BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	RXXX-XXX
PROPOSED 35 ILL. ADM. CODE	)	
SUBTITLE K: RECYCLABLE, RECLAIMABLE, OR	)	
REUSABLE WASTES, CHAPTER I POLLUTION	)	
CONTROL BOARD, PART 1220 MANAGEMENT	)	
OF USED EV BATTERIES	)	

TABLE OF CONTENTS FOR REGULATORY SUBMITTAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	RXXX-XXX
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REUSABLE WASTES, CHAPTER I POLLUTION	)	
CONTROL BOARD, PART 1220 MANAGEMENT	)	
OF USED EV BATTERIES	)	

NOTICE

TO: ATTACHED CERTIFICATE OF SERVICE LIST

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board this RULEMAKING PROPOSAL entitled "IN THE MATTER OF: PROPOSED 35 ILL. ADM. CODE SUBTITLE K: RECYCLABLE, REUSABLE, OR RECLAIMABLE WASTES, CHAPTER I POLLUTION CONTROL BOARD, PART 1220 MANAGEMENT OF USED EV BATTERIES," and TECHNICAL SUPPORT DOCUMENT of the Illinois Environmental Protection Agency, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: /s/ Trevor Dell'Aquila
Trevor Dell'Aquila
Assistant Counsel
Division of Legal Counsel

DATED: January 2, 2026

115 S. LaSalle Street
Suite 2203
Chicago, Illinois 60603
312 832-0025
Trevor.Dellaquila@illinois.gov

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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OF USED EV BATTERIES	)	

APPEARANCE

The undersigned hereby enters his appearance as an attorney on behalf of the Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: /s/ Trevor Dell'Aquila
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Assistant Counsel
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OF USED EV BATTERIES	)	

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S PROPOSAL OF REGULATION

The Illinois Environmental Protection Agency moves that the Illinois Pollution Control Board adopt the attached regulations.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: _____

James Jennings
Acting Director

DATED: January 2, 2026

2520 West Iles Avenue
P.O. Box 19726
Springfield, Illinois 62794-9276

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
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OF USED EV BATTERIES	)	

STATEMENT OF REASONS

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"), by and through its counsel, and hereby submits its Statement of Reasons to the Illinois Pollution Control Board ("Board") supporting the proposed regulations, pursuant to Sections 22.23f, 27, and 28 of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/22.23f, 27, and 28) and 35 Ill. Adm. Code 102.202. In accordance with Section 102.202(i), the Illinois EPA certifies that the proposal amends the most recent version of the rule as published on the Board's website or as obtained from the Clerk.

I. FACTS IN SUPPORT, PURPOSE, AND EFFECT

A. Background

The Illinois EPA has been tasked by the Illinois General Assembly to provide oversight and implementation of the Act. Pursuant to Public Act 103-1006, effective January 1, 2025, Section 22.23e was added to the Act by the 103rd General Assembly to regulate used electric vehicle battery storage facilities. (*See*: 415 ILCS5 5/22.23e). Under Public Act 104-417, Section 22.23e was retitled Section 22.23f.

Public Act 103-1006 established criteria for when an operation that stores end-of-life electric vehicle batteries should be regulated. Under Section 22.23f of the Act, any operation

which stores 5,000 kilograms or more of used batteries may only do so if it meets the registration, recording, and licensing requirements under Section 22.23f(b). (415 ILCS 5/22.23f(b)). Section 22.23f(d) directs the Agency to propose rules for the operation of regulated battery storage sites, with such rules to include, but not be limited to: "requirements for end-of-life battery receipt, handling, storage and transfer; standards for fire prevention; requirements for contingency planning and emergency response; record keeping; reporting; and financial assurance." (415 ILCS 5/22.23f(d)). This regulatory submittal proposed by Illinois EPA seeks to conform with the Board's procedural rules and statutory requirements of Public Act 103-1006.

B. Purpose

The purpose of this rulemaking is to establish rules for the registration, operating, recording, and reporting standards for battery storage sites that store 5,000 kilograms or more of used electric vehicle batteries under a new 35 Ill. Adm. Code Part 1220 and clarify the administrative criteria and operational requirements pursuant to Section 22.23f of the Act. The proposed rules were drafted with the objective of minimizing the risks of fire and explosion posed by storing used batteries while conforming to the standards created under Public Act 103-1006.

The rulemaking proposal contains six (6) subparts. Under the proposed rules, Subpart A deals with general provisions, applicability, definitions, incorporations by reference, and weight estimation detailed in Sections 1220.100 through 1220.125. Subpart B proposes the management standards for used battery storage in Sections 1220.200 through 1220.225. Subparts C and D are reserved for future amendments, such as amendments relating to Battery Energy Storage Solution facilities or recyclers that utilize used EV batteries. Subpart E of the proposed rules addresses recordkeeping and reporting requirements as detailed in Sections

1220.500 through 1220.530. Subpart F proposes financial assurance requirements for used battery storage facilities under Sections 1220.600 through 1220.650.

The Agency is proposing this rule to prevent and mitigate the damages caused by battery fires; particularly in the case of lithium chemistry batteries. In mitigating battery fires, this rule seeks to prevent releases of harmful contaminants into the atmosphere, the land, and groundwater.

C. Sources and Facilities Affected

The proposed regulations are a statewide rulemaking affecting used battery storage facilities as well as facilities that store used car parts that include electric vehicle batteries.

The applicability of the proposed rules applies to all facilities that store used EV batteries. Facilities that store 5,000 kilograms or more of used electric vehicle batteries have additional requirements they must meet to comply with the proposed Part 1220. The proposed rules also would not apply to facilities that store new, unused batteries.

D. Regulatory Development and Outreach

This regulatory proposal was developed using industry standard fire safety protocols for handling large format batteries. The primary stakeholders that Part 1220 seeks to regulate are automotive scrapyards. The Agency determined that since there is no major stakeholder organization for used EV battery storage sites, formal outreach was not necessary. However, the Agency has provided courtesy copies of this proposal at the time of filing to identifiable stakeholders and secondary stakeholders, such as automotive recyclers.

II. DESCRIPTION AND LANGUAGE OF THE PROPOSED RULE

The language of the proposed rule amendments is found within this regulatory submittal. In accordance with 35 Ill. Adm. Code 102.202(j), an electronic version of the proposed rule language in Microsoft Word for Windows will be filed with the Board separately.

The proposed rule introduces management standards for used EV battery storage sites. These regulations include storage methods for both indoor and outdoor storage, fire safety requirements, explosion protection requirements, emergency and contingency planning, records and reporting requirements, and financial assurance.

III. TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

A. Technical Feasibility

The Agency has determined this proposed rule is technically feasible. The proposed regulations require regulated facilities to store used EV batteries in accordance with common fire safety protocols. Used EV battery piles are required to be stored either in non-combustible containers or certain sized piles. Such piles must be surrounded by two- or three-hour fire barriers and rooms must be equipped with smoke detection alarms and sprinkler systems and be properly spaced from other storage piles, combustible materials, exits, and other hazards. Outdoor storage of used EV batteries must be in fully enclosed containers to protect against liquid ingress and fire spread. Outdoor storage must also be properly spaced from other hazards. These proposed regulations utilized common and readily available industry materials and systems for fire detection and spread prevention.

