

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULE

- 1) Heading of the Part: Management of Used EV Batteries
- 2) Code Citation: 35 Ill. Adm. Code 1220
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1220.100	New Section
1220.105	New Section
1220.110	New Section
1220.115	New Section
1220.120	New Section
1220.125	New Section
1220.200	New Section
1220.205	New Section
1220.210	New Section
1220.215	New Section
1220.220	New Section
1220.225	New Section
1220.500	New Section
1220.505	New Section
1220.510	New Section
1220.515	New Section
1220.520	New Section
1220.525	New Section
1220.530	New Section
1220.600	New Section
1220.605	New Section
1220.610	New Section
1220.615	New Section
1220.620	New Section
1220.625	New Section
1220.630	New Section
1220.635	New Section
1220.640	New Section
1220.645	New Section
1220.650	New Section
- 4) Statutory Authority: Implementing Section 22.23f and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/22.23f, 27, 28].

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- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking proposal (Prop.) was filed with the Illinois Pollution Control Board (Board) on January 2, 2026, by the Illinois Environmental Protection Agency (IEPA). To "minimize[e] the risks of fire and explosion" posed by storing used electric vehicle (EV) batteries, including lithium-chemistry batteries, IEPA proposes rules for the operation of sites that store used EV batteries. Prop. at 8. EV batteries "pose a heightened fire hazard due to their highly stored energy"; further, "EV battery fires . . . are difficult to extinguish through conventional means because of the battery's unique chemistry." *Id.* at 44. IEPA adds that battery fires have resulted in "significant environmental and economic impacts on the communities in which they occurred." *Id.* IEPA explains that by mitigating used EV battery fires, the proposed rules seek to "prevent releases of harmful contaminants into the atmosphere, the land, and groundwater." *Id.* at 9.

These proposed statewide rules provide "management standards for used EV battery storage sites" and 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." Prop. at 10. The proposed rules "address storage of used EV batteries that have been extracted from a vehicle" (*id.* at 44) and therefore "would not apply to facilities that store new, unused batteries" (*id.* at 9). Additionally, as proposed by IEPA, the rules also would not apply to used EV batteries that have been "returned to reuse or returned to the economic mainstream in the form of raw materials or products." *Id.* at 16.

The proposed rules, according to IEPA, "affect[] used [EV] battery storage facilities as well as facilities that store used car parts that include electric vehicle batteries." Prop. at 9. Generally, management standards and financial assurance requirements would apply to "all facilities that store used EV batteries," but those that store "5,000 kilograms [11,023 pounds] or more of used electric vehicle batteries have additional requirements they must meet to comply with the proposed Part 1220." *Id.* These additional requirements would include obligations regarding battery storage and contingency plans to be developed with the local fire department; emergency response; recordkeeping; reporting; and annual registration with IEPA.

IEPA explains that the proposed rules were "developed using industry standard fire safety protocols for handling large format batteries." Prop. at 9. IEPA asserts that the proposed rules are "technically feasible," requiring that used EV batteries be stored "in accordance with common fire safety protocols." *Id.* at 10. "These proposed regulations utilized common and readily available industry materials and systems for fire detection and spread prevention." *Id.* IEPA also maintains that the compliance "costs involved are results of fire safety requirements" and are "economically reasonable." *Id.* at 11.

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Finally, the proposed rules are required by statute. Public Act 103-1006 (eff. Jan. 1, 2025) amended the Environmental Protection Act [415 ILCS 5] by adding Section 22.23e, which was renumbered as Section 22.23f (P.A. 104-417 (eff. Aug. 15, 2025)). Section 22.23f(d) [415 ILCS 5/22.23f(d)] required IEPA to propose, and requires the Board to adopt, rules for used EV battery storage sites, which rules "shall 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; recordkeeping; reporting; and financial assurance." As Section 22.23f(d) requires the Board to adopt final rules within one year after receiving IEPA's proposal, the Board proceeded to first notice without commenting on the substantive merits of IEPA's proposal. The Board's first-notice opinion and order of January 22, 2026, is available on the Board's website at <https://pcb.illinois.gov/documents/dsweb/Get/Document-115099>.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rule contain incorporations by reference? Yes
- 10) Are there any proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed rules do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on the proposed rules for a period of 45 days after the date of this Illinois Register publication. Comments must be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at <https://pcb.illinois.gov>. However, if filing a comment through COOL is not practicable, the comment may be filed in paper by directing it to:

Don A. Brown, Clerk
Pollution Control Board
60 East Van Buren Street, Suite 630
Chicago, Illinois 60605

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Comments must reference the Board's docket number for this rulemaking, R26-17.

