinois Environmental Protection Agency  
 Fiscal Services Division  
 2520 West Iles Avenue  
 PO Box 19276  
 Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2024)) at the rate under Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2024)).

5. Franklin Discount Tires must cease and desist from future violations of the Environmental Protection Act and Board regulations 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) (2024); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Illinois Attorney General's Office Attn. Taylor Desgrosseilliers, Asst. Atty. General 69 West Washington Street, 18th Floor Chicago, Illinois 60602 <a href="mailto:t.desgrosseilliers@ilag.gov">t.desgrosseilliers@ilag.gov</a>	Illinois Pollution Control Board Attn.: Don A. Brown, Clerk 60 East Van Buren Street, Suite 630 Chicago, Illinois 60605 <a href="mailto:don.brown@illinois.gov">don.brown@illinois.gov</a>
Franklin Discount Tires, Inc. Att.: Samir Sharabatee 3101 Mannheim Road Franklin Park, Illinois 60131-2398	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 6, 2025, by a vote of 5-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board