

ILLINOIS POLLUTION CONTROL BOARD

March 3, 2026

IN THE MATTER OF:)
)
 PROPOSED 35 ILL. ADM. CODE SUBTITLE) R 26-17
 K: RECYCLABLE, RECLAIMABLE, OR) (Rulemaking – Land)
 REUSEABLE WASTES, CHAPTER I)
 POLLUTION CONTROL BOARD, PART 1220)
 MANAGEMENT OF USED EV BATTERIES)
)

HEARING OFFICER ORDER

On January 2, 2026, with the Illinois Environmental Protection Agency (IEPA) filed a rulemaking proposal for a new Part 1220 to the Board’s rules under Section 22.23f of the Act. On January 22, 2026, the Board accepted IEPA’s proposal for hearing and directed the Clerk to submit the proposal to first-notice publication in the Illinois Register without commenting on the substantive merits. Additionally, the Board directed the hearing officer to schedule and proceed to hearing. The first hearing is scheduled for Thursday, March 19, 2026. On February 17, 2026, IEPA filed the pre-filed testimony of Vishnu Srinivasaraghavan.

The Board and its staff have reviewed the proposal and the IEPA’s pre-filed testimony and submit with this order questions, included as Attachment A. Anyone may respond to the attached questions, as well as any other pre-filed questions in the record.

All filings in this proceeding will be available on the Board’s website at <https://pcb.illinois.gov> in the rulemaking docket R26-17. Unless the Board, hearing officer, Clerk, or procedural rules provide otherwise, all documents in this proceeding must be filed electronically through the Clerk's Office On-Line. 35 Ill. Adm. Code 101.302(h), 101.1000(c), 101.Subpart J.

IT IS SO ORDERED.



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 Control Board
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ATTACHMENT A
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Prefiled Questions

1. **NFPA 51B Standard Update:** In its rulemaking proposal, the IEPA incorporates by reference National Fire Protection Association (NFPA) 51B, “Standard for Fire Prevention During Welding, Cutting, and Other Hot Work,” 2014 Edition, explicitly stating that no later amendments or editions are incorporated. NFPA 51B has since been updated to the 2024 edition. Our records indicate that the Board currently has the 2014 standard (incorporated in 35 Ill. Adm. Code 848.105 – Used Tire Rule).
 - a. Can IEPA explain why it did not use the updated 2024 edition?
 - b. Should the Board incorporate the 2024 edition rather than the 2014 edition?
 - c. If so, can IEPA provide three copies of the updated standard?
2. **NFPA 855 Access:** A review of the IEPA’s Technical Support Document states that IEPA used NFPA 855 as a guideline for the proposed regulations.
 - a. Can IEPA provide a copy of NFPA 855?
 - b. Can IEPA explain why this document was not incorporated by reference?
3. **Use of Existing Fire Safety Standards:** Please explain how IEPA’s reliance on existing fire safety concepts and industry standards (including NFPA guidance) in Part 1220 is intended to minimize regulatory burden by aligning environmental protection requirements with already-established fire codes and practices, while still addressing the environmental risks associated with used EV battery fires.
4. **Interaction with Universal Waste Regulations:** What is the impact of the universal waste rules on this proposal? Please identify any provisions in Part 1220 that expressly defer to, conflict with, or override existing hazardous or universal waste requirements.
5. **USEPA Consultation:** Are there any current or updated guidance or publications from USEPA regarding storage of lithium-ion EV batteries? If so, comment on whether the proposed rules are consistent with the USEPA guidance.
6. **Scope and Applicability of Part 1220:** The proposed Part 1220 provides management standards for used EV battery storage sites, covering storage, fire and explosion prevention, contingency planning, emergency response, recordkeeping, reporting, and financial assurance. Section 22.23f(d) of the Environmental Protection Act (415 ILCS 5/22.23f(d)) authorizes rules for such sites and specifies certain elements. The proposal differentiates between sites

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storing less than 5,000 kg, sites at or above this threshold, transporters, and batteries returned to reuse or recycling.

