BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	R2026-017
PROPOSED 35 ILL. ADM. CODE	)	
SUBTITLE K: RECYCLABLE, RECLAIMABLE, OR	)	
REUSABLE WASTES, CHAPTER I POLLUTION	)	
CONTROL BOARD, PART 1220 MANAGEMENT	)	
OF USED EV BATTERIES	)	

NOTICE

TO: Don A. Brown, Clerk
Illinois Pollution Control Board
60 E. Van Buren Street
Suite 630
Chicago, Illinois 60605
(VIA ELECTRONIC MAIL)

Nerissa Moisan, Hearing Officer
Illinois Pollution Control Board
60 E. Van Buren Street
Suite 630
Chicago, Illinois 60605
(VIA ELECTRONIC MAIL)

See attached Service List

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board Illinois Environmental Protection Agency's Post-Hearing Comment, a copy of which is herewith served upon you along with this notice.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Trevor D. Dell'Aquila
Trevor D. Dell'Aquila
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DATED: July 1, 2026
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CONTROL BOARD, PART 1220 MANAGEMENT	)	
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S POST-HEARING COMMENT

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"), by and through one of its attorneys, and respectfully submits this post-hearing comment following the June 4, 2026, Hearing convened by the Illinois Pollution Control Board (the "Board"). This submittal is intended to assist the Board in its continued evaluation of the proposed standards for management of used electric vehicle ("EV") batteries contained within the proposed 35 Ill. Adm. Code 1220 ("Part 1220"). This post-hearing comment also provides additional information and amendment proposals based on the Board's discussion at the June 4, 2026, Hearing. The Agency appreciates the Board's thorough review of the issues presented and the opportunity to contribute additional information supporting the adoption of regulations consistent with the objectives of the Environmental Protection Act, 415 ILCS 5/1, *et seq*., (the "Act") to regulate the storage of used EV batteries.

Throughout this rulemaking, the Illinois EPA's objective has been the prioritization of safety when storing used EV batteries and providing local fire departments with a role in the implementation of Part 1220 to help ensure emergency responders can effectively manage and deal with any fire, explosion, or thermal runaway events at a used EV battery storage site. Pursuant to that effort, Illinois EPA has worked with industry experts in both fire safety and battery safety to draft the initial proposed rule and to modify it throughout the Board's rulemaking process to address environmental and safety concerns in relation to the storage of used EV batteries.

This Part 1220 was proposed pursuant to Public Act 103-1006, which amended the Act to add Section 22.23e to address end of life EV batteries, and was later renamed Section 22.23f pursuant to Public Act 104-417. 415 ILCS 5/22.23f. Section 22.23f(d) of the Act directed the Illinois EPA to propose rules for the operation of "battery storage sites," with a particular focus on receipt, handling, storage, and transfer; standards for fire prevention; requirements for contingency planning and emergency response; and recordkeeping, reporting, and financial assurance requirements. 415 ILCS 5/22.23f(d). Section 22.23f of the Act defines a "battery storage site" as "a site where used batteries are stored." 415 ILCS 5/22.23f(a). Section 22.23f also defines "used batteries" as "an EV battery that is sold, given, or otherwise conveyed to a battery

storage site." *Id*. Following this definition, the Illinois EPA proposed this Part 1220 directed only at sites that regulate used EV batteries and facilities that store such batteries.

Based on issues raised in the June 4, 2026, Hearing, the Illinois EPA has prepared several responses and proposed amendments to address comments and feedback from the Board, which follows below:

I. Definitions (Section 1220.115)

The Board has requested several definitions listed in Part 1220 be amended or reviewed to ensure all types of batteries intended under this Part 1220 are captured. Below are definitions the Board has previously mentioned and information on what the Agency's plan is to address them:

1. Electric Vehicle

The Board previously raised an issue regarding the definition of "Electric Vehicle" as used in Section 1220.115, and the extent to which it captures certain vehicles. *See* May 19, 2026, Hearing Officer Order, Question 35, pg. 8. The definition for "electric vehicle" used in Section 1220.115 reads as follows:

> *"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)]

This definition is restated directly from Section 22.23f of the Act. Section 11-1308 of the Illinois Vehicle Code uses the following definition for EV:

> "Electric vehicle" means a battery-powered electric vehicle operated solely by electricity or a plug-in hybrid electric vehicle that operates on electricity and gasoline and has a battery that can be recharged from an external source. (625 ILCS 5/11-1308)

This definition broadly captures all vehicle types that utilize batteries to operate either solely by electricity or as a plug-in hybrid that can be recharged from an external source, so long as it still falls within the definition of "vehicle" under the Illinois Vehicle Code. Section 1-217 of the Illinois Vehicle Code states that a "vehicle" is the following:

> Every device, in, upon or by which any person or property is or may be transported or drawn upon a highway or requiring a certificate of title under Section 3-101(d) of this Code, except devices moved by human power, devices used exclusively upon stationary rails or tracks, and snowmobiles as defined in the Snowmobile Registration and Safety Act.

