

First Notice

JCAR351220-2602313r01

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2 SUBTITLE K: RECYCLABLE, RECLAIMABLE, OR REUSABLE WASTES
3 CHAPTER I: POLLUTION CONTROL BOARD

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6 MANAGEMENT OF USED EV BATTERIES

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

56
57 SOURCE: Adopted in R26-17 at 50 Ill. Reg. _____, effective _____.

58
59 **SUBPART A: GENERAL**

60
61 **Section 1220.100 Applicability**

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

- 68
- 69 a) New EV batteries being stored prior to installation in an electric vehicle;
- 70
- 71 b) Batteries installed in an electric vehicle that have not yet been removed; and
- 72
- 73 c) Used EV batteries that have been returned to reuse or returned to the economic
74 mainstream in the form of raw materials or products.
- 75

76 **Section 1220.105 Severability**

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

82
83 **Section 1220.110 Other Regulations**

- 84
- 85 a) The requirements of this Part are in addition to other requirements in the Act or
86 Board regulations. In case of conflict, applicability will be determined on the

87 basis of considerations such as the degree to which the statutory language in the
88 Act or Board regulation is expressly stated or necessarily implied, United States
89 Environmental Protection Agency program authorization requirements, and the
90 comparative stringency of the regulations.

- 91
92 b) The following are examples of other regulations which may be applicable to
93 facilities subject to this Part: 35 Ill. Adm. Code: Subtitle B: Air Pollution; 35 Ill.
94 Adm. Code: Subtitle C: Water Pollution; 35 Ill. Adm. Code: Subtitle H: Noise
95 Pollution; and 35 Ill. Adm. Code: Subtitle G: Waste Disposal.

96
97 **Section 1220.115 Definitions**

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99 For the purposes of this Part, except as the context otherwise clearly requires, the words and
100 terms defined in this Section have the meanings given in this Section. Words and terms not
101 defined in this Section have the meanings otherwise set forth in the Act and 35 Ill. Adm. Code
102 101.

103
104 *"Act" means the Environmental Protection Act. [415 ILCS 5].*

105
106 *"Agency" is the Environmental Protection Agency established by the Act. [415*
107 *ILCS 5/3.105]*

108
109 *"Battery storage site" means a site where used EV batteries are stored. [415 ILCS*
110 *5/22.23f(a)]*

111
112 *"Electric vehicle" or "EV" has the same meaning as defined in Section 11-1308 of*
113 *the Illinois Vehicle Code. [415 ILCS 5/22.23f(a)]*

114
115 *"Electric vehicle battery" or "EV battery" means a rechargeable battery that is*
116 *used to power the electric motors that propel an electric vehicle. "Electric vehicle*
117 *battery" includes, but is not limited to, lithium-ion batteries and nickel-metal*
118 *hydride batteries. [415 ILCS 5/22.23f(a)]*

119
120 *"Fully enclosed container" means a portable, hard-walled, lockable receptacle that*
121 *is impervious to precipitation and surface runoff. "Fully enclosed container" does*
122 *not include any container that is overfilled or otherwise cannot be closed*
123 *completely or is otherwise damaged and, as a result, is not impervious to*
124 *precipitation or surface runoff.*

125
126 *"Operator" means the person responsible for the operation and maintenance of a*
127 *used EV battery storage site.*
128

129 "Owner" means a person who has an interest, directly or indirectly, in land,
130 including a leasehold interest, on which a person operates and maintains a used
131 EV battery storage site. The "owner" is the "operator" if there is no other person
132 who is operating and maintaining a used EV battery storage site.
133

134 *"Storage" means any accumulation of used EV batteries that does not constitute*
135 *disposal.* [415 ILCS 5/22.23f(a)]
136

137 *"Used [EV] battery" means an EV battery that is sold, given, or otherwise*
138 *conveyed to a battery storage site.* [415 ILCS 5/22.23f(a)]. This term includes,
139 but is not limited to, batteries that are sent by the manufacturer or another person
140 for recycling rather than installed in an electric vehicle and EV batteries removed
141 from an electric vehicle at the battery storage site.
142

143 **Section 1220.120 Incorporation by Reference**
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- 145 a) The Board incorporates the following documents by reference:
146
147 NFPA 51B, "Standard for Fire Prevention During Welding, Cutting, and
148 Other Hot Work", 2014 Edition, National Fire Protection Association
149 (NFPA), 1 Batterymarch Park, Quincy, MA 02169-7471.
150
151 b) This Section incorporates no later amendments or editions.
152

