

ILLINOIS POLLUTION CONTROL BOARD
May 6, 2021

KOPPERS, INC. (Property Identification)	
Number 19-04-200-026-0000),)	
)	
Petitioner,)	
)	
v.)	PCB 21-103
)	(Tax Certification – Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Van Wie):

On April 23, 2021, the Illinois Environmental Protection Agency (IEPA) filed a recommendation that the Board certify specified facilities of Koppers, Inc. (Koppers) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2018); 35 Ill. Adm. Code 125. Koppers’ water pollution control facility is located at 3900 South Laramie Avenue in Cicero, Cook County. In this order, the Board describes the legal framework for tax certifications, discusses IEPA’s recommendation, and certifies that Koppers’ identified secondary containment and wastewater treatment system additions are pollution control facilities.

LEGAL FRAMEWORK

Under the Property Tax Code, “[i]t is the policy of this State that pollution control facilities should be valued, at 33 1/3% of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-5 (2018); *see also* 35 Ill. Adm. Code 125.200(a)(2). “For tax purposes, pollution control facilities shall be certified as such by the Pollution Control Board and shall be assessed by the Department [of Revenue].” 35 ILCS 200/11-20 (2018); *see also* 35 Ill. Adm. Code 125.200(a). Under the statute, the Board determines if the facilities are pollution control facilities; however, the Board is not authorized to assess a value of those facilities.

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to IEPA. *See* 35 Ill. Adm. Code 125.202. If IEPA receives a tax certification application, IEPA must file with the Board a recommendation on the application, unless the applicant withdraws the application. *See* 35 Ill. Adm. Code 125.204(a). Among other things, IEPA’s filing must recommend that the Board issue or deny tax certification. *See* 35 Ill. Adm. Code 125.204(a)(4). If the Board finds “that the claimed facility or relevant portion thereof is a pollution control facility . . . , the Pollution Control Board . . . shall enter a finding and issue a certificate to that effect.” 35 ILCS 200/11-25 (2018); *see also* 35 Ill. Adm. Code 125.216(a).

IEPA RECOMMENDATION

IEPA states that it received a tax certification application from Koppers on December 18, 2019, supplemented with additional information from September 2020 through January 2021.¹ Rec. at 1. On September 7, 2017, the Board approved a tax certification in PCB 18-7, which identifies the facilities at issue:

Secondary Containment Additions: creosote tank emissions, ortho day tank improvements, spill containment paving, and ortho tank farm containment.

Wastewater Treatment System Additions: activated sludge biological treatment systems, which consists of an aeration tank, clarifier, stormwater holding tank, chemical additives instruments and controls.

Koppers Inc. v. IEPA, slip op. at 2 (Sept. 7, 2017).

The present Koppers request for tax certification of water pollution facilities is for additions built on to the previously certified facility. On April 23, 2021, IEPA filed a recommendation with the Board, attaching Koppers' application (Rec. Exh. A). IEPA further describes the facilities as being "used to minimize storm water exposure at the product transfer area where the highest probability of a leak is the highest." Rec. at 2.

IEPA recommends that the Board certify that the facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2018)) with the "primary purpose of eliminating, preventing, or reducing water pollution." Rec. at 2; *see also* Rec., Exh. A at 1 (IEPA memorandum), 2 (review sheet).

TAX CERTIFICATE

Based upon IEPA's recommendation, Koppers' application, and the Board's technical review, the Board finds and certifies that Koppers' water pollution control facility identified in this order is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2018)). The Board makes no finding regarding the assessed value of that facility. Under Section 11-25 of the Property Tax Code, the effective date of this certificate is "the date of application for the certificate or the date of the construction of the facility, which ever is later." 35 ILCS 200/11-25 (2018); *see also* 35 Ill. Adm. Code 125.216(a). Section 125.216(d) of the Board's procedural rules states that the Clerk "will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any.*" 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2018)). The Clerk therefore will provide Koppers and IEPA with a copy of this order.

IT IS SO ORDERED.

Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the

¹ IEPA's recommendation is cited as "Rec. at _."

Board's finding and order to the Circuit Court under the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (2018)). *See* 35 ILCS 200/11-60 (2018). 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.

Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court	
Parties	Board
Duff & Phelps Attn: Samantha McGarry 2000 Market Street, Suite 2700 Philadelphia, Pennsylvania 19103 Samantha.McGarry@DuffandPhelps.com	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601 don.brown@illinois.gov
Illinois Environmental Protection Agency Attn: Joshua Leopold, Assistant Counsel 1021 N. Grand Ave. E. PO Box 19276 Springfield, Illinois 62794-9276	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 6, 2021, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board