> For the purposes of this Code, unless otherwise prescribed, a device shall be considered to be a vehicle until such time it either comes within the definition of a junk vehicle, as defined under this Code, or a junking certificate is issued for it. (625 ILCS 5/1-217)

Following these combined definitions, an EV could be interpreted to include any battery operated vehicle powered either solely by electricity or an externally rechargeable plug-in hybrid battery that is or may be transported or drawn upon a highway or requiring a certificate of title under Section 3-101(d) of the Illinois Vehicle Code. The Illinois EPA believed that this definition sufficiently isolated the target EV types (passenger vehicles, light duty trucks, and semi-trucks) as other similar battery powered personal transportation devices, such as e-bikes, either did not require title under Section 3-101(d) of the Illinois Vehicle Code or are also moved by human power. However, the Illinois EPA believes this would likely be affected by the currently pending SB 3336,[1] which, among other things, amends the Illinois Vehicle Code to require license, title, registration, and insurance of any e-bike or e-moto capable of exceeding 28 miles per hour. SB 3366 also alters the meaning of several electrically powered devices, such as e-scooters, to be treated as motor driven vehicles for the purposes of the Illinois Vehicle Code. *See* SB 3366, 2:2-11, 4:19-21. Because of the title requirements of SB 3336, this would likely muddy the definition of EV in Section 11-1308. To address these concerns, the Illinois EPA proposes amending the definition of EV in Part 1220 to state the following:

> *"Electric vehicle" or "EV" has the same meaning as defined in Section 11-1308 of the Illinois Vehicle Code.* This definition includes any passenger vehicles, light-duty trucks, and semi-trucks, but does not include e-bikes, e-scooters, or other personal means of transportation that are not intended to carry more than one person. [415 ILCS 5/22.23f(a)]

Alternatively, if the Board determines this clarification would be better served in a Board Note, the above change can be moved to the Board Note to clarify the definition of EV is not intended to capture small personal transportation devices, such as e-bikes and e-scooters. This addition is intended to remove any ambiguity as to which types of vehicles it applies to, and what is explicitly not included in this definition.

2. Used EV Battery and EV Battery

The Illinois EPA previously proposed an amendment to the definition of "used EV battery" to clarify that damaged or leaking batteries are not regulated under this Part. *See* Illinois EPA's Pre-Filed Responses to the Illinois Pollution Control Board's May 19, 2026, Hearing Officer Order, pg. 17. At the June 4, 2026, Hearing, the Board further requested that "defective" be added to the

[1] SB 3366 was introduced at the 104th General Assembly on February 4, 2026. https://my.ilga.gov/documents/legislation/104/SB/PDF/10400SB3336lv.pdf

definition's exemptions. Transcript of the June 4, 2026, Hearing, 26:15-24, 27:1-2. Please note, underlined words show all previous changes, and any new proposals are highlighted in red:[2]

> *"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,~~ 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~~EV at the battery storage site. This term does not include any batteries that are damaged, cracked, ~~or~~ leaking, or defective.

However, based on other previous comments and to add further clarity to Section 22.23f of the Act's use of the word "partial" in reference to battery weights, *see* 415 ILCS 5/22.23f(b)(2)(B), the Illinois EPA proposes the following changes to the definition of "EV battery":

> *"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.* "~~Electric vehicle~~EV battery" encompasses the entire battery pack of an ~~electric vehicle~~EV and any individual modules removed from an EV battery that are whole and intact, but does not include the individual cells of an ~~electric vehicle~~EV battery. [415 ILCS 5/22.23f(a)]