153 **Section 1220.125 Estimating the Weight of Used EV Battery Accumulations**
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- 155 a) If the weight of an accumulation of used EV batteries is unknown, its weight may,
156 for the purposes of this Part, be calculated by multiplying the volume of the
157 accumulation, measured in cubic feet, by 17 kilograms (38 pounds) per cubic
158 foot.
159
160 b) A used EV battery storage pile may be divided into more than one accumulation
161 of used EV batteries for the purposes of making the calculation described in
162 subsection (a).
163

164 **SUBPART B: MANAGEMENT STANDARDS FOR STORAGE**
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166 **Section 1220.200 Applicability**
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168 Owners and operators of any battery storage site that contains one or more used EV batteries are
169 subject to this Subpart.
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171 **Section 1220.205 General Requirements**

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- a) Owners and operators must comply with the following requirements:
- 1) Used EV batteries must not be placed or accumulated outside of a building, except as provided in Section 1220.215.
 - 2) Used EV batteries must not be placed or accumulated inside a building, except as provided in Section 1220.210:
 - 3) Used EV batteries must not be placed or accumulated in any area where the grade of the ground surface exceeds two percent slope.
 - 4) Battery terminals must 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 where used EV batteries are placed or accumulated; or
 - B) If outdoors, separated by at least 250 feet from all containers where 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.

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- 8) Combustible materials in used EV battery storage sites must comply with all of the following:
 - A) Combustible materials other than used EV batteries must 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 must 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 must be analyzed and explosion protection meeting industry standards must be installed if the potential for a deflagration exists. If any explosion protection is installed, the used EV battery storage site must maintain records on site of the analysis of deflagration and make the records for inspection and photocopying by the Agency during normal business hours.

236 **Section 1220.210 Storage of Used EV Batteries Within Buildings**

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- a) Owners and operators of any battery storage site who store used EV batteries within buildings must meet the requirements of this Section.
 - b) Used EV batteries must not 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 must 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.

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- 2) Each used EV battery pile must be contained in a room either:
 - A) Enclosed by 2-hour fire resistance rated walls constructed according to 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 according to 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 must 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 must contain an automatic sprinkler system.
 - 6) All rooms where used EV batteries are stored must not have 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 must not be placed or accumulated within 2 feet of the room ceiling.
- d) In addition to the requirements 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 must:
 - 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,

- 301 room ceilings, unit heaters, furnaces, ducts, and sprinkler
302 deflectors; and points of access for firefighting personnel and
303 equipment;
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305 C) Be maintained on site, adhered to at all times, made available for
306 inspection and photocopying by the Agency during normal
307 business hours, and a copy filed with the local fire department; and
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309 D) Include the following certification signed by the owner or operator:
310 "I certify that this battery storage plan has been developed in
311 consultation with the local fire department and that a copy of this
312 battery storage plan has been filed with the local fire department."
313
314 2) Meet the contingency planning and emergency response requirements of
315 Section 1220.220; and
316
317 3) Meet the recordkeeping and reporting requirements of Subpart E.
318

319 **Section 1220.215 Storage of Used EV Batteries Outdoors**

- 320
321 a) Owners and operators of any battery storage site who store used EV batteries
322 outdoors must meet the requirements of this Section.
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324 b) Used EV batteries must not be placed or accumulated outside of a building unless
325 the following requirements are met:
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327 1) All used EV batteries are placed or accumulated in fully enclosed
328 containers that are non-combustible or designed for used EV battery
329 collection use.
330
331 2) Containers must be stored on a concrete or asphalt pad, and must be kept
332 closed except while batteries are being placed in or removed from the
333 container.
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335 3) Individual containers must be separated from all other containers by a
336 minimum of 10 feet.
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338 4) Individual containers must be separated by a minimum of 20 feet from the
339 following:
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341 A) Lot property lines;
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343 B) Public ways;

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- 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) Containers must not 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 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,

386 hazardous materials, vegetation, other exposure hazards, and points
387 of access for firefighting personnel and equipment; and

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389 C) Is maintained on site, adhered to at all times, made available for
390 inspection and photocopying by the Agency during normal
391 business hours. The plan must include the following certification
392 signed by the owner or operator: "I certify that this battery storage
393 plan has been developed in consultation with the local fire
394 department and that a copy of this battery storage plan has been
395 filed with the local fire department."
396