For provisions of Part 1220 that reference the 5,000-kilogram threshold:

- a. Can IEPA confirm whether the threshold language “more than 5,000 kilograms” sound instead be “5,000 kilograms or more” to match the statutory language in Section 22.23f?
 - b. Can IEPA clarify which categories of operators (e.g., automotive recyclers, scrapyards, transporters) are subject to these threshold-specific provisions?
 - c. Can IEPA clarify whether any threshold specific provisions differ based on battery type, condition, or storage method (indoor vs. outdoor), and if so, which provisions.
 - d. Are there any provisions within Sections 1220.205, 1220.210(d), 1220.215(c), 1220.220, or Subpart E that apply to all sites regardless of the 5,000-kg threshold, and could IEPA identify those for clarity?
7. **Regulatory Structure Within Statutory Mandate:** Section 22.23f(d) directs IEPA to propose rules governing used EV battery storage sites. Within that mandate, please explain how IEPA determined the appropriate level of prescriptiveness and uniformity in Part 1220, including the use of statewide standards rather than performance-based or site-specific approaches.
8. **Feasibility, Costs, and Implementation:** The proposed rules in Part 1220 include reporting, recordkeeping, registration, contingency planning, and financial assurance requirements, especially for sites storing 5,000 kilograms or more of used EV batteries. IEPA has stated that the rules are technically feasible and economically reasonable and that commonly available materials and systems can be used to comply.
- a. Please provide an estimate of the number of small businesses that would be subject to the proposed rules. A “small business” means one with “fewer than 50 full-time employees or less than \$4,000,000 in gross annual sales.” 1 Ill. Adm. Code 100.410(a)(14).
 - b. Please provide estimates of the costs of compliance for various types and sizes of used EV battery storage sites, including:
 - Costs to acquire and maintain financial assurance,
 - Construction of two- and three-hour fire-rated barriers,

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- Installation or upgrade sprinkler systems and smoke/thermal detection systems, and
- Purchase and maintenance of outdoor storage containers.

Include both one-time and ongoing operational costs and state all assumptions used to develop these estimates.

- c. Please provide an estimate of the economic impact of the proposed rules specifically on small businesses, including the items listed in subsection (b).
 - d. Please address whether any professional skills are necessary for compliance with the proposed rules.
 - e. Please identify any less intrusive or less costly alternative methods considered to achieve the purposes of Section 22.23f of the Act and the proposed rules, and provide a rationale for why alternatives were or were not adopted.
9. **Cost Analysis Methodology:** Please describe the methodology, assumptions, and data sources IEPA used to conclude that the proposed rules do not impose significant costs or undue burdens on regulated entities.
10. **Data Gaps and Uncertainty:** Please identify any data gaps or uncertainties IEPA is aware of regarding used EV battery fire behavior, storage risks, or mitigation effectiveness, and explain how those uncertainties were addressed in developing Part 1220.
11. **Technical Basis for Fire Safety and Runoff Measures:** For sites storing 5,000 kg or more of used EV batteries, can IEPA provide the technical basis for the fire safety plans and runoff capture provisions, including how these measures prevent offsite environmental impacts from potential battery fires?
12. **Use of RCRA, Universal Waste, and Hazardous Waste Considerations:**
- a. Did IEPA consider regulating the storage of used EV batteries under the federal Resource Conservation and Recovery Act (RCRA) hazardous waste rules, or under the universal waste provisions?
 - b. If so, what factors led IEPA to develop the current state-specific rules instead?
 - c. Are lithium-ion batteries on the market today likely considered hazardous waste when disposed of due to ignitability (D001) and reactivity (D003) characteristics?

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- d. If so, do the proposed rules address when the hazardous waste rules become applicable to used EV batteries regulated under Part 1220?

13. **Registration Requirements and Submission Process:** Under Section 22.23f(c) of the Act, “[t]he owner or operator of each battery storage site in operation prior to February 1, 2026, at which 5,000 kilograms or more of used batteries are stored at any one time, must register with the Agency prior to February 1, 2026, and each February 1 thereafter.” 415 ILCS 5/22.23f(c). For a battery storage site that “comes into operation after February 1, 2026,” the owner or operator “shall register with the Agency prior to commencing operation.” *Id.* The statute further requires that registration be “on forms and in a format prescribed by the Agency” and “include, at a minimum, information regarding the following:

- (1) the name and address of the owner and operator of the battery storage site;
- (2) A description of the operations conducted at the battery storage site;
- (3) the weight or volume of whole or partially used batteries received at the battery storage site over the past calendar year; and
- (4) the weight or volume of whole or partial used batteries at the battery storage site at the end of the calendar year.” *Id.*

- a. Please provide copies of all the registrations IEPA has received. Also, please provide a blank registration form (or prototype if still being developed) in both PDF and Word.
- b. Will IEPA accept registrations electronically or only on paper? At which address or addresses may registrations be submitted?

14. **Transition Period for Existing Facilities:** For facilities storing used EV batteries prior to the effective date of Part 1220, please explain whether any compliance grace period or phased implementation is anticipated for fire safety, storage, or financial assurance requirements.

15. **Cumulative Regulatory Impacts:** Did IEPA evaluate the cumulative regulatory burden imposed on used EV battery storage sites when Part 1220 is combined with existing federal, state, and local regulatory requirements, including but not limited to hazardous waste regulations, fire codes, local zoning or building codes, and transportation regulations governing lithium batteries? If so, please describe that evaluation.

16. **Technical Basis for Threshold:** Please explain whether the Agency evaluated fire risk, environmental risk, or operational differences above and below the 5,000-kilogram threshold, and whether the proposed requirements are calibrated to those differences.

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17. **Temporary or Incidental Storage:** Please clarify whether Part 1220 applies to temporary or incidental storage of used EV batteries, such as short-term staging during vehicle recovery, towing, or transport, and how IEPA intends to distinguish regulated storage sites from incidental handling locations.
18. **Exclusion of Disassembled Batteries:** Please explain the technical and safety basis for excluding facilities that store disassembled EV battery components from Part 1220, given that individual battery modules or cells may still pose fire and explosion risks.
19. **State Mandates Act Questionnaire:** Please provide responses to all five questions on the “State Mandates Act Questionnaire” ([1 Ill. Adm. Code 220.EXHIBIT A](#)). The form is attached as **Exhibit 1** to this Attachment A.
20. **Economic and Budgetary Effects Analysis:** Please provide responses to questions 1(d) and 2 on the “Agency Analysis of Economic and Budgetary Effects of Proposed Rulemaking” form ([1 Ill. Adm. Code 220.EXHIBIT B](#)). The form is attached as **Exhibit 2** to this Attachment A.

Proposed Rules

21. **Section 1220.100:** Under Section 1220.100, please clarify whether Part 1220 applies to used EV storage facilities regulated under Section 22.23f of the Act. If so, would it be acceptable to the Agency if Section 1220.100 begins with a sentence stating, “This Part applies to used EV battery storage sites regulated under Section 22.23f of Act” as follows:

This Part applies to used EV battery storage sites regulated under Section 22.23f of the Environmental Protection Act [415 ILCS 5/22.23f]; Section 22.23f specifies sets-~~forth~~ prohibitions relative to the receipt, handling, storage, and transfer of used electric vehicle (“EV”) batteries. This Part establishes further requirements related to the receipt, handling, storage, and transfer of used electric vehicle batteries at used EV battery storage sites. ~~Notwithstanding~~ Despite 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.

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22. **Section 1220.110:** In Section 1220.110(b), several state regulations are listed as examples of rules that may apply to used EV storage sites. Are there any examples of federal rules applicable to used EV battery storage sites that may be included in this section? If so, please provide citations to those rules.
23. **Section 1220.115:** In the proposed definition of “Used [EV] battery” under Section 1220.115, please clarify the what the phrase “rather than installed in an electric vehicle” means. Please comment on whether the following changes to the last sentence of the proposed definition reflect the proposed intent:

“This term includes, ~~but not limited to,~~ uninstalled EV 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.

24. **Section 1220.125:**

- a. Please explain the basis for using the density factor of 17kg/cubic foot to estimate the weight of an accumulation of used EV batteries under subsection (b). If the density factor is derived from any published report, standard or document, please provide a citation.
- b. **Section 1220.125:** Please clarify whether an accumulation of used EV batteries is the same as a used EV battery storage pile. If not, should the rules include a definition of “used EV battery storage pile”?
25. **Section 1220.200:** Proposed Section 1220.200 states that Subpart B applies to the owner and operator of “any battery storage site that contains one or more used EV batteries.” The statutory definitions of “battery storage site” and “storage” use the plural “batteries” (415 ILCS 5/22.23f(a)), and the proposed Section 1220.115 definitions repeat this. The definitions of “owner” and “operator” use the defined term “battery storage site,” and the “storage” definition uses the word “accumulation.”

Is it IEPA’s intent that the base management standards of Subpart B would apply to a site containing only a single used EV battery that has been removed from a vehicle? If so, please specify which Subpart B provisions would apply.

Is it IEPA’s intent that the requirements of Subpart F (“Financial Assurance”) would apply to a site containing only a single used EV battery that has been removed from a vehicle? If so, please specify which Subpart F provisions would apply.

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26. **Threshold Triggering & Applicability in 1220.205(a)(6) & (d):** If the threshold is 5,000 kilograms of used batteries at any one time, when does the threshold trigger (instantly, monthly)? If the weight changes or decreases, do the requirements end, or is this a “once-in” provision?

27. **Section 1220.205:**

- a. This section lists management standards under subsections (a)(1) through (a)(9), but there is no subsection (b). Would it be acceptable to the Agency if subsections (a)(1) through (a)(9) are renumbered as subsections (a) through (i) with a preamble stating “Owners and operators of any battery storage site who store used EV batteries must comply with the following requirements”?
- b. The proposed subsection 1220.205(a)(9) requires an analysis of “the potential for a deflagration involving the off-gassing of flammable gases during a thermal runaway”.
 - i. Please explain what is entailed in conducting this analysis.
 - ii. Does the Agency expect all used EV battery storage sites to conduct this analysis.
 - iii. If so, comment on whether owners or operators of storage sites must hire a fire safety expert or consultant to conduct the analysis.
 - iv. Does the Agency have any information about the cost of conducting the analysis required under this subsection?
 - v. Please identify whether any written guidance, checklist, or Agency criteria exists (or will be developed) to evaluate compliance with subsection (a)(9).
- c. Proposed subsection (a)(9) also requires the installation of explosion protection meeting industry standards if the potential for a deflagration exists. Please describe the specific industry standards being referred to in this subsection. Should the rules include citations to applicable industry standards?

28. **1220.210(b)(3) – Storage in Residential Buildings:** The proposed rules do not explicitly address storage of used EV batteries in single-family homes or other residential buildings. Used EV batteries can cause serious fires if damaged or improperly stored. The combined presence of smaller lithium batteries and a used EV battery could increase fire risk, as a fire starting from a small device could propagate to a large EV battery if stored nearby. Given these risks, should the rules explicitly allow storage of used EV batteries in residential settings, or should they generically prohibit such storage?

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29. **1220.210(c)(5) – Fire Suppression System:** Because batteries may have different chemistries, should the system specify delivery of fire suppression and heat dissipation agents suitable for the EV battery chemistry being stored?
30. **1220.210(c)(7) – Storage Height and Fire Protection Design:** Can IEPA clarify how the 2-foot-from-ceiling storage height limit is intended to be applied? Specifically:
- a. Does the maximum pile height vary based on the actual height of the storage room?
 - b. Are there any minimum or standard room height assumptions?
 - c. How does this clearance ensure proper operation of fire suppression systems and minimize fire spread risks?

31. **1220.210(d)(1), 1220.215(c), 1220.220 – Local Emergency Planning Coordination:** Sections 1220.210(d)(1), 1220.215(c), and 1220.220(a) require that battery storage plans and contingency plans be developed in consultation with the local fire department and filed with the department. Local fire departments vary in staffing, technical resources, and experience with EV battery fires, and many rely on mutual aid for complex or large-scale responses.

Local Emergency Planning Committees (LEPCs) are established under the federal Emergency Planning and Community Right-to-Know Act (EPCRA, 42 U.S.C. §§ 11001 et seq.) and implemented in Illinois through the Illinois Emergency Planning and Community Right-to-Know Act (430 ILCS 100 et seq.), with the Illinois Emergency Management Agency (IEMA) serving as the State Emergency Response Commission (SERC) and appointing LEPCs to coordinate hazardous materials emergency planning.

Considering this, should the rules also require consultation with the applicable LEPC, and if so, how should LEPC involvement be incorporated to complement local fire department coordination while avoiding duplication?

32. **1220.215(b)(5)(B) – Emergency Access and Egress:** Does this rule consider the risk that both access points could be downwind from a potential fire? If not, should the rule be amended to address this?

33. **Emergency Notification Procedures:**

- a. **1220.220(g) – Agency Notification:** How does the IEPA intend to be notified immediately in the event of a battery fire? Should the rule specify a method of contact, such as using the Illinois Emergency Management Agency emergency numbers, to ensure clear and timely notification?

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- b. **1220.220(g) – Explosion Notification:** This rule requires immediate notification for used EV battery fires. Should the rule also explicitly require immediate notification to the IEPA for explosions, even if a fire does not occur, to ensure all emergency situations are captured?
 - c. **1220.220(g) & (h) – Definitions of Fire and Explosion:** Can IEPA clarify what constitutes a reportable fire and a reportable explosion? For fires, should this include visible flames, smoke, alarm activation, thermal or radiant energy detection, or sprinkler activation? For explosions, does this require significant damage to storage containers, buildings, or access points, or would a loud noise alone qualify? Please explain how these definitions align with incident reporting thresholds used to notify IEPA and IEMA.
34. **1220.505 – Battery Chemistry Records:** Should the recordkeeping requirements also include data on the battery chemistry?
35. **Section 1220.505:** Subsection (b)(2) requires all records listed in subpart (a) to be in a form and in a format as prescribed by the Agency. Please clarify whether this subsection is referring “subpart (a) or “subsection (a)”.
36. **Section 1220.515:** For the weekly Battery Record, subsections (b)(1), (b)(2), (b)(4) and (b)(5) require information based on “operating day”.
- a. Please clarify whether the information in these subsections must be recorded for each operating day of the week to develop the Weekly battery Record.
 - b. If so, comment on why operating day is not used for the weight, in kilograms, of used EV batteries removed from any vehicle on site under subsection (b)(3).
37. **1220.605– Removal Costs:** Does the estimated cost of removal for financial assurance include remediation of any releases, spillage, or fire debris necessary to meet Tiered Approach to Corrective Action Objectives (TACO) requirements, or is it limited to the physical removal of used EV batteries?
38. **Section 1220.605:** Please comment on whether the following changes to subsection (a) are acceptable to the Agency:
- 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 under Section 1220.620 until the owner or operator is released from financial assurance requirements

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under Section 1220.610.

39. **1220.620 – Clarification of Removal Cost Estimate Requirements:** The proposed rules repeatedly reference a “current approved removal cost estimate,” but Section 1220.620 does not specify whether the removal cost estimate is subject to IEPA review and written approval. Additionally, subsection (c) states that “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,” but it is unclear where this information comes from.

- a. Please clarify whether IEPA intends to review and provide written approval of removal cost estimates, and if so, please propose text to make that process explicit in the rule.
- b. How is an owner or operator expected to determine the “costs to the Agency” for battery removal in their area? Has IEPA established or made publicly available the relevant contracts, rates, or guidance?

40. **Alignment of Removal Cost Estimate and All Those Subject to Financial Assurance:** Section 1220.620(a) requires that the owner or operator, by February 1 of each year, submit to IEPA a removal cost estimate. The second sentence would require submitting the estimate “along with the annual registration required under Section 22.23f(c) of the Act.” Section 22.23f(c)’s February 1 registration requirement applies only to sites meeting or exceeding the 5,000-kilogram threshold, whereas the removal cost estimate generally applies to all sites, regardless of size, creating a potential misalignment.

Would IEPA oppose deleting the second sentence of Section 1220.620(a) and amending Section 1220.205(a)(6)(A) as follows: “Register the site by February 1 of each year with the Agency on forms and in a format prescribed by the Agency”?

41. **Agency-Prescribed Forms:**

- a. Other than annual registration, has IEPA developed any other forms referred to in the proposed rules as “prescribed by the Agency”? *See*, proposed Sections 1220.205(a)(6)(A) (registration); 1220.505(b) (records); 1220.620(a) (removal cost estimates); 1220.625 (financial assurance mechanisms).
- b. Please provide blank forms (or prototypes if still being developed) in both PDF and Word.
- c. Will IEPA accept each of these forms electronically, or only on paper? At which address or addresses may each of these forms be submitted?

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42. **Section 1220.625:** This section specifies that an “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. Please comment on whether the first “may” in this provision should be changed to “must” to make it a requirement to use one of the three listed mechanisms or a combination of the three. If not, would the owner or operator be able to provide financial assurance by other means like self-insurance or corporate guarantee.
 - b. Also, comment on whether the use of a combination of mechanisms reference to Section 1220.640 should be changed to 1220.630, which addresses the use of multiple financial mechanisms.
43. **Nonsubstantive Rule Language Changes:** A draft of nonsubstantive updates to the first notice rule language has been prepared, including removal of redundant or unnecessary text, updating outdated references, typographical corrections, and other clarifications. *See Exhibit 3* to this Attachment A. Does IEPA have any comments or concerns regarding these changes?

Technical Support Document (TSD)

44. TSD on page 44 notes that P.A. 103-1006, which addresses end-of-life electric vehicle and battery electric storage system batteries, added requirements for sites that store more than 5,000 kg of used EV batteries.
- a. Please clarify whether the proposed rules expand the scope to regulate storage sites that store less than 5,000 kg of used EV batteries.
 - b. If so, is it the Agency’s intent that a used EV battery storage site storing one or two used EV batteries must comply with Part 1220, including financial assurance requirements?
45. For the record, please provide the following information on typical EV batteries that are currently being used in cars and trucks sold in the United States: weight of one used EV battery, volume occupied by one used EV battery, number of batteries that adds up to a weight of 5,000 kg.
46. Please clarify whether used EV batteries can be stored indefinitely at used EV battery storage sites regulated under Part 1220. If so, comment on whether the rules should include a time limitation to encourage safe recycling or disposal of used EV batteries and deter large accumulations.

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47. On page 45, TSD states, “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.” Please comment on whether the definition of “Used [EV] battery” under Section 1220.115 should include the phrase ‘fully assembled’. For example, Section 1220.210(d)(1)(A) seemingly allows the storage of “shredded” batteries.
48. TSD notes that the proposed regulations are drafted within the context of used EV batteries that are not actively charging or discharging. Please comment on whether the proposed rules should include a prohibition against active charging or discharging of used EV batteries at storage sites.
49. On page 45, TSD notes that under the NFPA standards, indoor storage of used EV batteries is allowed in specifically constructed rooms or spaces that do not exceed 900 square feet. This recommendation is included under Section 1220.210(c)(1) as a limitation on used EV batteries storage piles instead of storage room.
- a. Please clarify whether the proposed rules allow multiple storage piles each with cross-sectional area of 900 square feet to be located inside one room; or
 - b. The total cross-sectional area of one or more storage piles in a single room is limited to 900 square feet.
50. On page 46, TSD states that batteries stored outdoors must be stored, “Individually or in a group, within enclosed containers large enough to accommodate the volume stored.” Further, Section 1220.215(b)(1) requires containers to be non-combustible or designed for used EV battery collection use.
- a. Please describe the typical materials used for making outdoor noncombustible used EV battery storage containers.
 - b. If containers are commercially available, submit brochures or any marketing materials showing typical storage containers with material specifications.
 - c. Comment on whether NFPA has any specifications for the material used for outdoor battery storage containers. If so, should the rules require the outdoor containers to meet such specifications?
 - d. Comment on whether outdoor battery storage containers are available to accommodate the maximum volume allowed under the proposed rules.
51. TSD on page 46 states that any facility storing 5,000 kilograms or more of used EV batteries must also maintain a fire safety plan that allows for adequate capture of all fire related runoff in the event of a fire to specifically minimize offsite impact from fires and firefighting runoff. See also Section 1220.215(b)(5)(A). Please comment

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on whether the rules should specify that disposal of any battery fire runoff must comply with the requirements of 35 Ill. Adm. Code 309 (see 35 Ill. Adm. Code 811.103(a)(2)).

52. On page 47, TSD states the proposed rules “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.”
- a. Please explain why the Agency did not consider the use of battery-fire specific technology for used EV storage sites regulated under Part 1220.
 - b. Did the Agency consult with any fire safety experts to determine the adequacy of the proposed used EV battery storage site requirements.

ADMINISTRATIVE CODE

TITLE 1: GENERAL PROVISIONS
CHAPTER II: JOINT COMMITTEE ON ADMINISTRATIVE RULES
PART 220 REVIEW OF PROPOSED RULEMAKING
SECTION 220.EXHIBIT A STATE MANDATES ACT QUESTIONNAIRE

Section 220.EXHIBIT A State Mandates Act Questionnaire

State Mandates Act Questionnaire

Agency: _____

Part/Title: _____ (Ill. Adm. Code)

Illinois Register Citation: _____

1. Does this rulemaking affect any of the following:

Municipality	Other Unit of Local Govt.
County	School District
Township	Community College Dist.

2. Does this rule require any of the above entities to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues?

Yes No Number of units affected _____

If yes, please estimate the amount of additional expenditures necessitated by this rulemaking per unit of government: \$ _____

Note: If the dollar amount, or total number of units affected is unknown, please outline and attach to this form an explanation of the steps taken by the agency to determine the approximate expense of the rulemaking, and the number of units affected.

If no, please explain why the rule does not necessitate such additional expenditures.

3. Were any alternatives that do not necessitate additional expenditures considered?

Yes No

If yes, please list these alternatives and explain why they were rejected.

4. What are the policy objectives of the rulemaking? (Please be specific)

5. Please explain why the policy objectives of this rule cannot be achieved in the absence of the rule or through a rule that does not create a State Mandate.

(Source: Amended at 18 Ill. Reg. 4758, effective March 14, 1994)

ADMINISTRATIVE CODE

TITLE 1: GENERAL PROVISIONS
CHAPTER II: JOINT COMMITTEE ON ADMINISTRATIVE RULES
PART 220 REVIEW OF PROPOSED RULEMAKING
SECTION 220.EXHIBIT B AGENCY ANALYSIS OF ECONOMIC AND BUDGETARY
EFFECTS OF PROPOSED RULEMAKING

Section 220.EXHIBIT B Agency Analysis of Economic and Budgetary Effects of Proposed Rulemaking

AGENCY ANALYSIS OF ECONOMIC AND BUDGETARY EFFECTS
OF PROPOSED RULEMAKING

Agency: _____

Part/Title: _____ (Ill Adm Code)

Illinois Register Citation: _____

Please attempt to provide as dollar-specific responses as possible and feel free to add any relevant narrative explanation.

1. Anticipated effect on State expenditures and revenues.
 - (a) Current cost to the agency for this program/activity.
\$ _____
 - (b) If this rulemaking will result in an increase or decrease in cost, specify the fiscal year in which this change will first occur and the dollar amount of the effect.
FY _____ \$ _____
 - (c) Indicate the funding source, including Fund and appropriation lines, for this program/activity. _____
 - (d) If an increase or decrease in the costs of another State agency is anticipated, specify the fiscal year in which this change will first occur and the estimated dollar amount of the effect. FY _____ \$ _____ Agency _____
 - (e) Will this rulemaking have any effect on State revenues or expenditures not already indicated above? Specify effects and amounts.

2. Economic effect on persons affected by the rulemaking.
 - (a) Indicate the economic effect and specify the persons affected:

Positive	Negative	No effect
Persons affected	_____	_____
Dollar amount per person	_____	_____
Total Statewide cost	_____	_____

- (b) If an economic effect is predicted, please briefly describe how the effect will occur. (Example Additional continuing education courses will require an expenditure of approximately \$100 per year for course fees by 10,000 licensed professionals.)
- (c) Will the rulemaking have an indirect effect that may result in increased administrative costs? Will there be any change in requirements such as filing, documentation reporting or completion of forms? Compare to current requirements.