The Board has scheduled two public hearings concerning this rulemaking proposal, both to be held by videoconference between Chicago and Springfield. The first hearing is set for March 19, 2026, beginning at 9:00 AM, and the second hearing is set for June 4, 2026, beginning at 9:00 AM. Additional details regarding the hearings may be found in the January 29, 2026 hearing notice and order of the Board's hearing officer, available on the Board's website at <https://pcb.illinois.gov/documents/dsweb/Get/Document-115139>.

Questions about filing public comments, participating at hearing, or other procedural matters may be directed to the Board's Clerk at 312-814-3461 or don.brown@illinois.gov.

13) Initial Regulatory Flexibility Analysis:

- A) Description of the type of small businesses, not-for-profit corporations or small municipalities subject to the proposed rule: This rulemaking would apply to a small business, small municipality, or not-for-profit corporation that owns or operates one or more used EV battery storage sites. In addition, limited requirements would apply to a transporter hauling used EV batteries to or from a used EV battery storage site. See 13(B) below. The proposed rules do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act.
- B) Description of the proposed reporting, bookkeeping or other procedures required for compliance with the rule: The proposed rules would require registration, reporting, recordkeeping, battery storage plans, and contingency plans for a site that stores 5,000 kilograms or more of used EV batteries at any one time. For example, a site meeting this weight threshold would be required to register annually with IEPA, maintain battery-tracking receipts and weekly battery records, and submit an annual battery summary to IEPA. See 14(D) below.

All used EV battery storage sites, even those below the 5,000-kilogram threshold, would be subject to the financial assurance requirements. However, a used EV battery storage site would not be subject to the financial assurance requirements if the real estate of the site is owned by the United States or one of its agencies, the State of Illinois or one of its agencies, or a unit of local government.

In addition, a transporter hauling used EV batteries to or from a used EV battery storage site would be subject to requirements, but only with respect to receipts.

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These proposed rules do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act.

- C) Description of the types of professional skills necessary for compliance: None
- 14) Small Business Economic Impact Analysis: Based on IEPA's rulemaking proposal under Section 22.23f(d) of the Environmental Protection Act, it is reasonably foreseeable that the proposed rules would have an "adverse impact" in the form of some increased costs on a "small business" (i.e., "fewer than 50 full-time employees or less than \$4,000,000 in gross annual sales") that owns or operates one or more used EV battery storage sites. See 1 Ill. Adm. Code 100.410(a)(14) (definitions of "adverse impact" and "small business"). However, IEPA explains in its proposal that the proposed rules are "consistent with existing fire codes and fire safety best management practices" and therefore are "not expected to require facilities to undertake additional actions beyond current best practices." Prop. at 47. Moreover, IEPA "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." *Id.* Further, IEPA states that the rules are designed to provide "clear compliance requirements for storing used EV batteries in a manner that ensures protection of human health, the environment, and public safety," as well as "consistency so businesses can plan resource needs properly." *Id.*
- A) Types of businesses subject to the proposed rule (Check all that apply): IEPA's rulemaking proposal identifies "automotive scrapyards" and "automotive recyclers." Prop. at 9. In addition, the proposed rules would impose requirements regarding receipts on a transporter hauling used EV batteries to or from a used EV battery storage site.
- 42 Wholesale Trade
 - 44-45 Retail Trade
 - 48-49 Transportation and Warehousing
 - 56 Administrative and Support and Waste Management and Remediation Services
- B) Estimated number of small business subject to the proposed rule: IEPA states that there is "no major stakeholder organization for used EV battery storage sites." Prop. at 9. The Board has no basis in the current rulemaking record to estimate the number of small businesses that would be subject to the proposed rules.

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C) Categories that the agency reasonably believes the rulemaking will impact, including (Check all that apply):

- ii. regulatory requirements;
- iii. purchasing;
- vi. equipment and material needs;
- vii. training requirements;
- viii. record keeping;
- x. other potential impacted categories. (please describe below)

Facility layout, storage practices, and fire-safety infrastructure.