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

399
400 3) Meet the recordkeeping and reporting requirements of Subpart E.
401

402 **Section 1220.220 Contingency Planning and Emergency Response**

403
404 Owners and operators of any used EV battery storage site where more than 5,000 kilograms
405 (11,023 pounds) of used EV batteries are located at any one time must:
406

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

408
409 1) Minimizes the hazards to human health and the environment from used
410 EV battery fires and run-off of contaminants from used EV battery fires;
411

412 2) Is carried out immediately whenever there is a used EV battery fire or
413 evidence of run-off from a used EV battery fire;
414

415 3) Describes the actions battery storage site personnel must take in response
416 to used EV battery fires and run-off from used EV battery fires;
417

418 4) Describes evacuation procedures, including, evacuation signals, primary
419 evacuation routes, and alternate evacuation routes to be used when the
420 primary routes could be blocked;
421

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

- 472
473 e) Notify the Agency immediately if a used EV battery fire occurs at the used EV
474 battery storage site and immediately begin managing, in accordance with all
475 applicable federal and State laws and regulations, all contaminated soils,
476 contaminated waters, and other wastes and materials resulting from the used EV
477 battery fire; and
478
- 479 f) Within 15 days after each incident that requires implementation of the
480 contingency plan, submit to the Agency in writing an incident report that includes,
481 at a minimum:
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- 483 1) The name, address, and telephone number of the used EV battery storage
484 site owners and operators;
 - 485
 - 486 2) The name, address, and telephone number of the used EV battery storage
487 site;
 - 488
 - 489 3) The date, time, and type of incident (e.g., fire or explosion);
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 - 491 4) The type and quantity of materials involved in the incident;
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 - 493 5) The extent of injuries, if any;
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 - 495 6) Remedial actions taken in response to the incident;
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 - 497 7) A list of other agencies involved in the response to the incident;
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 - 499 8) An assessment of actual or potential hazards to human health or the
500 environment as a result of the incident;
 - 501
 - 502 9) The estimated quantity and disposition of fire runoff and any released
503 material that resulted from the incident; and
504
 - 505 10) A plan and schedule for completing all used EV battery storage site
506 remediation required under all applicable federal and State laws and
507 regulations.
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509 **Section 1220.225 Removal Performance Standards**

510
511 The owner or operator of a used EV battery storage site required to submit a battery removal cost
512 estimate under Section 1220.620 must, when engaging in battery removal, remove used EV
513 batteries from the site in a manner that:
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- 515 a) Minimizes the need for further maintenance or remediation with respect to the
516 used EV batteries;
- 517
- 518 b) Removes all used EV batteries and any residues therefrom;
- 519
- 520 c) Safely transports all used EV batteries to a battery recycling facility, and all non-
521 recyclable material to a disposal facility; and
- 522
- 523 d) Protects human health during the removal and post removal periods.
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525 SUBPART E: RECORDKEEPING AND REPORTING

526 **Section 1220.500 Applicability**

527 The owners and operators of any used EV battery storage site where 5,000 kilograms (11,023
528 pounds) or more of used EV batteries are located at any one time are subject to this Subpart.

529 **Section 1220.505 Records**

- 530 a) The owner and operator of the used EV battery storage site must keep the
531 following records:
 - 532 1) Battery Tracking Receipts, in accordance with Section 1220.510;
 - 533 2) Weekly Battery Records, in accordance with Section 1220.515; and
 - 534 3) Annual Battery Summaries, in accordance with Section 1220.520.
- 535
- 536 b) All records listed in subpart (a) must be in a form and in a format as prescribed by
537 the Agency. The records must be maintained on site and made available for
538 inspection and photocopying by the Agency during normal business hours
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547 **Section 1220.510 Battery Tracking Receipts**

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- 549 a) Upon receiving any used EV batteries at the used EV battery storage site, the
550 owner or operator of the used EV battery storage site must provide a receipt to the
551 transporter and keep a copy of the receipt. The receipt must include all of the
552 following: the signature of the owner or operator; the name and special waste
553 hauler permit number of the transporter; the signature of the transporter; the
554 name, address, and telephone number of the site where used EV batteries were
555 received; the date the used EV batteries were received at the site; and the number
556 or weight, in kilograms, of used EV batteries received at the site.
- 557