B. Economic Reasonableness

The Agency has determined that implementing the proposed rule is economically reasonable. The costs involved are results of fire safety requirements. The costs for affected stakeholders involve constructing two- or three-hour fire barriers around used EV battery piles (if not already in place), obtaining fully enclosed non-combustible containers (if utilizing indoors or storing used EV batteries outdoors), smoke or thermal detection systems and sprinkler systems. It is anticipated that most facilities will already have compliant sprinkler systems and would be able to easily expand their smoke or thermal detection systems as needed with low costs. The construction of two- or three-hour fire rated barriers is a highly site-specific cost, based on the area in which a site wishes to store used EV batteries and the size of the site. However, such fire barriers are necessary to reduce the risk of fire spread, which would result in significant damage to a site and the environment due to the release of harmful substances during a battery fire.

IV. AGENCY WITNESSES AND SYNOPSIS OF TESTIMONY

Currently, the Illinois EPA anticipates calling Vishnu Srinivasaraghavan, Manager of the Materials Section, Bureau of Land, as a witness at hearing. Mr. Srinivasaraghavan will testify regarding the rule/amendments proposed by Illinois EPA and will be available to answer questions. Any written testimony will be submitted prior to hearing in accordance with the Board's procedural rules.

If necessary, the Illinois EPA will have additional staff available to answer questions at hearing who participated in the development of this rulemaking, but who will not be submitting written testimony. The Illinois EPA respectfully requests that the Board allow oral testimony of

Illinois EPA's witnesses in panel format rather than calling each individually. A panel format should streamline the hearing process and has proved to be beneficial in past rulemakings.

V. STATEMENT REGARDING MATERIALS TO BE INCORPORATED BY REFERENCE

In accordance with 35 Ill. Adm. Code 102.202(d), the Illinois EPA states that the following material is to be incorporated by reference within the proposed rule under Section 5-75 of the Illinois Administrative Procedures Act (5 ILCS 100/5-75):

> NFPA 51B, "Standard for Fire Prevention During Welding, Cutting, and Other Hot Work", 2014 Edition, National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy MA 02169-7471.

The Illinois EPA previously obtained a copy of the material incorporated by reference in Section 1220.120 and will provide it to the Board's technical staff. Because National Fire Protection Association ("NFPA") standards are subject to licensing fees, the Illinois EPA would incur additional costs to acquire additional copies for inclusion and distribution with this proposal. The incorporated standard is accessible by interested parties and members of the public through appropriate libraries and directly from the NFPA. Therefore, the Illinois EPA respectfully requests that the Board waive the submission of copies of the material incorporated by reference as required under 35 Ill. Adm. Code 102.202(d).

VI. STATEMENT REGARDING PUBLISHED STUDIES OR RESEARCH REPORTS

In accordance with 35 Ill. Adm. Code 102.202(e), the Illinois EPA states that no published studies or research reports were used in developing the proposed regulations. Therefore, pursuant to 35 Ill. Adm. Code 102.202(k), Section 102.202(e) is inapplicable to this rulemaking proposal.

VII. CONCLUSION

WHEREFORE, for the foregoing reasons, the Illinois EPA respectfully requests that the Board adopt this proposal in its entirety.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: /s/ Trevor Dell'Aquila
Trevor Dell'Aquila
Assistant Counsel
Division of Legal Counsel

DATED: January 2, 2026

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE K: RECYCLABLE, RECLAIMABLE, OR REUSABLE WASTES
CHAPTER I: POLLUTION CONTROL BOARD

PART 1220
MANAGEMENT OF USED EV BATTERIES

SUBPART A: GENERAL

Section

SUBPART B: MANAGEMENT STANDARDS FOR STORAGE

Section

SUBPART C: RESERVED FOR AMENDMENTS

SUBPART D: RESERVED FOR AMENDMENTS

SUBPART E: RECORDKEEPING AND REPORTING

Section

SUBPART F: FINANCIAL ASSURANCE

Section

AUTHORITY: Implementing Section 22.23f and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.23f and 27].

SUBPART A: GENERAL

Section 1220.100 Applicability

Section 22.23f of the Environmental Protection Act [415 ILCS 5/22.23f], sets forth prohibitions relative to the receipt, handling, storage, and transfer of used electric vehicle ("EV") batteries. This Part sets forth rules establishing further requirements relative to the receipt, handling, storage, and transfer of used electric vehicle batteries at used EV battery storage sites. Notwithstanding any other provision of this Part, this Part does not apply to:

a) New EV batteries being stored prior to installation in an electric vehicle;

b) Batteries installed in an electric vehicle that have not yet been removed; and

c) Used EV batteries that have been returned to reuse or returned to the economic mainstream in the form of raw materials or products.

Section 1220.105 Severability

If any section, subsection, sentence or clause of this Part shall be adjudged unconstitutional, invalid or otherwise not effective for any reason, such adjudication shall not affect the validity of this Part as a whole or of any section, subsection, sentence or clause thereof not adjudged unconstitutional, invalid or otherwise not effective for any reason.

Section 1220.110 Other Regulations

a) The requirements of this Part are in addition to other requirements in the Act or Board regulations. In case of conflict, applicability will be determined on the basis of considerations such as, but not limited to, the degree to which the statutory language in the Act or Board regulation is expressly stated or necessarily implied, United States Environmental Protection Agency program authorization requirements, and the comparative stringency of the regulations.

b) The following are examples of other regulations which may be applicable to facilities subject to this Part: 35 Ill. Adm. Code: Subtitle B: Air Pollution; 35 Ill. Adm. Code: Subtitle C: Water Pollution; 35 Ill. Adm. Code: Subtitle H: Noise Pollution; and 35 Ill. Adm. Code: Subtitle G: Waste Disposal.

Section 1220.115 Definitions

For the purposes of this Part, except as the context otherwise clearly requires, the words and terms defined in this Section have the meanings given in this Section. Words and terms not defined in this Section have the meanings otherwise set forth in the Act and 35 Ill. Adm. Code 101.

"Act" means the Environmental Protection Act. [415 ILCS 5].

"Agency" is the Environmental Protection Agency established by the *Act.* [415 ILCS 5/3.105]

"Battery storage site" means a site where used EV batteries are stored.
[415 ILCS 5/22.23f(a)]

"Electric vehicle" or "EV" has the same meaning as defined in Section 11-1308 of the Illinois Vehicle Code. [415 ILCS 5/22.23f(a)]

"Electric vehicle battery" or "EV battery" means a rechargeable battery that is used to power the electric motors that propel an electric vehicle. "Electric vehicle battery" includes, but is not limited to, lithium-ion batteries and nickel-metal hydride batteries.
[415 ILCS 5/22.23f(a)]

"Fully enclosed container" means a portable, hard-walled, lockable receptacle that is impervious to precipitation and surface runoff. "Fully enclosed container" does not include any container that is overfilled or otherwise cannot be closed completely or is otherwise damaged and, as a result, is not impervious to precipitation or surface runoff.

"Operator" means the person responsible for the operation and maintenance of a used EV battery storage site.

"Owner" means a person who has an interest, directly or indirectly, in land, including a leasehold interest, on which a person operates and maintains a used EV battery storage site. The "owner" is the "operator" if there is no other person who is operating and maintaining a used EV battery storage site.

"Storage" means any accumulation of used EV batteries that does not constitute disposal. [415 ILCS 5/22.23f(a)]

"Used [EV] *battery" means an EV battery that is sold, given, or otherwise conveyed to a battery storage site.* [415 ILCS 5/22.23f(a)]. This term includes, but is not limited to, batteries that are sent by the manufacturer or another person for recycling rather than installed in an electric vehicle and EV batteries removed from an electric vehicle at the battery storage site

Section 1220.120 Incorporation by Reference

a) The Board incorporates the following documents by reference:

NFPA 51B, "Standard for Fire Prevention During Welding, Cutting, and Other Hot Work", 2014 Edition, National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169-7471.

b) This Section incorporates no later amendments or editions.