This definition does not limit itself to lithium chemistry batteries, any battery that powers an EV motor, including future batteries that utilize chemistries not in existence at the time of this rulemaking, are regulated under this Part. While this Part does not and is not intended to regulate battery disassembly or recycling, Section 22.23f of the Act does not define what a partial battery is. To avoid any potential regulation of disassembly or recycling, the Illinois EPA is not seeking to implement any language that would directly or imply regulation of the individual cells in an EV battery. So, if a module is removed from an EV battery, the storage of that module is regulated under this new proposed definition. But if the module is further disassembled, the removed cells from that battery or module would not be regulated under this Part. This would also mean if an EV battery contains all cells in a single housing rather than using modules to contain those cells, any cells removed from the single housing EV battery would not be regulated under this Part, but any remaining cells within the housing itself would be, barring some other exception such as the battery being damaged, cracked, or defective. However, should the Board deem it more fitting,

[2] For easier reading and reference, the Agency attaches as Attachment 1 a revised draft of its proposed Part 1220 to reflect tracked changes as a result of the proceedings in this docket. It is intended to incorporate all of the Board's and Agency's recommended modifications to the initial proposal as filed with the Board on January 2, 2026.

the Illinois EPA does not oppose moving all of the above added language into a new definition for "partial EV battery."

3. Definition of Fire, Explosion, Thermal Runaway, and Deflagration

The Board has requested that the Illinois EPA include specific definitions for "fire" and "explosion" as used throughout Part 1220. Transcript of the June 4, 2026, Hearing, 16:19-22. The Illinois EPA has based the following definitions on common understanding of the terms "fire" and "explosion". However, the Agency would defer to the Office of the State Fire Marshal ("OSFM") or the Board should they believe a different definition is more applicable to this Part. The Illinois EPA suggests the following definitions for "fire" and "explosion":

> "Fire" means any ignition of a flammable source (e.g., flammable internal EV battery components or vented flammable gasses), either within an EV battery or externally.
>
> "Explosion" means any ignition event that results in a pressure wave, either originating from within an EV battery or externally.

The Board has also requested an explicit definition for deflagration and thermal runaway. *See* Transcript of the June 4, 2026, Hearing, 13:13-15. Thermal runaway is not a definition that is used or defined in Section 22.23f of the Act. However, for the purposes of this Part, the Illinois EPA proposes the following definition:

> "Thermal runaway" means any self-sustaining reaction within an EV battery that causes a continuous rise in temperature.

Thermal runaway is difficult to define, as the Illinois EPA does not want to restrict any definitions to a specific battery chemistry to make the rule widely applicable to all EV batteries. However, the key aspect the Illinois EPA seeks to highlight is the self-sustaining increase in temperature. Because a thermal runaway event may not necessarily result in a fire, deflagration, or explosion, a thermal runaway event could, for example, only result in a battery case venting gasses, which is why the Illinois EPA has included venting requirements as a part of Part 1220's storage requirements.

The Illinois EPA also proposes the following definition for deflagration:

> "Deflagration" means an ignition that propagates at a lower speed than the speed of sound.

The main distinguishing characteristic of a deflagration is that it propagates at subsonic speeds. While a deflagration is subsonic, and therefore would not generate any supersonic pressure explosions, deflagration can still cause damaging pressure waves and can damage

battery cases. Deflagration can also cause the release of dangerous gasses from a battery, which could cause additional fires at a used EV battery storage site.

II. Management Standards

Based on the Board's comments and feedback, there are additional changes in the body of Part 1220 that can either be further improved for safety or further clarified to avoid confusion. The Board has identified a few areas of interest, and the Illinois EPA has worked with industry experts to update language and identify what standards to utilize to maximize safety.

1. Battery Storage Requirements for Storage Heights and Sprinklers (Section 1220.210)

As previously included in the Illinois EPA's Responses to the Board's May 19, 2026, Hearing Officer Order, the Illinois EPA has proposed rack storage requirements if a regulated facility seeks to stack used EV batteries beyond one pallet high. *See* Illinois EPA's Pre-Filed Responses to the Illinois Pollution Control Board's May 19, 2026, Hearing Officer Order, pg. 18. However, while the proposed amended Section 1220.210(c)(7)(A)(i) includes the height of a pallet in the total height requirement for used EV batteries, Part 1220 in general does not explicitly require used EV batteries to be stored on pallets. To further clarify this, the Illinois EPA proposes adding in a qualifier to Section 1220.210(c)(7)(A)(i), as stated below:

7) Used EV batter~~y~~ies must ~~not be placed or accumulated within 2 feet of the room ceiling.~~be stored according to one of the following height requirements:

A) For used EV batteries stored with a whole room sprinkler system:

(i) Used EV batteries may be stored up to ~~[foot height requirement]~~ 5 feet high including the height of a pallet, if used.

B) For used EV batteries stored on racks with a per rack fire suppression system:

(i) Used EV batteries may be stored up to ~~[foot height requirement] high~~8 feet below the ceiling; and

(ii) Rack storage may not exceed 35 feet in height.

The additions to this Section restrict the height of battery piles to prevent overly large stacks that would be more dangerous and difficult to treat in the case of a fire. The additional requirements for rack storage allow more flexibility but require utilizing per rack fire suppression to contain thermal runaway and fires until emergency responders can treat the fire. The Illinois EPA believes these proposed changes would improve the safety of used EV battery storage sites, while still allowing for scalability in used EV battery storage sites.

Additionally, the Board has previously mentioned several points of interest regarding the storage requirements for used EV batteries as it applies to storage heights and fire suppression systems. The Board previously asked if there is any need to specify or establish different sprinkler system requirements that are particularly suited for battery fires. *See* Transcript of the June 4, 2026 Hearing, 14:15-24. OSFM has also commented on the flow rate of a fire suppression system in this rulemaking. *See* Office of the State Fire Marshal's Public Comment, P.C. 1, R2026-017. OSFM's comment recommended sprinkler systems designed for an output of 0.3 gallons per minute per 2,500 square feet. *Id.* at 5. However, it should be noted that it is Illinois EPA's understanding that OSFM used information that is directed towards facilities that are manufacturing and storing returned, defective, off-specification, and damaged cells, modules, and batteries. This Part is only directed at used EV batteries that are not damaged or defective, and therefore at a lower risk. Therefore, while the Illinois EPA has not proposed any language to specify any higher than standard flow rate for a sprinkler system at a facility subject to this Part, the Illinois EPA does not object if the Board elects to defer to OSFM's suggestion in its Public Comment.

2. SIC Codes and MSDS Sheets (Section 1220.210)

While this does not fit under anything currently in Part 1220, the Board has asked the Illinois EPA to consider Standard Industrial Classification ("SIC") Codes as a part of this rulemaking. At the June 4, 2026, Hearing, the Board also requested if we would consider requirements involving Material Safety Data Sheets ("MSDS"). Transcript of the June 4, 2026, Hearing, 16:10-16. To address SIC Codes, the Agency intends to include SIC Codes on registration forms pursuant to this rule. *See* Attachment 1, pg. 21, Section 1220.205(g)(1). Below is a proposed amendment to address MSDSs for Part 1220:

Section 1220.505:

4) Any applicable Material Safety Data Sheets for used EV batteries stored at the used EV battery storage site.

3. Runoff Capture (Sections 1220.205, 1220.210, 1220.215)

The Board has asked the Illinois EPA to further review Part 1220 as it relates to runoff capture. Transcript of the June 4, 2026, Hearing, 17:1-24, 18:1-6. While Part 1220 already inherently creates runoff capture as a result of batteries being stored indoors or in outdoor containers, additions can be made to Part 1220's General Requirements (Section 1220.205), Indoor Storage Requirements (Section 1220.210), and Outdoor Storage Requirements (Section 1220.215). These new requirements would explicitly state containers must be capable of capturing runoff, or that proper diking is installed to capture any runoff from fires, leaks, explosions, or firefighting activities, either indoors or outdoors. Proposed amendments to these sections are as follows:

Section 1220.205:

f) Any runoff due to a used EV battery fire, explosion, thermal runaway, deflagration, or other damage to stored used EV batteries must be captured and disposed of in compliance with all applicable Illinois ~~administrative rules~~administrative rules.

Section 1220.210(c):

6) Rooms where used EV batteries are stored must be capable of capturing runoff generated from any used EV battery fire, explosion, thermal runaway, deflagration, or other damage, or firefighting activities.

Note: This new Section 1220.205(c)(6) would shift the following subsections by one number.

Section 1220.215(b):

3) Containers must be capable of capturing runoff generated from any used EV battery fire, explosion, thermal runaway, deflagration, or other damage, or firefighting activities.

Note: This new Section 1220.210(b)(3) would shift the following subsections by one number.

4. Post-Event Monitoring Requirements (Section 1220.205)

The Board has asked the Illinois EPA to include additional monitoring requirements after a fire, explosion, or thermal runaway event. Transcript of the June 4, 2026, Hearing, 18:16-24, 19:1-15. The Illinois EPA believes additional monitoring requirements after a fire, explosion, or thermal runaway event would be in the best interest of safety at used EV battery storage sites. These requirements would require an owner/operator to monitor any additional stored used EV batteries for a certain amount of time to ensure no batteries show any signs of further fire, explosion, or thermal runaway. Suggested amendments are as follows:

k) For the first 24 hours after any fire, explosion, or thermal runaway event, the owner/operator must monitor all stored used EV batteries for any subsequent fire, explosion, or thermal runaway unless a local fire department or other emergency service deems returning to and monitoring of the used EV battery storage site to be unsafe.

Note: This new Section 1220.205(k) would shift the following subsections by one letter.

5. Environmental Justice Applicability

The Board has asked the Agency to consider if any environmental justice ("EJ") requirements should be included in this Part. Transcript of the June 4, 2026, Hearing, 21:3-24, 22:1-16. In light of new EJ laws, namely SB 3772[3], while the recently passed, but not yet signed, Illinois EJ law does not directly relate to Part 1220, it would affect the Illinois EPA's review of any air permits associated with such facilities if located in area of EJ concern per the new EJ community methodology and the project meets the applicability criteria. As implementation proceeds, the Illinois EPA will continue evaluating how best to integrate these statutory requirements into permit review and community engagement processes.

The Illinois EPA's commitment is to protect all Illinois communities with requirements that are sufficiently stringent to prevent unacceptable environmental harms wherever a facility is located. Those baseline standards must be protective statewide. At the same time, applying an EJ lens means that the Agency does not treat all locations as if they have identical conditions or histories. Many communities located in areas of EJ concern already experience a higher burden from past and present environmental stressors. Because of that, the Illinois EPA incorporates additional considerations when evaluating facilities proposed in or near areas of EJ concern including conducting enhanced community engagement and transparency efforts.

While the technical regulatory standards for used EV battery storage apply statewide, the way the Illinois EPA evaluates compliance, assesses impacts, and engages communities can and often does differ in areas of EJ concern, precisely because those communities may face greater vulnerability. As it relates to enforcement of this Part, enforcement actions resulting from releases associated with this Part would be pursuant to applicable provision of the Act (e.g., Sections 31 or 43), any enforcement actions would be separate from this Part. However, enforcement actions involving facilities in areas of EJ concern as determined by Illinois EPA EJ Start[4] will be guided by the Illinois EPA's EJ Enforcement Strategy[5].

If the number of used EV battery storage facilities grow, particularly in communities located in areas of EJ concern, the Illinois EPA will continue to examine whether additional measures are warranted to ensure that these communities are not disproportionately affected. The Illinois EPA's goal is to provide a consistent level of environmental protection for all Illinois residents, coupled with a focused effort to prevent and reduce disparities where they exist.

[3] SB 3772 was introduced at the 104th General Assembly on February 5, 2026. https://www.ilga.gov/documents/legislation/104/SB/PDF/10400SB3772lv.pdf.
[4] https://experience.arcgis.com/experience/aa364c77db684dfa92afa5094b69f6ff
[5] https://epa.illinois.gov/topics/environmental-justice/ej-enforcement-strategy.html

III. Registration and Recordkeeping

1. Make, Model, and Year Information Requirements (Sections 1220.510, 1220.515, and 1220.520)

The Board has asked that, for the purposes of record keeping, the regulations include a specific provision that requires owner/operators to attempt to collect information on the make, model, and year that a used EV battery comes from when possible. Currently, the rules state an owner/operator should collect this information when chemistry is unknown. Due to the amount of information that can be obtained by knowing the make, model, and year that a used EV battery comes from, the Board has requested that the Illinois EPA, via regulation, put a requirement on owner/operators to acquire that information. Transcript of the June 4, 2026 Hearing, 24:11-24, 25:1-24, 26:1-5. The Illinois EPA suggests the following amendments:

Section 1220.510

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; and the battery chemistry, or if unavailable, the make, model, and year of the vehicle from which the used EV battery was removed ~~from~~. Unless readily available from the transporter, it shall be the duty of the owner or operator to retrieve information on the make, model, and year of the vehicle from which a used EV battery was removed.

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; the battery chemistry, or if unavailable, the make, model, and year of the vehicle from which the used EV battery was removed ~~from~~; and the destinations of the used EV batteries. It shall be the duty of the owner or operator to

retrieve information on the make, model, and year of the vehicle from which a used EV battery was removed.

Section 1220.515:

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, and the chemistry, or if unavailable, the make, model, and year of the vehicle from which the battery was removed ~~from~~. It shall be the duty of the owner or operator to retrieve all information on a used EV battery's original make, model, and year;

3) The weight, in kilograms, of used EV batteries removed from any vehicle on site and the chemistry, or if unavailable, the make, model, and year of the vehicle from which the battery was removed ~~from~~. It shall be the duty of the owner or operator to retrieve all information on a used EV battery's original make, model, and year;

2. Registration Requirement Changes (currently Section 1220.205(g))

Currently, and based on Section 22.23f of the Act, only facilities storing 5,000 kilograms or more of used EV batteries are required to register with the Illinois EPA. Internal discussions on the registration requirements have raised concerns over the Illinois EPA's ability to track facilities storing batteries if they do not meet the 5,000 kilogram registration requirement. For this reason, the Agency has been discussing shifting the registration requirements to apply to anyone storing used EV batteries. At the Board's June 4, 2026, Hearing, the Board raised concern over this on the basis that it could raise legal questions due to more people being regulated without notice. Transcript of the June 4, 2026, Hearing, 37:1-19. The Illinois EPA would like to note that as anyone storing used EV batteries has always been regulated under this proposed Part 1220, adding registration requirements for those storing under 5,000 kilograms of used EV batteries would not be adding any new parties to this rulemaking who have not had an opportunity to comment on the proposal. Rather, it would only be adding a registration requirement for entities that have always been required to comply with the storage requirements of this proposed Part 1220. This would not subject them to any of the other heightened standards for larger facilities, including the requirement to have an auto parts recycler license.

However, based on further discussions and investigation, the Illinois EPA has determined that there is no significant risk in not requiring small facilities to register under this Part. The Illinois EPA notes that the 5,000 kilogram threshold represents roughly (depending on individual used EV battery weights) 10 used EV batteries. Because of this, any facility that stores used EV batteries temporarily, such as an auto repair shop or dealership performing warranty repairs, would have to regularly remove batteries to be sent to larger used EV battery storage sites to

avoid going over the 5,000 kilogram threshold. Further, the Illinois EPA's ability to perform inspections or enforce any violations of this Part are not affected by a facility's lack of registration. For these reasons, the Illinois EPA believes that the current registration requirements are effective at tracking facilities storing significant amounts of used EV batteries, which is the primary concern that this Part 1220 seeks to address.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Trevor D. Dell'Aquila
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CONTROL BOARD, PART 1220 MANAGEMENT	)	
OF USED EV BATTERIES	)	

CERTIFICATE OF SERVICE

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

I have served the attached Illinois Environmental Protection Agency's Post-Heaing Comment upon the following:

See attached Service List

I affirm that my e-mail address is trevor.dellaquila@illinois.gov; the number of pages in the e-mail transmission is 44; and the e-mail transmission took place before 5:00 p.m. on July 1, 2026.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

DATED: July 1, 2026
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SERVICE LIST

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ATTACHMENT 1

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

SUBPART A: GENERAL

Section

SUBPART B: MANAGEMENT STANDARDS FOR STORAGE

Section

SUBPART C: RESERVED FOR AMENDMENTS

SUBPART D: RESERVED FOR AMENDMENTS

SUBPART E: RECORDKEEPING AND REPORTING

Section

SUBPART F: FINANCIAL ASSURANCE

Section

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

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

SUBPART A: GENERAL

Section 1220.100 Applicability

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 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 EV batteries at used EV battery storage sites. 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;

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

d) Any local fire department or other emergency response entity responding to a used EV battery fire.

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 like 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.

~~b)~~c) The requirements of this Part do not supersede or otherwise override any requirements under the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. §§ 11001-11050, and the Illinois Emergency Planning and Community Right-to-Know Act ("IEPCRA"), 430 ILCS 100.

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 [Illinois] *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)]

"Deflagration" means an ignition that propagates at a lower speed than the speed of sound.

"Electric vehicle" or "EV" has the same meaning as defined in Section 11-1308 of the Illinois Vehicle Code. This definition includes any passenger vehicles, light-duty trucks, and semi-trucks, but does not include e-bikes, e-scooters, or other personal means of transportation that are not intended to carry more than one person. [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. "Electric vehicle battery" encompasses the entire battery pack of an electric vehicle, and any individual modules removed from an EV battery that are whole and intact, but does not include the individual cells of an ~~electric vehicle~~ EV battery.
[415 ILCS 5/22.23f(a)]

"Explosion" means any ignition event that results in a pressure wave, either originating from within an EV battery or externally.

"Fire" means any ignition of a flammable source (e.g., flammable internal EV battery components or vented flammable gasses),

either within an EV battery or externally.

"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)]

"Thermal runaway" means any self-sustaining reaction within an EV battery that causes a continuous rise in temperature.

"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,~~ 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. This term does not include any batteries that are damaged, cracked, leaking, or defective.

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 the following density factor for the type of used EV battery:

1) For passenger cars (i.e. sedans, hatchbacks, SUVs), 17 kilograms (38 pounds) per cubic foot;

2) For light duty trucks, [new density factor needed]; and

~~1)~~3) For semi-trucks or other heavy duty EVs, [new density factor needed]~~.~~

~~a)~~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:

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

~~2~~b) Used EV batteries must not be placed or accumulated inside a building, except as provided in Section 1220.210:

~~3~~c) Used EV batteries must not be placed or accumulated in any area where the grade of the ground surface exceeds two percent slope.

~~-~~d) 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~~e) 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:

~~A~~1) Outside of any room where used EV batteries are placed or accumulated; or

~~B~~2) If outdoors, separated by at least 250 feet from all containers where used EV batteries are placed or accumulated.

~~6~~f) Any runoff due to a used EV battery fire, explosion, thermal runaway, deflagration, or other damage to stored used EV batteries must be captured and disposed of in compliance with all applicable Illinois ~~administrative rules~~administrative rules.

g) 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~~1) Register the site with the Agency by February 1st of each calendar year on forms and in a format prescribed by the Agency. For this Part:

A) A used EV battery storage site that stores 5,000 kilograms or more of used EV batteries at any time in the year must register within 10 days of storing 5,000 kilograms or more of used EV batteries; and

~~A)~~B) Any used EV battery storage site that at any point stores 5,000 kilograms or more of used EV batteries is deemed as having 5,000 kilograms or more of used EV batteries until the following February 1st.

~~B~~2) Comply with the contingency planning and emergency response requirements of Section 1220.220.

~~C~~3) Comply with the recordkeeping and reporting requirements of Subpart E.

~~7~~9~~hg~~) Used EV battery storage sites must have one or more stabilized roadways to provide firefighting personnel and equipment access to all portions of the battery storage area.

~~8~~i~~h~~) Combustible materials in used EV battery storage sites must comply with all of the following:

~~A~~1) 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~~2) Combustible materials must not be stored within 3 feet from the exterior of rooms, containers, cabinets, or enclosures containing used EV batteries.

~~9~~ij~~)~~ ~~Explosion Protection. The potential for a deflagration involving the off-gassing of flammable gases during a thermal runaway must be analyzed and explosion~~ protection and gas ventilation to prevent the build up of dangerous gasses ~~meeting industry standards~~ must be installed to meet industry standards if the potential for a deflagration exists. If any explosion protection or gas ventilation 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.

~~1)~~ Any deflagration analysis must be completed by a Fire Protection Engineer or registered design professional with expertise in fire protection engineering, or a similarly qualified individual.

k) For the first 24 hours after any fire, explosion, or thermal runaway event, the owner/operator must monitor all stored used EV batteries for any subsequent fire, explosion, thermal runaway, or deflagration unless a local fire department or other emergency service deems returning to and monitoring of the used EV battery storage site to be unsafe.

l) Used EV battery storage sites must make the used EV battery storage site available for inspection by the Agency or local fire departments, either upon the request of the facility or by request of the Agency or local fire department.

1) Upon inspection by a local fire department, it may determine if a facility is storing used EV batteries in a manner that allows emergency responders to safely respond to a fire or explosion incident. If a local fire department determines that the used EV battery storage site's storage methods would not allow the local fire department to address a fire or explosion, the used EV battery storage site shall modify its storage method's to comply with the local fire departments needs for fire or explosion response.

2) If the Agency determines that a used EV battery storage site contains 5,000 kilograms or more of used EV batteries, the used EV battery storage site may be appealed to the Board as an Agency Final Decision under 35 Ill. Adm. Code 105.

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)~~

~~c)~~a)

~~d)~~b) ~~Used EV batteries must not be stored within a building unless~~Any building used for the storage of used EV batteries must:

1) Maintain a~~A~~ll of the building's windows and doors ~~are~~ in working order and ~~are~~ be secured to prevent unauthorized access;

2) ~~The building~~ Be ~~is~~ fully enclosed and ha~~ves~~ a roof and sides that are impermeable to precipitation; and

3) ~~The building is~~ N~~n~~ot be a single-family home or other residential building.

~~e)~~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~~ within a room 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 and ventilation system to prevent the dangerous buildup of gasses.

6) Rooms where used EV batteries are stored must be capable of capturing runoff generated from any used EV battery fire, explosion, thermal runaway, deflagration, or other damage, or firefighting activities.

~~6)~~7) 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.

8) Used EV batter~~y~~~~ies~~ must ~~not be placed or accumulated within 2 feet of the room ceiling.~~be stored according to one of the following height requirements:

A) For used EV batteries stored with a whole room sprinkler system:

(i) Used EV batteries may be stored up to ~~[foot height requirement)~~5 feet high including ~~in~~ the height of a pallet, if used.

B) For used EV batteries stored on racks with a per rack fire suppression system:

(i) Used EV batteries may be stored up to ~~[foot height requirement] high~~8 feet below the ceiling; and~~.~~

~~(i)~~(ii) Rack storage may not exceed 35 feet in height.

~~f)~~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 and allow for the venting to prevent the buildup of dangerous gasses 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) Containers must be capable of capturing runoff generated from any used EV battery fire, explosion, thermal runaway, deflagration, or other damage, or firefighting activities.

~~3)~~4) Individual containers must be separated from all other containers by ~~a minimum of~~at least 10 feet.

~~4)~~5) Individual containers must be separated by ~~a minimum of~~at least

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)~~6) 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)~~7) 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, and if subject to EPCRA, a local emergency planning committee, 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 or explosion 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 or explosion 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~~.~~; and

~~3)~~4) Any applicable Material Safety Data Sheets for used EV batteries stored at the used EV battery storage site.

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; and the battery chemistry, or if unavailable, the make, model, and year of the vehicle from which the used EV battery was removed ~~from~~. Unless readily available from the transporter, it shall be the duty of the owner or operator to retrieve information on the make, model, and year of the vehicle from which a used EV battery was removed.

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; the battery chemistry, or if unavailable, the make, model, and year of the vehicle from which the used EV battery was removed ~~from~~; and the destinations of the used EV batteries. It shall be the duty of the owner or operator to retrieve information on the make, model, and year of the vehicle from which a used EV battery was removed.

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, and the chemistry, or if unavailable, the make, model, and year of the vehicle from which the battery was removed ~~from~~. It shall be the duty of the owner or operator to retrieve information on the make, model, and year of the vehicle from which a used EV battery was removed;

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 and the chemistry, or if unavailable, the make, model, and year of the vehicle from which the battery was removed ~~from~~. It shall be the duty of the owner or operator to retrieve information on the make, model, and year of the vehicle from which a used EV battery was removed;

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~~ February ~~3~~1st 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:

~~c)~~b)

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~~ operati<u>o</u><u>n</u>r ~~-~~ for inspection and photocopying by the Agency.

SUBPART F: FINANCIAL ASSURANCE

Section 1220.600 Scope and Applicability

a) Except ~~to the extent~~<u>as</u> 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~~<u>under</u> Section 1220.620 <u>until the owner or operator is released from financial assurance requirements under Section 1220.610</u>.

~~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~~<u>under</u> Section 1220.620:

~~c)~~

~~d)~~<u>b)</u>

1) The current removal cost estimate increases; or

2) The value of a trust fund established ~~pursuant to~~under 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 an Agency Final Decision ~~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.

~~5)~~ A refusal to approve a written estimate of removal costs.

6)

Section 1220.620 Removal Cost Estimate

a) By February 1st 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.

1) If the Agency rejects a written estimate, the owner or operate must submit a corrected written estimate within 30 days of the rejection notice.

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)~~1)

~~3)~~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.

~~4)~~3) Annual payments are determined by the following formula:

Annual payment = (CE-CV)/Y

where:

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

~~5)~~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.

~~6)~~5) Subsequent annual payments must be made no later than 30 days after each anniversary of the first payment.

~~7)~~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.

~~8)~~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).

~~9)~~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

~~A)~~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~~ 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.