- 558 b) Upon transporting any used EV batteries from the used EV battery storage site,
559 the transporter must provide a receipt to the owner or operator and keep a copy of
560 the receipt. The receipt must include all of the following: the signature of the
561 owner or operator; the name and registration number of the transporter; the
562 signature of the transporter; the date the used EV batteries were transported from
563 the site; the number or weight, in kilograms, of used EV batteries transported
564 from the site; and the destinations of the used EV batteries.
565
- 566 c) Owners and operators of used EV battery storage sites must maintain on site a
567 record of the receipt and disposition of all used EV batteries, including, but not
568 limited to:
569
- 570 1) Receipts for any used EV batteries received at the used EV battery storage
571 site; and
572
- 573 2) Receipts for any used EV batteries that are transported from the site.
574
- 575 d) Upon removal of any used EV batteries from a vehicle at the site, the owner or
576 operator must retain a receipt of the battery removal. The receipt must include all
577 of the following: the signature of the owner or operator; the VIN and model of the
578 vehicle from which the used EV batteries were removed; the date the used EV
579 batteries were removed; and the weight, in kilograms, of used EV batteries
580 removed from the vehicle.
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582 **Section 1220.515 Weekly Battery Record**
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- 584 a) The owner or operator of the used EV battery storage site must maintain a Weekly
585 Battery Record at the used EV battery storage site. The Weekly Battery Record
586 must include, at a minimum, the day of the week, the date, the Agency designated
587 site number, the site name and address, and the additional information required
588 under this Section.
589
- 590 b) Information relative to the weekly receipt and disposition of used EV batteries at
591 the used EV battery storage site must be recorded in the Weekly Battery Record,
592 including, but not limited to:
593
- 594 1) The name and registration number of each transporter who transported
595 used EV batteries to the site during the operating day and the weight, in
596 kilograms, of used EV batteries received at the site from each transporter
597 during the operating day;
598
- 599 2) The name and registration number of each transporter who transported
600 used EV batteries from the site during the operating day, the weight, in

- 601 kilograms, of used EV batteries transported from the site by each
602 transporter during the operating day, and the name, address, and telephone
603 number of the destination facility;
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605 3) The weight, in kilograms, of used EV batteries removed from any vehicle
606 on site;
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608 4) The weight, in kilograms, of used EV batteries recycled at the site during
609 the operating day; and
610
611 5) The weight, in kilograms, of used EV batteries remaining at the site at the
612 conclusion of the operating day.
613
614 c) Entries on the Weekly Battery Record required to be made under this Section
615 must be made by the end of each operating week.
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617 **Section 1220.520 Annual Battery Summary**
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- 619 a) The owner or operator of the used EV battery storage site must submit an Annual
620 Battery Summary to the Agency for each calendar year. The Annual Battery
621 Summary must include the Agency designated site number, the used EV battery
622 storage site name and address, and the calendar year for which the summary
623 applies.
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625 b) Information relative to the annual receipt and disposition of used EV batteries at
626 the used EV battery storage site must be reported in the Annual Battery Summary,
627 including, but not limited to:
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629 1) The weight, in kilograms, of used EV batteries received at the site during
630 the calendar year;
631
632 2) The weight, in kilograms, of used EV batteries removed from vehicles at
633 the site during the calendar year;
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635 3) The weight, in kilograms, of used EV batteries recycled on site during the
636 calendar year;
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638 4) The weight, in kilograms, of used EV batteries stored at the site during the
639 calendar year; and
640
641 5) The weight, in kilograms, of used EV batteries remaining in storage at the
642 site at the conclusion of the calendar year.
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- 644 c) The Annual Battery Summary must be received by the Agency on or before
645 January 31 of each year and must cover the preceding calendar year.
646

647 **Section 1220.525 Certification**
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- 649 a) All records, summaries, and reports submitted to the Agency as required by this
650 Subpart must be signed by a person designated by the owner or operator of the
651 battery storage site as responsible for preparing and reviewing those documents as
652 part of his or her duties in the regular course of business.
653
- 654 b) Any person signing a document submitted under this Part must make the
655 following certification:
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657 I certify that I am responsible for preparing and reviewing this document
658 and that this document and all attachments were prepared under my
659 direction or supervision as part of my duties in the regular course of
660 business. Based on my inquiry of the person or persons who manage the
661 system, or those persons directly responsible for gathering the
662 information, the information submitted is, to the best of my knowledge
663 and belief, true, accurate, and complete. I am aware that there are
664 significant penalties under Section 44 of the Environmental Protection
665 Act, 415 ILCS 5/44, including the possibility of fine and imprisonment for
666 knowingly submitting false information.
667