Section 1220.125 Estimating the Weight of Used EV Battery Accumulations

a) If the weight of an accumulation of used EV batteries is unknown, its weight may, for the purposes of this Part, be calculated by multiplying the volume of the accumulation, measured in cubic feet, by 17 kilograms (38 pounds) per cubic foot.

b) A used EV battery storage pile may be divided into more than one accumulation of used EV batteries for the purposes of making the calculation described in subsection (a).

SUBPART B: MANAGEMENT STANDARDS

Section 1220.200 Applicability

Owners and operators of any battery storage site that contains one or more used EV batteries are subject to this Subpart.

Section 1220.205 General Requirements

a) Owners and operators must comply with the following requirements:

1) No used EV batteries shall be placed or accumulated outside of a building, except as provided in Section 1220.215.

2) No used EV batteries shall be placed or accumulated inside a building, except as provided in Section 1220.210:

3) No used EV batteries shall be placed or accumulated in any area where the grade of the ground surface exceeds two percent slope.

4) Battery terminals shall be protected either through battery design methods or a protective packaging method to prevent short-circuit of each used EV battery.

5) All activities at the used EV battery storage site that present a risk of fire must be conducted in accordance with the NFPA 51B standard for fire prevention, including but not limited to welding, cutting, and other hot work, and either:

   A) Outside of any room in which used EV batteries are placed or accumulated; or

   B) If outdoors, separated by at least 250 feet from all containers in which used EV batteries are placed or accumulated.

6) For any used EV battery storage site at which more than 5,000 kilograms (11,023 pounds) of used EV batteries are located at any one time, the owner or operator must:

   A) Register the site with the Agency on forms and in a format prescribed by the Agency.

   B) Comply with the contingency planning and emergency response requirements of Section 1220.220.

   C) Comply with the recordkeeping and reporting requirements of Subpart E.

7) Used EV battery storage sites must have one or more stabilized roadways to provide firefighting personnel and equipment access to all portions of the battery storage area.

8) Combustible materials in used EV battery storage sites shall comply with all of the following:

   A) Combustible materials other than used EV batteries shall not be stored in rooms, containers, cabinets, or enclosures containing used EV batteries, including but not limited to batteries other than used EV batteries.

B) Combustible materials shall not be stored within 3 feet from the exterior of rooms, containers, cabinets, or enclosures containing used EV batteries.

9) Explosion Protection. The potential for a deflagration involving the off-gassing of flammable gases during a thermal runaway shall be analyzed and explosion protection meeting industry standards shall be installed if the potential for a deflagration exists. If any explosion protection is installed, the used EV battery storage site shall maintain records on site of the analysis of deflagration and make the records for inspection and photocopying by the Agency during normal business hours.

Section 1220.210 Storage of Used EV Batteries Within Buildings

a) Owners and operators of any battery storage site who store used EV batteries within buildings must meet the requirements of this Section.

b) No used EV batteries shall be stored within a building unless:

1) All of the building's windows and doors are in working order and are secured to prevent unauthorized access;

2) The building is fully enclosed and has a roof and sides that are impermeable to precipitation; and

3) The building is not a single-family home or other residential building.

c) All used EV batteries stored within a building must comply with the following:

1) Used EV batteries stored indoors shall be stored in piles of no greater than 900 square feet in area. Each pile must be separated from other piles and from the remainder of the building areas by walls as described in subsection (c)(2) and by a ceiling with a 2-hour fire resistance rating constructed in accordance with the local building code.

2) Each used EV battery pile shall be contained in a room either:

A) Enclosed by 2-hour fire resistance rated walls constructed in accordance with the local building code and with a minimum of 10 feet of separation from all other rooms containing used EV battery pile; or

B) Enclosed by 3-hour fire resistance rated wall constructed in accordance with the local building code and with a minimum of 3

feet of separation from all other rooms containing used EV battery piles.

3) Each used EV battery pile must be separated from all exits from the room or building by at least 5 feet.

4) Rooms where used EV batteries are stored shall contain a fire alarm system activated by an air-aspirating smoke detector system or a radiant-energy detection system with occupant notification.

5) Rooms where used EV batteries are stored shall contain an automatic sprinkler system.

6) All rooms where used EV batteries are stored shall have no fewer than 2 points of access that are sufficiently separated from one another to provide 2 independent means of ingress and egress during a fire event.

7) Used EV batteries shall not be placed or accumulated within 2 feet of the room ceiling.

d) In addition to the requirements set forth in subsections (b) and (c), if more than 5,000 kilograms (11,023 pounds) of used EV batteries are located at any one time at the battery storage site, the owners and operators of the site must:

1) Develop, in consultation with the local fire department, a battery storage plan for all used EV batteries that are stored within any building. The battery storage plan shall:

A) Take into consideration the type of building(s) used for battery storage (e.g., warehouse) and the type of used EV batteries being stored (e.g., whole or shredded, battery chemistry types);

B) Identify, at a minimum, the battery storage arrangement; aisle spacing; clearance distances between storage piles and room walls, room ceilings, unit heaters, furnaces, ducts, and sprinkler deflectors; and points of access for firefighting personnel and equipment;

C) Be maintained on site, adhered to at all times, made available for inspection and photocopying by the Agency during normal business hours, and a copy filed with the local fire department; and

D) Include the following certification signed by the owner or operator: "I certify that this battery storage plan has been developed in

consultation with the local fire department and that a copy of this battery storage plan has been filed with the local fire department."

2) Meet the contingency planning and emergency response requirements of Section 1220.220; and

3) Meet the recordkeeping and reporting requirements of Subpart E.

Section 1220.215 Storage of Used EV Batteries Outdoors

a) Owners and operators of any battery storage site who store used EV batteries outdoors must meet the requirements of this Section.

b) No used EV batteries shall be placed or accumulated outside of a building unless the following requirements are met:

1) All used EV batteries are placed or accumulated in fully enclosed containers that are non-combustible or designed for used EV battery collection use.

2) Containers shall be stored on a concrete or asphalt pad, and shall be kept closed except while batteries are being placed in or removed from the container.

3) Individual containers shall be separated from all other containers by a minimum of 10 feet.

4) Individual containers shall be separated by a minimum of 20 feet from the following:

A) Lot property lines;

B) Public ways;

C) Buildings and other structures;

D) Other storage containers used for any materials that are not used EV batteries;

E) Hazardous materials;

F) Vegetation; and

G) Other exposure hazards that pose a risk of damaging or igniting used EV batteries.

5) Any area where containers holding used EV batteries are placed must be:

A) Capable of containing all battery fire runoff; and

B) Crossed by a stabilized roadway at not fewer than 2 points of access that are sufficiently separated from one another to provide 2 independent means of ingress and egress during a fire event.