(Source: Amended at 18 Ill. Reg. 4758, effective March 14, 1994)

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

PART 1220
MANAGEMENT OF USED [Electric Vehicle \(EV\)](#) BATTERIES

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

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

SUBPART A: GENERAL

Section 1220.100 Applicability

Section 22.23f of the Environmental Protection Act [415 ILCS 5/22.23f], ~~sets forth~~specifies prohibitions relative to the receipt, handling, storage, and transfer of used electric vehicle (“EV”) batteries. This Part establishes further requirements relative to the receipt, handling, storage, and transfer of used ~~electric vehicle~~EV batteries at used EV battery storage sites. ~~Notwithstanding~~Despite 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 is adjudged unconstitutional, invalid or otherwise not effective for any reason, such adjudication will 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 aslike 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~~specified 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~~must, 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 of any battery storage site who store used EV batteries must comply with the following requirements:

- ~~1a)~~ Used EV batteries must not be placed or accumulated outside of a building, except as provided in Section 1220.215.

- 2b) Used EV batteries must not be placed or accumulated inside a building, except as provided in Section 1220.210:
- 3c) Used EV batteries must not be placed or accumulated in any area where the grade of the ground surface exceeds two percent slope.
- 4d) Battery terminals must be protected either through battery design methods or a protective packaging method to prevent short-circuit of each used EV battery.
- 5e) All activities at the used EV battery storage site that present a risk of fire must be conducted in ~~accordance-compliance~~ with the NFPA 51B standard for fire prevention, including ~~but not limited to~~ welding, cutting, and other hot work, and either:
 - A1) Outside of any room where used EV batteries are placed or accumulated; or
 - B2) If outdoors, separated by at least 250 feet from all containers where used EV batteries are placed or accumulated.
- 6f) 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:
 - A1) Register the site with the Agency on forms and in a format prescribed by the Agency.
 - B2) Comply with the contingency planning and emergency response requirements of Section 1220.220.
 - C3) Comply with the recordkeeping and reporting requirements of Subpart E.
- 7g) 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.
- 8h) Combustible materials in used EV battery storage sites must comply with all of the following:
 - A1) 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.
 - B2) Combustible materials must not be stored within 3 feet from the exterior of rooms, containers, cabinets, or enclosures containing used EV batteries.

- 9i) 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 [available](#) 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) 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~~ [compliance](#) with the local building code.
 - 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~~ at least 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~~ stored 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, 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) Used EV batteries must not 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 must be stored on a concrete or asphalt pad, and must be kept closed except while batteries are being placed in or removed from the container.
 - 3) Individual containers must be separated from all other containers by ~~a minimum of~~ at least 10 feet.
 - 4) Individual containers must be separated by ~~a minimum of~~ at least 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) 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, 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 where 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, 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;
- 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;
- e) Notify the Agency immediately if a used EV battery fire occurs at the used EV battery storage site and immediately begin managing, in ~~accordance~~ compliance 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
- f) 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 must, 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 where 5,000 kilograms (11,023 pounds) or more of used EV batteries are ~~located~~-stored 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~~-compliance with Section 1220.510;

- 2) Weekly Battery Records, in ~~accordance~~ compliance with Section 1220.515; and
 - 3) Annual Battery Summaries, in ~~accordance~~ compliance with Section 1220.520.
- b) All records listed in subpart (a) must 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~~that person's 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 must be retained by the owner and operator of the battery storage site for three years and must be made available at the battery storage site during the normal business hours of ~~the operation~~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 where the real estate is owned by the following is exempt from this Subpart:
 - 1) The United States or one of its agencies;
 - 2) The State of Illinois or one of its agencies; or
 - 3) 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 until the owner or operator is released from financial assurance requirements under Section 1220.610.
- 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~~ under 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) By 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 complying 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~~must 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
- b) 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:

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

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.

- 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~~under 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~~according to 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 the~~ amounts as the Agency specifies in writing as expenditures ~~in accordance with~~according to 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~~ according to 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~~ under 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~~according to 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~~compliance 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~~under 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~~ compliance 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~~under 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~~under 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~~according to 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~~under 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~~compliance 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.