668 **Section 1220.530 Retention of Records**
669

670 Copies of all records required to be kept under this Subpart must be retained by the owner and
671 operator of the battery storage site for three years and must be made available at the battery
672 storage site during the normal business hours of the operator for inspection and photocopying by
673 the Agency.
674

675 **SUBPART F: FINANCIAL ASSURANCE**
676

677 **Section 1220.600 Scope and Applicability**
678

- 679 a) Except to the extent exempted by subsection (b), owners and operators of any
680 used EV battery storage site must comply with this Subpart prior to storing of any
681 used EV batteries.
682
- 683 b) Owners and operators of any used EV battery storage site meeting the
684 qualifications below are exempt from this Subpart:
685
- 686 c) Battery storage sites where the real estate of the site is owned by:

- 687
- 688 1) The United States or one of its agencies;
- 689
- 690 2) The State of Illinois or one of its agencies; or
- 691
- 692 3) A unit of local government.
- 693

694 **Section 1220.605 Maintaining Financial Assurance**

- 695
- 696 a) Except as otherwise provided in subsection (b), the owner or operator of the used
- 697 EV battery storage site must at all times maintain financial assurance in an
- 698 amount equal to or greater than the current approved removal cost estimate
- 699 calculated pursuant to Section 1220.620.
- 700
- 701 b) Within 60 days after the occurrence of any event listed in this subsection (b), the
- 702 owner or operator of the battery storage site must increase the total amount of
- 703 financial assurance to an amount that is equal to or greater than the current
- 704 removal cost estimate calculated pursuant to Section 1220.620:
- 705
- 706 1) The current removal cost estimate increases; or
- 707
- 708 2) The value of a trust fund established pursuant to Section 1220.640
- 709 decreases.
- 710

711 **Section 1220.610 Release of Financial Institution**

712

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

714 practicable after the owner or operator of the used EV battery storage site makes a written

715 request for release and demonstrates that either one of the following events has occurred:

716

- 717 a) The owner or operator of the used EV battery storage site has substituted alternate
- 718 financial assurance that meets the requirements of this Subpart such that the total
- 719 financial assurance for the site is equal to or greater than the current removal cost
- 720 estimate, without counting the amounts to be released; or
- 721
- 722 b) The Agency has released the owner or operator of the battery storage site from the
- 723 requirements of this Subpart following completion of removal.
- 724

725 **Section 1220.615 Application of Proceeds and Appeal**

- 726
- 727 a) The Agency may sue in any court of competent jurisdiction to enforce its rights
- 728 under financial instruments used to provide the financial assurance required under
- 729 this Subpart. The filing of an enforcement action before the Board is not a

730 condition precedent to such an Agency action, except when this Subpart or the
731 terms of the instrument provide otherwise.

732

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

737

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

740

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

742

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

745

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

747

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

749

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

751

752 **Section 1220.620 Removal Cost Estimate**

753

754 a) By February 1 of each year, the owner or operator must submit to the Agency, a
755 written estimate of the cost of removing the maximum number of used EV
756 batteries that will be accumulated at the site at any time. This cost estimate must
757 be submitted by the owner or operator along with the annual registration required
758 under Section 22.23f(c) of the Act. Any removal cost estimate must be submitted
759 on forms prescribed by the Agency.

760

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

766

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

770

- 771 d) The removal cost estimate must, at a minimum, include all costs for all activities
772 necessary to remove all used EV batteries complying with all requirements of this
773 Part.
774
- 775 e) Once the owner or operator has completed an activity described in subsection (c),
776 the owner or operator may revise the removal cost estimate indicating that the
777 activity has been completed and zeroing that element of the removal cost
778 estimate.
779

780 **Section 1220.625 Mechanisms for Financial Assurance**

781
782 The owner or operator may use any one of the following mechanisms to provide financial
783 assurance for removal of used EV batteries or may use a combination of these mechanisms to the
784 extent authorized under Section 1220.640:
785

- 786 a) A trust fund (Section 1220.640);
787
- 788 b) A surety bond guaranteeing payment (Section 1220.645); or
789
- 790 c) A letter of credit (Section 1220.650).
791