6) No containers shall be placed or accumulated within 250 feet horizontally of the ground surface from any point directly beneath any electrical power line that (i) has a voltage in excess of 750 volts or (ii) that supplies power to a fire emergency system.

c) In addition to the requirements set forth in subsection (b), if more than 5,000 kilograms (11,023 pounds) of used EV batteries are located at any one time at the battery storage site, the owners and operators of the site must:

1) Develop, in consultation with the local fire department, a battery storage plan for all used EV batteries that are stored outdoors that:

A) Takes into consideration the area where the batteries are stored (e.g., natural and artificial risks for fire spread) and the type of used EV batteries being stored (e.g., whole or shredded, battery chemistry types);

B) Identifies, at a minimum, the battery storage arrangement; container spacing; clearance distances between containers and any building walls, lot-property lines, public ways, buildings and other structures, other storage not containing used EV batteries, hazardous materials, vegetation, other exposure hazards, and points of access for firefighting personnel and equipment; and

C) Is maintained on site, adhered to at all times, made available for inspection and photocopying by the Agency during normal business hours. The plan must include the following certification signed by the owner or operator: "I certify that this battery storage plan has been developed in consultation with the local fire department and that a copy of this battery storage plan has been filed with the local fire department."

2) Meet the contingency planning and emergency response requirements of

Section 1220.220; and

3) Meet the recordkeeping and reporting requirements of Subpart E.

Section 1220.220 Contingency Planning and Emergency Response

Owners and operators of any used EV battery storage site at which more than 5,000 kilograms (11,023 pounds) of used EV batteries are located at any one time must:

a) Develop, in consultation with the local fire department, a contingency plan that:

1) Minimizes the hazards to human health and the environment from used EV battery fires and run-off of contaminants from used EV battery fires;

2) Is carried out immediately whenever there is a used EV battery fire or evidence of run-off from a used EV battery fire;

3) Describes the actions battery storage site personnel must take in response to used EV battery fires and run-off from used EV battery fires;

4) Describes evacuation procedures, including, but not limited to, evacuation signals, primary evacuation routes, and alternate evacuation routes to be used when the primary routes could be blocked;

5) Contains an up-to-date emergency equipment list that not only identifies all emergency equipment at the used EV battery storage site, such as fire-extinguishing systems, fire-suppression material, spill-control equipment, decontamination equipment, and communication and alarm systems (internal and external), but also describes the physical location and capabilities of each listed item;

6) Provides the name, address, and telephone number of an employee designated as the primary emergency coordinator responsible for coordinating emergency response measures at the used EV battery storage site, as well as an up-to-date list of all alternate emergency coordinators, listed in the order in which they will assume responsibility for coordinating emergency response measures at the used EV battery storage site in the event that the primary emergency coordinator or another alternate emergency coordinator is unavailable; and

7) Is maintained on site, adhered to at all times, made available for inspection and photocopying by the Agency during normal business hours. The plan must include the following certification signed by the owner or operator:

I certify that this contingency plan has been developed in consultation with the local fire

department and that a copy of this contingency plan has been filed with the local fire department.

b) Ensure that all emergency equipment at the used EV battery storage site is at all times clean and fit for its intended purpose;

e) Review and amend the contingency plan within 30 days after:

1) Any fire occurs at the used EV battery storage site;

2) The used EV battery storage site changes in its design, construction, operation, maintenance, or other characteristics in a way that increases the potential for a fire at the site or the release of run-off from a fire at the site;

3) The list of emergency coordinators for the used EV battery storage site changes; or

4) The list of emergency equipment at the used EV battery storage site changes;

f) Ensure that, at all times, the primary emergency coordinator or an alternate emergency coordinator is either on site or on call; that the primary emergency coordinator and alternate emergency coordinators are familiar with, and have immediate access to, all aspects of the contingency plan, all operations and activities at the used EV battery storage site, the location of all records within the site and the site layout; and that the primary emergency coordinator and all alternate emergency coordinators have the authority to commit the resources needed to carry out the contingency plan;

g) Notify the Agency immediately if a used EV battery fire occurs at the used EV battery storage site and immediately begin managing, in accordance with all applicable federal and State laws and regulations, all contaminated soils, contaminated waters, and other wastes and materials resulting from the used EV battery fire; and

h) Within 15 days after each incident that requires implementation of the contingency plan, submit to the Agency in writing an incident report that includes, at a minimum:

1) The name, address, and telephone number of the used EV battery storage site owners and operators;

2) The name, address, and telephone number of the used EV battery storage site;

3) The date, time, and type of incident (e.g., fire or explosion);

4) The type and quantity of materials involved in the incident;

5) The extent of injuries, if any;

6) Remedial actions taken in response to the incident;

7) A list of other agencies involved in the response to the incident;

8) An assessment of actual or potential hazards to human health or the environment as a result of the incident;

9) The estimated quantity and disposition of fire runoff and any released material that resulted from the incident; and

10) A plan and schedule for completing all used EV battery storage site remediation required under all applicable federal and State laws and regulations.

Section 1220.225 Removal Performance Standard

The owner or operator of a used EV battery storage site required to submit a battery removal cost estimate under Section 1220.620 shall, when engaging in battery removal, remove used EV batteries from the site in a manner that:

a) Minimizes the need for further maintenance or remediation with respect to the used EV batteries;

b) Removes all used EV batteries and any residues therefrom;

c) Safely transports all used EV batteries to a battery recycling facility, and all non-recyclable material to a disposal facility; and

d) Protects human health during the removal and post removal periods.

SUBPART C: RESERVED FOR FUTURE AMENDMENTS

SUBPART D: RESERVED FOR FUTURE AMENDMENTS

SUBPART E: RECORDKEEPING AND REPORTING

Section 1220.500 Applicability

The owners and operators of any used EV battery storage site at which 5,000 kilograms (11,023

pounds) or more of used EV batteries are located at any one time are subject to this Subpart.

Section 1220.505 Records

a) The owner and operator of the used EV battery storage site must keep the following records:

1) Battery Tracking Receipts, in accordance with Section 1220.510;

2) Weekly Battery Records, in accordance with Section 1220.515; and

3) Annual Battery Summaries, in accordance with Section 1220.520.

b) All records listed in subpart (a) shall be in a form and in a format as prescribed by the Agency. The records must be maintained on site and made available for inspection and photocopying by the Agency during normal business hours

Section 1220.510 Battery Tracking Receipts

a) Upon receiving any used EV batteries at the used EV battery storage site, the owner or operator of the used EV battery storage site must provide a receipt to the transporter and keep a copy of the receipt. The receipt must include all of the following: the signature of the owner or operator; the name and special waste hauler permit number of the transporter; the signature of the transporter; the name, address, and telephone number of the site where used EV batteries were received; the date the used EV batteries were received at the site; and the number or weight, in kilograms, of used EV batteries received at the site.

b) Upon transporting any used EV batteries from the used EV battery storage site, the transporter must provide a receipt to the owner or operator and keep a copy of the receipt. The receipt must include all of the following: the signature of the owner or operator; the name and registration number of the transporter; the signature of the transporter; the date the used EV batteries were transported from the site; the number or weight, in kilograms, of used EV batteries transported from the site; and the destinations of the used EV batteries.

c) Owners and operators of used EV battery storage sites must maintain on site a record of the receipt and disposition of all used EV batteries, including, but not limited to:

1) Receipts for any used EV batteries received at the used EV battery storage site; and

2) Receipts for any used EV batteries that are transported from the site.

d) Upon removal of any used EV batteries from a vehicle at the site, the owner or

operator must retain a receipt of the battery removal. The receipt must include all of the following: the signature of the owner or operator; the VIN and model of the vehicle from which the used EV batteries were removed; the date the used EV batteries were removed; and the weight, in kilograms, of used EV batteries removed from the vehicle.

