

ILLINOIS POLLUTION CONTROL BOARD

October 6, 2016

COUNTY OF MACON,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 17-1
	)	(MCEMD No. 2016-002-AC)
DON RODERICK,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by C.K. Zalewski):

On August 15, 2016, Macon County Environmental Management Department (Macon County) timely filed an administrative citation (AC) against Don Roderick. *See* 415 ILCS 5/31.1(c) (2014). The administrative citation concerns Roderick’s composting facility located in Decatur, Macon County. The property is commonly known to Macon County as the “Decatur Compost, Inc.” site and is designated with Site Code No. 115015553. For the reasons below, the Board allows Macon County to file an amended citation correcting the statutory penalty amount pled.

Macon County alleges that on July 19, 2016, Roderick violated Sections 21(p)(1) and 21(p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3) (2014)) by causing or allowing open dumping in a manner resulting in litter and open burning. Macon County filed proof of service showing that it served Roderick with the administrative citation on August 16, 2016, which is within the required timeframe of “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2014). Any petition from Roderick to contest the citation was required to have been filed by September 20, 2016, *i.e.*, within “35 days from the date of service.” 415 ILCS 5/31.1(d)(1) (2014). Roderick did not file a petition for review with the Board.

However, Macon County pled a penalty amount that is lower than what the Act requires. In an administrative citation proceeding, civil penalties are fixed by statute. The civil penalty for violating any provision of Section 21(p) of the Act is \$1,500 for each violation.<sup>1</sup> *See* 415 ILCS 5/42(b)(4-5) (2014). Despite alleging violations of Section 21(p), Macon County seeks the statutory civil penalty for violating any provision of Section 21(o) of the Act, which is \$500 for each violation. AC at 2, citing 415 ILCS 5/42(b)(4) (2104). Macon County therefore asks the Board to impose a total civil penalty of \$1,000. AC at 2.

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<sup>1</sup> The penalty amount is \$3,000 for each violation of any provision of Section 21(p) that is the person’s second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2014).

The Board's statutory authority with regard to administrative citations is limited. 415 ILCS 5/31.1, 42 (2014). Section 31.1 of the Act provides that if the Board finds a violation, it "shall impose the penalty specified in subdivision (b)(4) or (b)(4-5) of Section 42." 415 ILCS 5/31.1(d)(1), (d)(2) (2014). Section 42 of the Act provides that a civil penalty of \$500 must be issued for each violation of any provision of subsection (o) of Section 21, but "any person found to have violated any provision of subsection (p) of Section 21 . . . shall pay a civil penalty of \$1,500 for each violation of each such provision . . ." 415 ILCS 5/42(b)(4), (4-5) (2014).

Accordingly, the Board finds that the appropriate civil penalty in this administrative citation is \$1,500 for each violation of Section 21(p), for a total civil penalty of \$3,000. The Board, on its own motion, grants Macon County leave to file within 30 days of the date of this order an amended administrative citation correcting the statutory penalty amount. Failure to do so will subject this action to dismissal. If Macon County chooses to file an amended citation, it must serve Roderick with the amended citation in accordance with 35 Ill. Adm. Code 108.200(b)(2). If Roderick wishes to contest any amended citation, Roderick must file a petition with the Board no later than 35 days after receiving any such citation.<sup>2</sup>

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 6, 2016, by a vote of 5-0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board

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<sup>2</sup> If Roderick does not file a petition within that timeframe, the Board will enter a default order against him, imposing the statutory \$3,000 civil penalty. See 415 ILCS 5/31.1(d)(1) (2014). If Roderick files a petition and does not prevail on the merits of the case, he will have to pay not only the civil penalty but also any hearing costs of the Board and Macon County. See 415 ILCS 5/42(b)(4-5) (2014). A schedule of the Board's hearing costs is available from the Clerk of the Board and on the Board's website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).