792 Financial assurance mechanisms must be submitted on forms prescribed by the Agency.
793

794 **Section 1220.630 Use of Multiple Financial Mechanisms**

795
796 An owner or operator may satisfy the requirements of this Subpart by establishing more than one
797 financial mechanism listed in Section 1220.625 per site. These mechanisms listed in Section
798 1220.625 include trust funds, surety bonds guaranteeing payment, and letters of credit. The
799 mechanisms must be as specified in Sections 1220.640, 1220.645, and 1220.650 respectively,
800 except that it is the combination of mechanisms, rather than any single mechanism, that must
801 provide financial assurance for an amount at least equal to the current approved removal cost
802 estimate. An owner or operator that uses a trust fund in combination with a surety bond or a
803 letter of credit may use the trust fund as the standby trust fund for the other mechanisms. A
804 single standby trust fund may be established for two or more mechanisms. The owner or operator
805 may use any or all of the mechanisms specified in Sections 1220.640, 1220.645, and 1220.650 to
806 provide for removal.
807

808 **Section 1220.635 Use of a Financial Mechanism for Multiple Sites**

809
810 An owner or operator may use a financial assurance mechanism specified in this Subpart to meet
811 the requirements of this Subpart for more than one site. Evidence of financial assurance
812 submitted to the Agency must include a list showing, for each site, the name, address and the
813 amount of funds assured by the mechanism. The amount of funds available through the

814 mechanism must be no less than the sum of funds that would be available if a separate
815 mechanism had been established and maintained for each site. The amount of funds available to
816 the Agency must be sufficient to remove used EV batteries from all of the owner or operator's
817 sites.

818

819 **Section 1220.640 Trust Fund**

820

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

824

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

827

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

838

839 d) Payments into the Trust

840

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

845

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

848

849 3) Annual payments are determined by the following formula:

850

$$\text{Annual payment} = (\text{CE}-\text{CV})/Y$$

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.

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- 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

891 estimate, or obtain other financial assurance as specified in this Subpart to cover
892 the difference.

893
894 g) Release of excess funds:

895
896 1) If the value of the trust fund is greater than the total amount of the current
897 approved removal cost estimate, the owner or operator may submit a
898 written request to the Agency for a release of the amount in excess of the
899 current approved removal cost estimate.

900
901 2) If an owner or operator substitutes other financial assurance as specified in
902 this Subpart for all or part of the trust fund, he or she may submit a written
903 request to the Agency for release of the amount in excess of the current
904 approved removal cost estimate covered by the trust fund.

905
906 3) As soon as practicable after receiving a request from the owner or operator
907 for a release of funds pursuant to this subsection (g) but not more than 120
908 days following the Agency's receipt of the request, the Agency must
909 instruct the trustee to release to the owner or operator such funds as the
910 Agency specifies in writing to be in excess of the current approved
911 removal cost estimate.

912
913 h) Reimbursement for removal expenses:

914
915 1) After initiating removal, an owner or operator, or any other person
916 authorized to perform removal, may request reimbursement for partial or
917 final removal expenditures, by submitting itemized bills to the Agency.
918 The owner or operator may request reimbursements for partial removal
919 only if sufficient funds remain in the trust fund to cover the costs of
920 removal.

921
922 2) As soon as practicable after receiving the itemized bills for partial or final
923 removal activities, but no more than 120 days following the Agency's
924 receipt of the itemized bills, the Agency must determine whether the
925 expenditures are in accordance with the removal plan. If the Agency
926 determines, based on the information available to it, that the remaining
927 cost of removal will be less than the value of the trust fund, the Agency
928 must instruct the trustee to make reimbursement in such amounts as the
929 Agency specifies in writing as expenditures in accordance with the
930 removal plan.

931
932 3) If the Agency determines, based on such information as is available to it,
933 that the remaining cost of removal will be greater than the value of the

934 trust fund, it must withhold reimbursement of such amounts as it
935 determines are necessary to preserve the trust corpus in order to
936 accomplish removal until it determines that the owner or operator is no
937 longer required to maintain financial assurance for removal. In the event
938 the fund is inadequate to pay all claims after removal is completed, the
939 Agency must pay claims according to the following priorities:

- 940
- 941 A) Persons with whom the Agency has contracted and authorized to
- 942 perform removal activities (first priority);
- 943
- 944 B) Persons who have completed removal activities authorized by the
- 945 Agency (second priority);
- 946
- 947 C) Persons who have completed work which furthered the removal
- 948 (third priority);
- 949
- 950 D) The owner or operator and related business entities (last priority).
- 951

952 **Section 1220.645 Surety Bond Guaranteeing Payment**

- 953
- 954 a) An owner or operator may satisfy the requirements of this Subpart by obtaining a
- 955 surety bond that conforms to the requirements of this Section and submitting the
- 956 bond to the Agency.
- 957
- 958 b) The surety company issuing the bond must, at a minimum, be among those listed
- 959 as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of
- 960 the Treasury.
- 961
- 962 c) The surety bond must be on standardized forms prescribed by the Agency and
- 963 must contain provisions concerning, at a minimum, the penal sum and term of the
- 964 bond, conditions upon which the bond is payable and cancellable and payments
- 965 into the standby trust fund.
- 966
- 967 d) An owner or operator who uses a surety bond must also establish a standby trust
- 968 fund. Under the terms of the bond, all payments made under the surety bond must
- 969 be deposited by the surety directly into the standby trust fund in accordance with
- 970 instructions from the Agency. The standby trust fund must meet the requirements
- 971 of a trust fund specified in Section 1220.640, except that:
- 972
- 973 1) The owner or operator must submit an originally signed duplicate of the
- 974 trust agreement to the Agency with the surety bond; and
- 975

- 976 2) Until the standby trust is funded pursuant to the requirements of this
977 Section, none of the following are required:
978
979 A) Payments into the trust fund as specified in Section 1220.640;
980
981 B) Updating the trust agreement schedule in Section 1220.640(c) to
982 show the current approved removal cost estimates;
983
984 C) Annual valuations as required by the trust agreement; or
985
986 D) Notices of nonpayment as required by the trust agreement.
987
988 e) Conditions
989
990 1) The bond must guarantee that the owner or operator will either:
991
992 A) Perform removal in accordance with the removal plan; or
993
994 B) Within 90 days after receipt by both the owner or operator and the
995 Agency of a notice of cancellation of the bond from the surety,
996 provide alternate financial assurance in accordance with this
997 Subpart and obtain the Agency's written approval of the assurance
998 provided.
999
1000 2) The surety will become liable on the bond obligation when, under the
1001 terms of the bond, the owner or operator fails to perform as guaranteed by
1002 the bond. The owner or operator fails to perform when the owner or
1003 operator does any one or more of the following:
1004
1005 A) Abandons the battery storage site;
1006
1007 B) Is adjudicated bankrupt;
1008
1009 C) Fails to initiate removal when ordered to do so by the Board
1010 pursuant to Title VIII of the Act, or when ordered to do so by a
1011 court of competent jurisdiction; or
1012
1013 D) Fails, within 90 days after receipt by both the owner or operator
1014 and the Agency of a notice of cancellation of the surety bond, to
1015 provide alternate financial assurance and obtain the Agency's
1016 written approval of the assurance provided.
1017
1018 f) Penal Sum

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- 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

- 1061 1) Under the terms of the bond, the surety may cancel the bond by sending
1062 notice of cancellation by certified mail to the owner or operator and to the
1063 Agency. Cancellation may not occur, however, during the 120 days
1064 beginning on the date of receipt of the notice of cancellation by both the
1065 owner or operator and the Agency, as evidenced by the return receipts.
1066
1067 2) The Agency must release the surety by providing the owner or operator
1068 and the surety with written authorization for termination of the bond as
1069 soon as practicable after any of the following occur:
1070
1071 A) An owner or operator substitutes alternate financial assurance that
1072 meets the requirements of this Subpart such that the total financial
1073 assurance for the site is equal to or greater than the current
1074 approved removal cost estimate, without counting the amounts to
1075 be released; or
1076
1077 B) The Agency releases the owner or operator from the requirements
1078 of this Subpart following completion of removal.
1079

1080 **Section 1220.650 Letter of Credit**

- 1081
1082 a) An owner or operator may satisfy the requirements of this Subpart by obtaining
1083 an irrevocable standby letter of credit that conforms to the requirements of this
1084 Section and submitting the letter of credit to the Agency.
1085
1086 b) The issuing institution must be an entity that has the authority to issue letters of
1087 credit and whose letter-of-credit operations are regulated and examined by a
1088 federal or state agency.
1089
1090 c) Forms:
1091
1092 1) The letter of credit must be on standardized forms prescribed by the
1093 Agency.
1094
1095 2) The letter of credit must be accompanied by a letter from the owner or
1096 operator, referring to the letter of credit by number, issuing institution and
1097 date, and providing, at a minimum, the following information: the Agency
1098 designated site number, the name and address of the battery storage site,
1099 and the amount of funds assured for removal from the site by the letter of
1100 credit.
1101
1102 d) An owner or operator who uses a letter of credit to satisfy the requirements of this
1103 Subpart must also establish a standby trust fund. Any amounts drawn by the

1104 Agency pursuant to the letter of credit must be deposited in the standby trust fund.
1105 The standby trust fund must meet the requirements of a trust fund specified in
1106 Section 1220.640, except that:

- 1107
- 1108 1) The owner or operator must submit an originally signed duplicate of the
1109 trust agreement to the Agency with the letter of credit; and
 - 1110
 - 1111 2) Unless the standby trust is funded pursuant to the requirements of this
1112 Section, none of the following are required:
 - 1113 A) Payments into the trust fund as specified in Section 1220.640;
 - 1114
 - 1115 B) Updating the trust agreement schedule in Section 1220.640(c) to
1116 show the current approved removal cost estimates;
 - 1117
 - 1118 C) Annual valuations as required by the trust agreement; or
 - 1119
 - 1120 D) Notices of nonpayment as required by the trust agreement.
 - 1121
 - 1122
 - 1123 e) Conditions on which the Agency may draw on the letter of credit:
 - 1124
 - 1125 1) The Agency may draw on the letter of credit if the owner or operator fails
1126 to perform removal in accordance with the removal plan.
 - 1127
 - 1128 2) The Agency may draw on the letter of credit when the owner or operator
1129 does any one or more of the following:
 - 1130
 - 1131 A) Abandons the battery storage site;
 - 1132
 - 1133 B) Is adjudicated bankrupt;
 - 1134
 - 1135 C) Fails to initiate removal when ordered to do so by the Board
1136 pursuant to Title VIII of the Act, or when ordered to do so by a
1137 court of competent jurisdiction;
 - 1138
 - 1139 D) Within 90 days after receipt by both the owner or operator and the
1140 Agency of a notice from the issuing institution that the letter of
1141 credit will not be extended for another term, fails to provide
1142 additional or substitute financial assurance under this Subpart.

1143

- 1144 f) Amount:
- 1145

- 1146 1) The letter of credit must be issued in an amount at least equal to the
1147 current approved removal cost estimate, except as provided in Section
1148 1220.620.
1149
- 1150 2) If the current removal cost estimate decreases, the penal sum may be
1151 reduced to the amount of the current approved removal cost estimate
1152 following written approval by the Agency.
1153
- 1154 3) If the current removal cost estimate increases to an amount greater than
1155 the credit and if that increase is not due to an increase in the maximum
1156 accumulation of used EV batteries at the battery storage site, the owner or
1157 operator must, within 60 days after the increase in the removal cost
1158 estimate, either:
1159
- 1160 A) Cause the amount of the credit to be increased to an amount at
1161 least equal to the current removal cost estimate and submit
1162 evidence of the increase to the Agency; or
1163
- 1164 B) Obtain alternate financial assurance in accordance with this
1165 Subpart to cover the increase in the removal cost estimate and
1166 submit evidence of the alternate financial assurance to the Agency.
1167
- 1168 4) If the current removal cost estimate increases to an amount greater than
1169 the credit and if that increase is due to an increase in the maximum
1170 accumulation of used EV batteries at the battery storage site, the owner or
1171 operator must, within 60 days after the increase in the removal cost
1172 estimate:
1173
- 1174 A) Remove the excess used EV batteries to meet the current approved
1175 removal cost estimate;
1176
- 1177 B) Cause the amount of the credit to be increased to an amount at
1178 least equal to the current removal cost estimate and submit
1179 evidence of the increase to the Agency; or
1180
- 1181 C) Obtain other financial assurance, as specified in this Subpart, to
1182 cover the increase in the removal cost estimate and submit
1183 evidence of the alternative financial assurance to the Agency.
1184
- 1185 g) Term:
1186
- 1187 1) The letter of credit must be irrevocable and issued for a period of at least
1188 one year.

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- 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.