Section 1220.515 Weekly Battery Record

a) The owner or operator of the used EV battery storage site must maintain a Weekly Battery Record at the used EV battery storage site. The Weekly Battery Record must include, at a minimum, the day of the week, the date, the Agency designated site number, the site name and address, and the additional information required under this Section.

b) Information relative to the weekly receipt and disposition of used EV batteries at the used EV battery storage site must be recorded in the Weekly Battery Record, including, but not limited to:

1) The name and registration number of each transporter who transported used EV batteries to the site during the operating day and the weight, in kilograms, of used EV batteries received at the site from each transporter during the operating day;

2) The name and registration number of each transporter who transported used EV batteries from the site during the operating day, the weight, in kilograms, of used EV batteries transported from the site by each transporter during the operating day, and the name, address, and telephone number of the destination facility;

3) The weight, in kilograms, of used EV batteries removed from any vehicle on site;

4) The weight, in kilograms, of used EV batteries recycled at the site during the operating day; and

5) The weight, in kilograms, of used EV batteries remaining at the site at the conclusion of the operating day.

c) Entries on the Weekly Battery Record required to be made under this Section must be made by the end of each operating week.

Section 1220.520 Annual Battery Summary

a) The owner or operator of the used EV battery storage site must submit an Annual Battery Summary to the Agency for each calendar year. The Annual Battery Summary must include the Agency designated site number, the used EV battery

storage site name and address, and the calendar year for which the summary applies.

b) Information relative to the annual receipt and disposition of used EV batteries at the used EV battery storage site must be reported in the Annual Battery Summary, including, but not limited to:

1) The weight, in kilograms, of used EV batteries received at the site during the calendar year;

2) The weight, in kilograms, of used EV batteries removed from vehicles at the site during the calendar year;

3) The weight, in kilograms, of used EV batteries recycled on site during the calendar year;

4) The weight, in kilograms, of used EV batteries stored at the site during the calendar year; and

5) The weight, in kilograms, of used EV batteries remaining in storage at the site at the conclusion of the calendar year.

c) The Annual Battery Summary must be received by the Agency on or before January 31 of each year and must cover the preceding calendar year.

Section 1220.525 Certification

a) All records, summaries, and reports submitted to the Agency as required by this Subpart must be signed by a person designated by the owner or operator of the battery storage site as responsible for preparing and reviewing those documents as part of his or her duties in the regular course of business.

b) Any person signing a document submitted under this Part must make the following certification:

> I certify that I am responsible for preparing and reviewing this document and that this document and all attachments were prepared under my direction or supervision as part of my duties in the regular course of business. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties under Section 44 of the Environmental Protection Act, 415 ILCS 5/44, including the possibility of fine and imprisonment for knowingly submitting false information.

Section 1220.530 Retention of Records

Copies of all records required to be kept under this Subpart shall be retained by the owner and operator of the battery storage site for three years and shall be made available at the battery storage site during the normal business hours of the operator for inspection and photocopying by the Agency.

SUBPART F: FINANCIAL ASSURANCE

Section 1220.600 Scope and Applicability

a) Except to the extent exempted by subsection (b), owners and operators of any used EV battery storage site must comply with this Subpart prior to storing of any used EV batteries.

b) Owners and operators of any used EV battery storage site meeting the qualifications below are exempt from this Subpart:

1) Battery storage sites where the real estate of the site is owned by:

A) The United States or one of its agencies;

B) The State of Illinois or one of its agencies; or

C) A unit of local government.

Section 1220.605 Maintaining Financial Assurance

a) Except as otherwise provided in subsection (b), the owner or operator of the used EV battery storage site must at all times maintain financial assurance in an amount equal to or greater than the current approved removal cost estimate calculated pursuant to Section 1220.620.

b) Within 60 days after the occurrence of any event listed in this subsection (b), the owner or operator of the battery storage site must increase the total amount of financial assurance to an amount that is equal to or greater than the current removal cost estimate calculated pursuant to Section 1220.620:

1) The current removal cost estimate increases; or

2) The value of a trust fund established pursuant to Section 1220.640 decreases.

Section 1220.610 Release of Financial Institution

The Agency must release a trustee, bank, surety or other financial institution as soon as

practicable after the owner or operator of the used EV battery storage site makes a written request for release and demonstrates that either one of the following events has occurred:

a) The owner or operator of the used EV battery storage site has substituted alternate financial assurance that meets the requirements of this Subpart such that the total financial assurance for the site is equal to or greater than the current removal cost estimate, without counting the amounts to be released; or

b) The Agency has released the owner or operator of the battery storage site from the requirements of this Subpart following completion of removal.

Section 1220.615 Application of Proceeds and Appeal

a) The Agency may sue in any court of competent jurisdiction to enforce its rights under financial instruments used to provide the financial assurance required under this Subpart. The filing of an enforcement action before the Board is not a condition precedent to such an Agency action, except when this Subpart or the terms of the instrument provide otherwise.

b) As provided in Titles VIII and IX of the Act and 35 Ill. Adm. Code 103 and 104, the Board may order that an owner or operator of a used EV battery storage site modify a removal plan or order that proceeds from financial assurance be applied to the execution of a removal plan.

c) The following Agency actions may be appealed to the Board as a permit denial pursuant to 35 Ill. Adm. Code 105:

1) A refusal to accept financial assurance tendered by the owner or operator;

2) A refusal to release the owner or operator from the requirement to maintain financial assurance;

3) A refusal to release excess funds from a trust;

4) A refusal to approve a reduction in the penal sum of a bond; or

5) A refusal to approve a reduction in the amount of a letter of credit.

Section 1220.620 Removal Cost Estimate

a) No later than February 1 of each year, the owner or operator must submit to the Agency, a written estimate of the cost of removing the maximum number of used EV batteries that will be accumulated at the site at any time. This cost estimate must be submitted by the owner or operator along with the annual registration required under Section 22.23f(c) of the Act. Any removal cost estimate must be submitted on forms prescribed by the Agency.

b) In addition, the owner or operator must revise the removal cost estimate and submit the revised estimate before making or having made at the site any change that would increase the removal cost estimate, including, but not limited to, an increase in the maximum accumulation of used EV batteries that will be accumulated at the site at any one time.

c) The owner or operator must base the removal cost estimate on costs to the Agency under a contract to perform battery removal actions in the area in which the site is located.

d) The removal cost estimate must, at a minimum, include all costs for all activities necessary to remove all used EV batteries in accordance with all requirements of this Part.

e) Once the owner or operator has completed an activity described in subsection (c), the owner or operator may revise the removal cost estimate indicating that the activity has been completed and zeroing that element of the removal cost estimate.

Section 1220.625 Mechanisms for Financial Assurance

The owner or operator may use any one of the following mechanisms to provide financial assurance for removal of used EV batteries or may use a combination of these mechanisms to the extent authorized under Section 1220.640:

a) A trust fund (Section 1220.640);

b) A surety bond guaranteeing payment (Section 1220.645); or

c) A letter of credit (Section 1220.650).

Financial assurance mechanisms must be submitted on forms prescribed by the Agency.

Section 1220.630 Use of Multiple Financial Mechanisms

An owner or operator may satisfy the requirements of this Subpart by establishing more than one financial mechanism listed in Section 1220.625 per site. These mechanisms listed in Section 1220.625 include trust funds, surety bonds guaranteeing payment, and letters of credit. The mechanisms must be as specified in Sections 1220.640, 1220.645, and 1220.650 respectively, except that it is the combination of mechanisms, rather than any single mechanism, that must provide financial assurance for an amount at least equal to the current approved removal cost estimate. An owner or operator that uses a trust fund in combination with a surety bond or a letter of credit may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The owner or operator may use any or all of the mechanisms specified in Sections 1220.640, 1220.645, and 1220.650 to

provide for removal.

Section 1220.635 Use of a Financial Mechanism for Multiple Sites

An owner or operator may use a financial assurance mechanism specified in this Subpart to meet the requirements of this Subpart for more than one site. Evidence of financial assurance submitted to the Agency must include a list showing, for each site, the name, address and the amount of funds assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each site. The amount of funds available to the Agency must be sufficient to remove used EV batteries from all of the owner or operator's sites.

Section 1220.640 Trust Fund

a) An owner or operator may satisfy the requirements of this Subpart by establishing a trust fund that conforms to the requirements of this Section and submitting an originally signed duplicate of the trust agreement to the Agency.

b) The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

c) The trust agreement must be irrevocable, must be on forms prescribed by the Agency, must be accompanied by a formal certification of acknowledgment on a form prescribed by the Agency, and must contain provisions addressing, at a minimum, the establishment, management, and termination of the trust and a schedule listing, at a minimum, the sites covered by the trust, the current approved removal cost for each of those sites, and prohibitions against third party access to the trust funds other than as provided in the trust agreement. The schedule required under this subsection (c) must be in the form prescribed by the Agency and must be updated within 60 days after a change in the amount of the current approved removal cost for any site covered by the trust.

d) Payments into the Trust

1) The owner or operator must make a payment into the trust fund each year during the pay-in period. However, after expiration of the pay-in period, neither the owner nor the operator may use a pay-in period to fund the trust and must instead make a lump sum payment to further fund the trust.

2) The pay-in period is three years and commences on the date any of the sites covered by the trust agreement first receives used EV batteries.

3) Annual payments are determined by the following formula:

Annual payment = (CE-CV)/Y

where:

CE = Current total approved removal cost estimate for all sites covered by the trust agreement
CV = Current value of the trust fund
Y = Number of years remaining in the pay in period.

4) The owner or operator must make the first annual payment before used EV batteries are received at a site covered by the trust agreement. Before receiving used EV batteries at a site covered by the trust agreement, the owner or operator must submit to the Agency a receipt from the trustee for the first annual payment.

5) Subsequent annual payments must be made no later than 30 days after each anniversary of the first payment.

6) The owner or operator may either accelerate payments into the trust fund or may deposit the full amount of the current approved removal cost estimate at the time the fund is established.

7) The owner or operator must maintain the value of the fund at no less than the value the fund would have if annual payments were made as specified in subsection (d)(3).

8) If the owner or operator establishes a trust fund after having used one or more alternative mechanisms, the first payment must be in at least the amount the fund would contain if the trust fund were established initially and payments made as provided in subsection (d)(3).

e) The trustee must evaluate the trust fund annually as of the anniversary of the day the trust was created or on such other date as may be provided in the agreement. Within 30 days after the evaluation date each year, the trustee must furnish the owner or operator and the Agency with a statement confirming the value of the trust fund within 30 days after the evaluation date. The failure of the owner or operator to object in writing to the trustee within 90 days after the statement has been furnished to the owner or operator and the Agency constitutes a conclusively binding assent by the owner or operator, barring the owner or operator from asserting any claim or liability against the trustee with respect to matters disclosed in the statement.

f) After the pay-in period is completed, whenever the removal cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator must, within 60 days after

the change in the removal cost estimate, either deposit an amount into the fund so that its value after this deposit at least equals the amount of the removal cost estimate, or obtain other financial assurance as specified in this Subpart to cover the difference.

g) Release of excess funds:

1) If the value of the trust fund is greater than the total amount of the current approved removal cost estimate, the owner or operator may submit a written request to the Agency for a release of the amount in excess of the current approved removal cost estimate.

2) If an owner or operator substitutes other financial assurance as specified in this Subpart for all or part of the trust fund, he or she may submit a written request to the Agency for release of the amount in excess of the current approved removal cost estimate covered by the trust fund.

3) As soon as practicable after receiving a request from the owner or operator for a release of funds pursuant to this subsection (g) but not more than 120 days following the Agency's receipt of the request, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing to be in excess of the current approved removal cost estimate.

h) Reimbursement for removal expenses:

1) After initiating removal, an owner or operator, or any other person authorized to perform removal, may request reimbursement for partial or final removal expenditures, by submitting itemized bills to the Agency. The owner or operator may request reimbursements for partial removal only if sufficient funds remain in the trust fund to cover the costs of removal.

2) As soon as practicable after receiving the itemized bills for partial or final removal activities, but no more than 120 days following the Agency's receipt of the itemized bills, the Agency must determine whether the expenditures are in accordance with the removal plan. If the Agency determines, based on the information available to it, that the remaining cost of removal will be less than the value of the trust fund, the Agency must instruct the trustee to make reimbursement in such amounts as the Agency specifies in writing as expenditures in accordance with the removal plan.

3) If the Agency determines, based on such information as is available to it, that the remaining cost of removal will be greater than the value of the trust fund, it must withhold reimbursement of such amounts as it

determines are necessary to preserve the trust corpus in order to accomplish removal until it determines that the owner or operator is no longer required to maintain financial assurance for removal. In the event the fund is inadequate to pay all claims after removal is completed, the Agency must pay claims according to the following priorities:

A) Persons with whom the Agency has contracted and authorized to perform removal activities (first priority);

B) Persons who have completed removal activities authorized by the Agency (second priority);

C) Persons who have completed work which furthered the removal (third priority);

D) The owner or operator and related business entities (last priority).

Section 1220.645 Surety Bond Guaranteeing Payment

a) An owner or operator may satisfy the requirements of this Subpart by obtaining a surety bond that conforms to the requirements of this Section and submitting the bond to the Agency.

b) The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

c) The surety bond must be on standardized forms prescribed by the Agency and must contain provisions concerning, at a minimum, the penal sum and term of the bond, conditions upon which the bond is payable and cancellable and payments into the standby trust fund.

d) An owner or operator who uses a surety bond must also establish a standby trust fund. Under the terms of the bond, all payments made under the surety bond must be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. The standby trust fund must meet the requirements of a trust fund specified in Section 1220.640, except that:

1) The owner or operator must submit an originally signed duplicate of the trust agreement to the Agency with the surety bond; and

2) Until the standby trust is funded pursuant to the requirements of this Section, none of the following are required:

A) Payments into the trust fund as specified in Section 1220.640;

B) Updating the trust agreement schedule in Section 1220.640(c) to show the current approved removal cost estimates;

C) Annual valuations as required by the trust agreement; or

D) Notices of nonpayment as required by the trust agreement.

e) Conditions

1) The bond must guarantee that the owner or operator will either:

A) Perform removal in accordance with the removal plan; or

B) Within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety, provide alternate financial assurance in accordance with this Subpart and obtain the Agency's written approval of the assurance provided.

2) The surety will become liable on the bond obligation when, under the terms of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator does any one or more of the following:

A) Abandons the battery storage site;

B) Is adjudicated bankrupt;

C) Fails to initiate removal when ordered to do so by the Board pursuant to Title VIII of the Act, or when ordered to do so by a court of competent jurisdiction; or

D) Fails, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the surety bond, to provide alternate financial assurance and obtain the Agency's written approval of the assurance provided.

f) Penal Sum

1) The penal sum of the bond must be in an amount at least equal to the current approved removal cost estimate, except as provided in Section 1220.620.

2) If the current removal cost estimate decreases, the penal sum may be reduced to the amount of the current approved removal cost estimate following written approval by the Agency.

3) If the current removal cost estimate increases to an amount greater than the penal sum and if that increase is not due to an increase in the maximum accumulation of used EV batteries at the battery storage site, the owner or operator must, within 60 days after the increase in the removal cost estimate, either:

A) Cause the penal sum to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or

B) Obtain alternate financial assurance in accordance with this Subpart to cover the increase in the removal cost estimate and submit evidence of the alternate financial assurance to the Agency.

4) If the current removal cost estimate increases to an amount greater than the penal sum and if that increase is due to an increase in the maximum accumulation of used EV batteries at the battery storage site, the owner or operator must, within 60 days after the increase in the removal cost estimate:

A) Remove the excess used EV batteries to meet the current approved removal cost estimate;

B) Cause the penal sum to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or

C) Obtain other financial assurance, as specified in this Subpart, to cover the increase in the removal cost estimate and submit evidence of the alternative financial assurance to the Agency.

g) Terms

1) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

2) The Agency must release the surety by providing the owner or operator and the surety with written authorization for termination of the bond as soon as practicable after any of the following occur:

A) An owner or operator substitutes alternate financial assurance that meets the requirements of this Subpart such that the total financial

assurance for the site is equal to or greater than the current approved removal cost estimate, without counting the amounts to be released; or

B) The Agency releases the owner or operator from the requirements of this Subpart following completion of removal.

Section 1220.650 Letter of Credit

a) An owner or operator may satisfy the requirements of this Subpart by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Section and submitting the letter of credit to the Agency.

b) The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

c) Forms:

1) The letter of credit must be on standardized forms prescribed by the Agency.

2) The letter of credit must be accompanied by a letter from the owner or operator, referring to the letter of credit by number, issuing institution and date, and providing, at a minimum, the following information: the Agency designated site number, the name and address of the battery storage site, and the amount of funds assured for removal from the site by the letter of credit.

d) An owner or operator who uses a letter of credit to satisfy the requirements of this Subpart must also establish a standby trust fund. Any amounts drawn by the Agency pursuant to the letter of credit must be deposited in the standby trust fund. The standby trust fund must meet the requirements of a trust fund specified in Section 1220.640, except that:

1) The owner or operator must submit an originally signed duplicate of the trust agreement to the Agency with the letter of credit; and

2) Unless the standby trust is funded pursuant to the requirements of this Section, none of the following are required:

A) Payments into the trust fund as specified in Section 1220.640;

B) Updating the trust agreement schedule in Section 1220.640(c) to show the current approved removal cost estimates;

C) Annual valuations as required by the trust agreement; or

D) Notices of nonpayment as required by the trust agreement.

e) Conditions on which the Agency may draw on the letter of credit:

1) The Agency may draw on the letter of credit if the owner or operator fails to perform removal in accordance with the removal plan.

2) The Agency may draw on the letter of credit when the owner or operator does any one or more of the following:

A) Abandons the battery storage site;

B) Is adjudicated bankrupt;

C) Fails to initiate removal when ordered to do so by the Board pursuant to Title VIII of the Act, or when ordered to do so by a court of competent jurisdiction;

D) Within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that the letter of credit will not be extended for another term, fails to provide additional or substitute financial assurance under this Subpart.

f) Amount:

1) The letter of credit must be issued in an amount at least equal to the current approved removal cost estimate, except as provided in Section 1220.620.

2) If the current removal cost estimate decreases, the penal sum may be reduced to the amount of the current approved removal cost estimate following written approval by the Agency.

3) If the current removal cost estimate increases to an amount greater than the credit and if that increase is not due to an increase in the maximum accumulation of used EV batteries at the battery storage site, the owner or operator must, within 60 days after the increase in the removal cost estimate, either:

A) Cause the amount of the credit to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or

B) Obtain alternate financial assurance in accordance with this Subpart to cover the increase in the removal cost estimate and submit evidence of the alternate financial assurance to the Agency.

4) If the current removal cost estimate increases to an amount greater than the credit and if that increase is due to an increase in the maximum accumulation of used EV batteries at the battery storage site, the owner or operator must, within 60 days after the increase in the removal cost estimate:

A) Remove the excess used EV batteries to meet the current approved removal cost estimate;

B) Cause the amount of the credit to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or

C) Obtain other financial assurance, as specified in this Subpart, to cover the increase in the removal cost estimate and submit evidence of the alternative financial assurance to the Agency.

g) Term:

1) The letter of credit must be irrevocable and issued for a period of at least one year.

2) The letter of credit must provide that, on its current expiration date and on each successive expiration date, the letter of credit will be automatically extended for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner and operator and the Agency, by certified mail, of a decision not to extend the letter of credit for another term. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.

3) The Agency must return the letter of credit to the issuing institution for termination as soon as practicable after any of the following occur:

A) An owner or operator substitutes alternate financial assurance that meets the requirements of this Subpart such that the total financial assurance for the site is equal to or greater than the current approved removal cost estimate, without counting the amounts to be released; or

B) The Agency releases the owner or operator from the requirements of this Subpart following completion of removal.

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Technical Support Document

January 2026

Illinois Environmental Protection Agency
2520 West Iles Avenue
P.O. Box 19276
Springfield, Illinois 62794-9276

List of Acronyms and Abbreviations used within:

Act	Illinois Environmental Protection Act (415 ILCS 5/1 et seq.)
Board	Illinois Pollution Control Board
EV	Electric Vehicle
Illinois EPA	Illinois Environmental Protection Agency
NFPA	National Fire Protection Association

I. Introduction

P.A. 103-1006, which amended the Act to a section on end-of-life electric vehicle and battery electric storage system batteries, became effective January 1, 2025. This section added requirements for sites that store more than 5,000 kg of used EV batteries, including registering with the Illinois EPA and maintaining certain records.

Pursuant to P.A. 103-1006, these proposed rules set forth additional requirements for the storage of used EV batteries. With increased market uptake of electric vehicles on Illinois roadways, there are a greater number of used batteries entering the recycling or auto parts supply chain. Some batteries can be reused or refurbished for use in another vehicle with some repair, whereas other batteries may have reached their end of life and will need to be recycled.

These proposed rules specifically address storage of used EV batteries that have been extracted from a vehicle. Batteries may be extracted from vehicles for a variety of reasons including an accident declaring the vehicle a total loss or mechanical failure rendering the vehicle inoperable. Recovery of an EV battery may be pursued for reuse in another vehicle or to recycle critical minerals as these battery packs could have significant quantities of lithium, copper, cobalt, nickel, or other economically recoverable metals.

Electric Vehicle (EV) batteries pose a heightened fire hazard due to their highly stored energy. When EV battery fires occur, they are difficult to extinguish through conventional means because of the battery's unique chemistry. There have been several battery fires at facilities recycling or storing used batteries, including EV batteries, around the State and the nation. In many cases, these fires had significant environmental and economic impacts on the communities in which they occurred. The Illinois EPA is also starting to see EV batteries being collected and stored at scrapyards and recyclers as the batteries are reaching the end of their useful life or are removed from damaged vehicles.

The regulation and safety considerations of EV battery storage called for in P.A. 103-1006 was in response to high -profile fires involving batteries, including at battery storage facilities in Morris and Madison, Illinois. The Morris fire ignited at an old paper mill storing an estimated 184,000 lbs (83,461 kg) of lithium chemistry batteries. Investigations suggest one contributing factor in this fire could have been improper storage of batteries with other flammable components. Incidents like these highlight the importance of regulations governing the consistent and proper storage of EV batteries and battery constituents.

These rules are meant to govern any facility storing used EV batteries. The proposed rules are focused on storage of fully assembled batteries. They are not intended to extend to facilities that receive only components of EV batteries after the batteries are disassembled. Current research suggests lithium based chemistries can pose a greater fire risk when batteries are actively discharging, charging, or being disassembled. Storage of inert batteries poses less fire risk. However, thermal runaway can still occur under certain conditions, especially if the battery is damaged. The risk of a storage facility igniting increases when a large number of batteries are stored close together or near other flammable hazards. For these reasons, P.A. 103-1006 tasked the Illinois EPA with proposing to the Board best management practices for used EV battery storage.

To craft these regulations, the Illinois EPA utilized as a guideline, the NFPA 855 Standards on storage of large format batteries in energy storage systems to determine best safety practices for used EV battery storage. However, the Illinois EPA has drafted its proposed regulations within the context of used EV batteries that are not actively charging or discharging, as energy storage systems have some differing risks and challenges due to the operating nature of those large format batteries.

The NFPA is a self-funded nonprofit association that aims to standardize fire protection safety standards and building codes. The NFPA has over 250 technical committees and 10,000 volunteers contributing to the professional knowledge base. Multiple NFPA Codes and Standards have been adopted by States and local municipalities across the Nation. The NFPA 855 Standards specifically concentrate on safety storage standards for large format batteries in energy storage facilities, which is representative of electric vehicle batteries and grid scale energy storage systems.

II. Proposed Amendments

The storage of used EV batteries, whether indoors or outdoors, needs to follow general best management practices to minimize the risk of fires. These include covering the terminals, ensuring the batteries are protected from water or other liquid ingress, and keeping batteries away from other flammable hazards such as utility lines and fuel tanks.

Under the NFPA standards, indoor storage of used EV batteries is allowed provided the batteries are stored in specifically constructed rooms or spaces that do not exceed 900 square feet. These rooms must be constructed with walls or fire barriers with a 2-hour or 3-hour fire resistance rating and with horizontal assemblies with a 2-hour fire resistance rating constructed in accordance with the local building code. In the proposed regulations, the Illinois EPA has adopted the same room size and fire safety requirements.

The rooms or spaces containing used EV batteries must also be provided with a fire alarm system activated by an air-aspirating smoke detector system or a radiant-energy detection system with occupant notification. The rooms or spaces must also have an automatic sprinkler system.

Each 900 square feet room or space must be spaced 10 feet apart from other battery storage areas. The spacing between battery storage areas may be reduced to 3 feet where 3-hour fire rated walls or barriers are utilized in the construction of battery storage rooms or spaces. Properly prepared used batteries may be stacked in piles up to 2 feet below the maximum ceiling height. This spacing is to help prevent the spread of fire and ensure proper operation of the automatic sprinkler system.

The NFPA provisions were specifically devised to minimize the risk of fire spread from energy-dense large format batteries that could ignite from thermal runaway or another ignition source. While stored used EV batteries will not be charging or discharging, used or damaged batteries pose a larger risk for thermal runaway or ignition. Often, batteries being recycled are extracted from EVs that have been involved in accidents or suffered a mechanical failure that rendered the vehicle inoperable.

Segregating the batteries in rooms of no more than 900 square feet minimizes the risk of potential fires spreading to the entire facility. The 2- or 3-hour fire rated barriers are designed to isolate any fire to the specific 900 square feet area in which it occurs until emergency crews can arrive. The setback requirements between rooms ensures further protection from the fire spreading beyond the area and minimizes the potential to ignite the entire facility.

These proposed regulations require batteries stored outdoors to be stored, individually or in a group, within enclosed containers large enough to accommodate the volume stored. Batteries may be accumulated up to 10 feet high by 50 feet wide by 100 feet long hereby noted as “accumulation specifications”. Batteries may be placed in individual containers or a large container that can contain an accumulation not to exceed the accumulation specifications. Each container of batteries or accumulation of individual containers, not exceeding the accumulation specifications must be separated from other containers by at least 10 feet. The battery containers must be placed on a concrete or asphalt pad. The battery containers cannot be placed on grass-covered ground or within 20 feet of vegetation in order to further minimize the risk of fires. Outdoor battery storage areas must be separated by a minimum of 20 feet from lot lines, public right of ways, buildings, other storage, hazardous materials, or other exposure hazards. Investigations into previous high profile battery fires suggest proximity to other flammable materials or hazards contributed to the size and severity of those fires. Therefore, the Agency is proposing a 20 feet setback consistent with the expertise of the NFPA.

Any facility storing 5,000 kilograms or more of used EV batteries must also maintain a fire safety plan created in coordination with the fire department that allows for effective treatment of any battery fires and adequate capture of all fire related runoff in the event of a fire. This provision is in place to specifically minimize offsite impact from fires and fire fighting runoff, and is consistent with other runoff mitigation measures at other types of facilities with similar risks.

III. Technical Feasibility and Economic Reasonableness

The proposed regulations are technically feasible and economically reasonable. The proposed rules are consistent with existing fire codes and fire safety best management practices, and therefore not expected to require facilities to undertake additional actions beyond current best practices. Although the regulations require indoor facilities to maintain proper fire barriers to prevent the spread of fire to separated used battery piles or to the rest of the facility, they do not require any additional battery-fire specific technology such as thermal monitoring or fire suppression systems beyond commonly available air-aspirated smoke detectors and automatic sprinkler systems. The maximum pile size allows for a reasonable amount of used EV batteries to be stored in a single pile while still minimizing fire risk, which reduces the amount of fire barriers needing to be constructed for any new spaces. Such hour rated fire barriers are commonly used in construction of areas that pose a fire risk and do not require any new innovation or construction techniques for storing used EV batteries.

For outdoor spaces, batteries must be stored in fully enclosed containers. Fully enclosed containers do not require any advanced or costly construction beyond the ability to protect batteries from liquid ingress, and being non-combustible or designed for used battery collection use. Facilities that do not already have such containers will need to acquire these containers if they desire to store batteries outdoors. However, such containers are typically already utilized in order to protect batteries from the elements and prevent short circuits and fires.

The Agency does not foresee the measures in these proposed rules as adding a significant cost or creating an undue burden on persons storing used EV batteries for reuse or recycling. Furthermore, these rules aim to provide clear compliance requirements for storing used EV batteries in a manner that ensures protection of human health, the environment, and public safety. These rules provide consistency so businesses can plan resource needs properly and provide an important service to the residents of Illinois.

IV. Sources and Facilities Affected

As described above, these regulations affect sites storing used EV batteries. The proposed regulations require such facilities to follow certain fire safety practices, storage requirements, reporting and record keeping, and provide financial assurance. These rules are intended to minimally impact such facilities, while also addressing and minimizing the risks that battery fires present to human health, the environment, and public safety.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	RXXX-XXX
PROPOSED 35 ILL. ADM. CODE	)	
SUBTITLE K: RECYCLABLE, RECLAIMABLE, OR	)	
REUSABLE WASTES, CHAPTER I POLLUTION	)	
CONTROL BOARD, PART 1220 MANAGEMENT	)	
OF USED EV BATTERIES	)	

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state the following:

I have electronically served the attached RULEMAKING PROPOSAL, on behalf of the Illinois EPA, upon the following:

See attached Service List

I affirm that my e-mail address is Trevor.Dellaquila@illinois.gov; the number of pages in the e-mail transmission is 50; and the e-mail transmission took place before 5:00 p.m. on January 2, 2026.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: /s/ Trevor Dell'Aquila
Trevor Dell'Aquila
Assistant Counsel
Division of Legal Counsel

DATED: January 2, 2026

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