D) Projected reporting, recordkeeping and other administrative costs for compliance with the proposed rule: A small business that owns or operates one or more used EV battery storage sites would be required to maintain financial assurance (through a trust fund, surety bond, or letter of credit or a combination of these) and annually submit to IEPA a written cost estimate for removing the maximum number of used EV batteries to be accumulated at any one time. Financial assurance would have to be maintained in an amount equal to or greater than the current approved removal cost estimate.

Requirements for annual registration with IEPA, a battery storage plan and a contingency plan (both plans to be developed in consultation with and filed with the local fire department), emergency response, and reporting would apply only to a site that stores 5,000 kilograms or more of used EV batteries at any one time. Section 22.23f(b)(3) of the Environmental Protection Act [415 ILCS 5/22.23f(b)(3)] prohibits a person from causing or allowing the operation of a used EV battery storage site at which 5,000 kilograms or more of used EV batteries are stored at any one time unless, among other things, the owner or operator of the used EV battery storage site is an "automotive parts recycler" as defined in Section 1-105.3 of the Illinois Vehicle Code [625 ILCS 5/1-105.3] and licensed under Section 5-301 of the Illinois Vehicle Code [625 ILCS 5/5-301]. Please note that the proposed rules do not themselves impose a licensing requirement.

Generally, recordkeeping requirements would apply only to a site that meets the 5,000-kilogram threshold; but, if explosion protection is installed at a site, even a used EV battery storage site below the weight threshold, then the site would be required to maintain records of its deflagration analysis.

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In addition, a transporter hauling used EV batteries to or from a used EV battery storage site would be subject to receipt requirements under the proposed rules.

The Board has no basis in the current rulemaking record to project specific reporting, recordkeeping, or other administrative costs for compliance with the proposed rules.

- E) Type of professional skills necessary for preparation of any report or record required for compliance with the proposed rule or amendment: None
- F) Statement of the probable positive or negative economic effect on small business:
The proposed rules would require used EV battery storage sites to comply with management standards for explosion protection and indoor and outdoor storage of used EV batteries, as well as requirements for financial assurance. Additional requirements, including those for contingency planning, emergency response, recordkeeping, and reporting, would apply only to a site that stores 5,000 kilograms or more of used EV batteries at any one time.

Probable negative economic effects may include incurring costs associated with constructing two- or three-hour fire-rated barriers around used EV battery piles indoors; installing or upgrading sprinkler systems and smoke or thermal detection systems for indoor storage; purchasing specified containers for outdoor storage; and providing financial assurance. Probable positive economic effects may include reduced risk of catastrophic fires or explosions; lower or avoided environmental remediation costs; reduced liability exposure; and improved operational certainty and regulatory clarity.

- G) Description of any less intrusive or costly alternative methods of achieving the purposes of the rule: IEPA explains that the proposed rules "are intended to minimally impact" used EV battery storage sites. Prop. at 47. For example, indoor storage of used EV batteries would "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." *Id.* IEPA anticipates 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." *Id.* at 11. And the required 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." *Id.* at 47. For outdoor storage of used EV batteries, IEPA explains that the requisite fully enclosed containers would "not require any advanced or

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costly construction beyond the ability to protect batteries from liquid ingress, and being non-combustible or designed for used battery collection use," adding that "such containers are typically already utilized in order to protect batteries from the elements and prevent short circuits and fires." *Id.*

Based on the current rulemaking record, the Board is unaware of any less intrusive or less costly alternative method of achieving the purposes of Section 22.23f of the Environmental Protection Act [415 ILCS 5/22.23f] and the proposed rules.

- 15) Regulatory Agenda on which this rulemaking was summarized: These proposed rules did not appear on either of the last two regulatory agendas.
- 16) Any other information or justification for the proposed rule that the agency believes would be helpful to the public regarding the proposed rule. For example, a discussion or analysis of the benefits the proposed amendment is projected to have on the Illinois public, consumers, investors or other similar groups.

IEPA's proposal explains that the legislation behind these proposed rules "was in response to high-profile fires involving batteries, including at battery storage facilities in Morris and Madison, Illinois." Prop. at 44. According to IEPA, "[t]he Morris fire ignited at an old paper mill storing an estimated 184,000 lbs (83,461 kg) of lithium chemistry batteries" and "[i]nvestigations suggest one contributing factor in this fire could have been improper storage of batteries with other flammable components." *Id.*

The full text of the Proposed Rule begins on the next page: