ILLINOIS POLLUTION CONTROL BOARD
October 1, 2026

IN THE MATTER OF:	)	
	)	
PROPOSED 35 ILL. ADM. CODE	)	R26-17
SUBTITLE K: RECYCLABLE,	)	(Rulemaking – Land)
RECLAIMABLE, OR REUSABLE WASTES,	)	
CHAPTER I POLLUTION CONTROL	)	
BOARD, PART 1220 MANAGEMENT OF	)	
USED EV BATTERIES	)	

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by A. Tin)

The Board today proceeds to second notice with a new Part 1220, which establishes requirements for the management of used electric vehicle (EV) batteries at battery storage sites. These proposed rules will be housed in Subtitle K, a new subtitle for rules addressing "Recyclable, Reclaimable, or Reusable Wastes."

On January 2, 2026, the Illinois Environmental Protection Agency (IEPA or Agency) filed a proposal with the Board under Section 22.23f of the Environmental Protection Act (Act) (415 ILCS 5/22.23f (2024)). Section 22.23f(d) directs the Agency to propose rules for used EV battery storage sites by January 1, 2026, and the Board to adopt final rules within one year after receiving the Agency's proposal. *Id*. Accordingly, the one-year deadline expires on January 2, 2027. Because January 2, 2027, falls on a Saturday, however, the Board's computation-of-time rule provides that the period runs until the next business day. *See* 35 Ill. Adm. Code 101.300(a). Thus, the deadline for Board action is January 4, 2027.[1] For used EV battery storage sites, the proposed regulations specify requirements concerning receipt, handling, storage, transfer, fire prevention, contingency planning, emergency response, recordkeeping, reporting, and financial assurance.

After conducting two public hearings, receiving comments, and considering the entire record, the Board issues this second notice opinion and order in compliance with the Illinois Administrative Procedure Act (IAPA) (5 ILCS 100/5-40(c) (2024)). In this opinion, the Board first sets forth the rulemaking's procedural history. The Board then provides background on the rulemaking proposal. Next, the Board discusses the issues raised during the first-notice period and examines the technical feasibility and economic reasonableness of the proposal. The Board concludes by submitting the proposed rules to the Joint Committee on Administrative Rules (JCAR) for second notice review. The proposed rules appear in the Addendum to this opinion and order.

[1] Section 101.300(a) provides that a period prescribed in the Act or the Board's rules runs until the end of the last day, "or the next business day if the last day is a Saturday, Sunday or national or state legal holiday." 35 Ill. Adm. Code 101.300(a). January 2, 2027, falls on a Saturday.

PROCEDURAL HISTORY

On January 2, 2026, IEPA filed its rulemaking proposal, which includes a Statement of Reasons (SR), a Technical Support Document (TSD), and the proposed rule text (Prop.) . On January 22, 2026, the Board accepted IEPA's proposal for hearing without commenting on its substantive merits and submitted it for first-notice publication in the *Illinois Register*. *See* 50 Ill. Reg. 2313 (Feb. 20, 2026).

On January 23, 2026, the Board requested that the Department of Commerce and Economic Opportunity (DCEO) conduct an economic impact study on the proposal under Section 27(b) of the Act (415 ILCS 5/27(b) (2024)). The Board did not receive a response to its request.

On January 29, 2026, the hearing officer issued an order setting deadlines for pre-filed testimony, questions, and answers, and providing notice of the two scheduled public hearings. Notice of the hearings was published in the *Chicago Sun-Times* on January 30, 2026, and in the *State Journal Register* on February 1, 2026.

On February 17, 2026, IEPA pre-filed the testimony of Vishnu Srinivasaraghavan, Section Manager for IEPA's Bureau of Land and Material Management & Compliance Section (PFT). On February 19, 2026, JCAR submitted several documents, including a request for an analysis of economic and budgetary effects of the rulemaking proposal. On March 3, 2026, by hearing officer order, the Board posed pre-filed questions (PFQ 1). On March 16, 2026, the Office of the State Fire Marshal (OSFM) filed a public comment (PC 1).

The Board held the first hearing on March 19, 2026, by videoconference between Springfield and Chicago, and the hearing transcript was filed on April 1, 2026 (Tr.1). Without a motion for leave to file *instanter*, IEPA filed its pre-filed answers on March 19, 2026 (PFA 1), after the hearing had begun. The late filing was accepted into the record at hearing without objection. No one else submitted pre-filed testimony, questions, or answers for the first hearing.

On March 26, 2026, the hearing officer issued an order confirming the pre-filing deadlines for the second hearing. On April 7, 2026, DCEO's Office of Small Business Regulatory Flexibility copied the Board on its response to JCAR's request for a small business impact analysis of the rulemaking proposal (DCEO SBIA).

IEPA filed supplemental responses (Supp.) and an amended proposal (Am. Prop.) on May 6, 2026. No one pre-filed testimony for the second hearing. On May 19, 2026, by hearing officer order, the Board posed additional pre-filed questions (PFQ 2). IEPA filed its pre-filed answers on June 2, 2026 (PFA 2), after the May 26, 2026 deadline, without a motion for leave to file *instanter*. The late filing was accepted into the record at hearing without objection. No one else submitted pre-filed questions or answers for the second hearing.

The Board held the second hearing on June 4, 2026, by videoconference between Chicago and Springfield, and the hearing transcript was filed on June 17, 2026 (Tr.2). On June 4, 2026, IEPA submitted draft financial assurance forms to the Board, which were docketed as

Public Comment 3 (PC 3). The forms relate to the financial assurance provisions proposed in Part 1220 and were provided as draft forms; the Board does not adopt or incorporate the forms into the proposed rules. On June 18, 2026, the hearing officer issued an order confirming July 1, 2026, as the deadline for filing post-hearing comments, consistent with the deadline discussed at the second hearing. IEPA filed its post-hearing comment on July 1, 2026 (PC 2).

The rulemaking record is available through the Clerk's Office On-Line (COOL) under docket R26-17.

RULEMAKING BACKGROUND

The proposed Part 1220 rules are based on the mandate in Section 22.23f of the Act and IEPA's proposal to implement that mandate. The Board first describes the statutory and regulatory authority for the rulemaking. Next, the Board provides an overview of the materials supporting IEPA's proposal, as well as the framework of the rules proposed by IEPA. The Board then highlights the non-substantive changes it made to IEPA's proposed rule text before submitting it for publication in the *Illinois Register*.

Statutory and Regulatory Authority

The Board derives its authority to adopt environmental regulations primarily from the Act. Section 5(b) of the Act authorizes the Board to determine, define, and implement environmental control standards applicable in Illinois and to adopt rules and regulations under Title VII of the Act. 415 ILCS 5/5(b) (2024). Section 27(a) of the Act further authorizes the Board to adopt substantive regulations and directs the Board, in promulgating regulations, to consider factors including existing physical conditions, surrounding land uses, and the technical feasibility and economic reasonableness of measuring or reducing pollution. 415 ILCS 5/27(a) (2024). Section 28 of the Act establishes procedures for proposing and adopting Board regulations, including public hearings, consideration of public submissions, and revision of proposed regulations following hearing. 415 ILCS 5/28 (2024).

The Board's rulemaking procedures are also governed by the IAPA and the Board's procedural rules. *See* 5 ILCS 100 (2024); 35 Ill. Adm. Code 102. Section 5-40 of the IAPA establishes the general rulemaking process, including first notice, public participation, and second notice. 5 ILCS 100/5-40 (2024). Consistent with those requirements, Section 102.604 of the Board's procedural rules provide for first-notice publication and a public comment period, while Sections 102.606 and 102.608 govern second notice and final adoption. 35 Ill. Adm. Code 102.604, 102.606, 102.608. The Board may revise a proposal "upon its own motion or in response to suggestions made at hearing and in written comments made prior to second notice." 35 Ill. Adm. Code 102.600(a). Once the second-notice period begins, "no substantive changes will be made to the proposed regulation, except in response to objections or suggestions from JCAR." 35 Ill. Adm. Code 102.606(b); *see also* 35 Ill. Adm. Code 102.600(b).

The proposed Part 1220 rules derive their specific statutory authority from Section 22.23f of the Act, which addresses end-of-life EV batteries and battery storage sites. 415 ILCS 5/22.23f (2024). Under Section 22.23f, the rules must include requirements concerning the receipt,

handling, storage, and transfer of end-of-life batteries; fire prevention; contingency planning and emergency response; recordkeeping; reporting; and financial assurance. *Id*.

IEPA Proposal

In support of its proposed adoption of Part 1220, IEPA submitted a Statement of Reasons explaining the basis and purpose of the rules, a Technical Support Document detailing the technical foundation for the proposal, and the proposed regulatory language establishing requirements for used EV battery storage sites.

Statement of Reasons

In its Statement of Reasons, IEPA provided the factual basis, purpose, and effect of the proposed rules; identification of affected sources and facilities; a description of rule development and outreach; an explanation of the proposed regulatory language; a discussion of technical feasibility and economic reasonableness; a synopsis of agency testimony; statements regarding incorporated materials and published studies; and a concluding rationale supporting adoption.

IEPA explained that Public Act 103-1006, now Section 22.23f, requires IEPA to regulate used EV battery storage sites and to propose rules governing battery handling, storage, fire prevention, emergency response, recordkeeping, reporting, and financial assurance for facilities storing 5,000 kilograms or more of used EV batteries. SR at 7-8.

IEPA proposed this rule to prevent and mitigate the damage caused by battery fires, including preventing releases of harmful contaminants into the atmosphere, the land, and groundwater. SR at 9. IEPA explained that Section 22.23f of the Act requires rules addressing the receipt, handling, storage, transfer, fire prevention, contingency planning, emergency response, recordkeeping, reporting, and financial assurance for used EV battery storage sites. SR at 8.

IEPA stated that the proposed rules are technically feasible because they rely on commonly available safety practices, facility designs, and fire protection measures. SR at 10. IEPA also states that the proposed rules are economically reasonable because costs associated with meeting these requirements are tied to needed fire safety measures and are expected to be manageable for affected facilities. SR at 11.

IEPA also stated that no published studies or research reports were used in developing the proposed regulations, making Section 102.202(e) of the Board's rulemaking requirements inapplicable to this rulemaking proposal. SR at 12.

For these reasons, IEPA stated that the Board should adopt the proposed rules in their entirety. SR at 13.

Technical Support Document

IEPA submitted a Technical Support Document providing the technical basis for the proposed rules. In it, IEPA explained that the rapid expansion of the EV market has resulted in a growing number of used EV batteries entering the end-of-life stream, and that these batteries pose heightened fire hazards due to their chemistry and the potential for thermal runaway. TSD at 45.

IEPA stated that the proposed storage requirements are intended to minimize fire risk by incorporating National Fire Protection Association (NFPA) based fire protection practices for indoor and outdoor used EV battery storage. TSD at 45. These practices include storing batteries in 900-square-foot fire-rated rooms equipped with air-aspirating or radiant-energy detection systems and automatic sprinkler systems, maintaining specified spacing or fire-rated barriers between rooms, and requiring enclosed outdoor containers to be placed on concrete or asphalt pads with setback requirements. TSD at 45-46.

IEPA explained that Public Act 103-1006's regulation of used EV battery storage was developed in response to high-profile fires involving batteries nationwide, specifically referencing incidents in Morris and Madison, Illinois. TSD at 44. IEPA further stated that investigations suggest improper storage conditions contributed to the severity of the Morris incident. *Id.*

IEPA explained that the risks associated with used EV battery fires informed the development of the proposed rules by demonstrating the need for isolation of battery fire loads, effective detection and sprinkler systems, spacing and setback requirements, and containment of runoff. TSD at 45-46.

IEPA noted statutory elements addressed by the proposed rules, including fire prevention, contingency planning, recordkeeping, reporting, and financial assurance. TSD at 47. Finally, IEPA stated that the proposed rules are intended to minimally impact subject facilities, while also addressing and minimizing the risks that battery fires present to human health, the environment, and public safety. *Id*.

Proposed Regulatory Framework

In its proposal, IEPA submitted the regulatory text for proposed Part 1220, detailing the requirements and standards applicable to used EV battery storage sites under the Act. IEPA's proposal presented the structure and content of new Part 1220, organized into six subparts that together establish the operational standards, storage requirements, reporting obligations, and financial assurance mechanisms applicable to used EV battery storage sites. SR at 8-9.

Subpart A (General) set forth general provisions, including applicability, severability, definitions, incorporation of NFPA 51B, and a method for estimating battery weight. Prop. at 15-18.

Subpart B (Management Standards) established storage requirements for used EV batteries, including indoor and outdoor storage standards, general site requirements, slope limitations, combustible material restrictions, explosion protection analysis, and contingency

planning and emergency response provisions that require facilities storing 5,000 kilograms or more of used EV batteries to develop contingency plans in consultation with the local fire department, maintain emergency equipment, designate emergency coordinators, implement the plan during any fire or runoff event, notify the Agency immediately upon the occurrence of a fire, and submit an incident report within 15 days of any event requiring implementation of the contingency plan. Prop. at 15, 18-26.

Subparts C and D were reserved for future amendments. Prop. at 15, 26; SR at 8.

Subpart E (Recordkeeping and Reporting) set forth requirements for battery tracking receipts, weekly battery records documenting receipt, removal, recycling, and transportation, and annual battery summaries reporting yearly quantities of used EV batteries received, removed, recycled, stored, and remaining at the site. Prop. at 15, 26-30.

Subpart F (Financial Assurance) established financial assurance requirements to ensure coverage of removal costs for used EV batteries, including allowable mechanisms such as trust funds, surety bonds, and letters of credit, and requirements for submission, maintenance, adjustment, release, and appeal of removal cost estimates and financial assurance instruments. Prop. at 15-16, 30-41.

Non-Substantive Revisions for First-Notice Publication

In preparing IEPA's proposal for first notice publication in the *Illinois Register*, the Board made several revisions to conform the proposal to the requirements and conventions governing the drafting, codification, and publication of Illinois administrative rules. The Board considers these revisions non-substantive. The Board removed proposed Subparts C and D after the Secretary of State advised that proposed sections should not be designated as "reserved." The Board also made other revisions necessary to obtain approval for filing the proposal for first notice.

These revisions included conforming the presentation of statutory language to the Secretary of State's requirements and following applicable drafting conventions, including the use of brackets. *See* 1 Ill. Adm. Code 100.180, 100.380(a) (2024); Ill. Sec'y of State, *Illinois Administrative Code and Illinois Register Style Manual* (Feb. 2022). Section 100.380(a) requires statutory language repeated or paraphrased in a rule to appear in distinguishing type and provides that "[i]talic type is expressly reserved for statutory language." 1 Ill. Adm. Code 100.380(a). Accordingly, the Board used italics rather than quotation marks to identify statutory language.

The Board also followed the applicable conventions for the use of brackets. In addition, the Board replaced "shall" with "must" where appropriate to use plainer language while retaining the mandatory nature of the provisions. The Board also revised the Subpart B heading in the proposed rule text to conform it to corresponding heading in the Table of Contents, changing "MANAGEMENT STANDARDS" to "MANAGEMENT STANDARDS FOR STORAGE." The Board revised the structure of Section 1220.600 to conform its paragraph and subparagraph designations to applicable drafting conventions. Specifically, the former paragraph (b)(1) was

redesignated as paragraph (c), and its subparagraphs A), B), and C) were redesignated as 1), 2), and 3), respectively.

The above examples are not exhaustive; the Board made other non-substantive revisions throughout proposed Part 1220 to clarify and simplify the proposed rules and to conform them to applicable drafting and publication requirements. The Board does not discuss each of these revisions individually. The rule text approved by the Board for first-notice publication in the *Illinois Register* is referred to below as the "first-notice rule text."

JCAR's Proposed Changes

JCAR submitted a redlined version of the proposed rules containing 34 technical edits (14 additions and 20 deletions). JCAR Comparison Document for Part 1220 (JCAR Comparison) at 32. All edits were non-substantive formatting corrections, including replacing curly quotation marks with straight quotation marks, making corresponding formatting changes to list-item markers, and making minor spacing or alignment adjustments in Sections 1220.100, 1220.125, 1220.210, 1220.220, 1220.515, and 1220.645. JCAR Comparison at 2, 4, 7, 12-13, 16, 26, 28. The Board accepts JCAR's proposed changes.

DISCUSSION

The first-notice period generated substantive issues concerning the scope and applicability of Part 1220, fire-safety requirements, emergency response, financial assurance, and recordkeeping. The Board addresses those issues below. The Board considers each provision of the proposed Part in light of the statutory authority, the rulemaking record, and the revisions made during the proceeding. In evaluating the proposed requirements, the Board considers whether the provisions are supported by the record, sufficiently clear, technically feasible, and economically reasonable, and whether they are consistent with the requirements of the Act and applicable rulemaking requirements.

OSFM Proposed Changes

OSFM submitted a written comment on the proposed rules. OSFM explained that its review focused solely on the rule text and offered recommendations intended to strengthen fire protection, life-safety, and implementation clarity. PC 1 at 1. OSFM referenced ongoing development of NFPA 800, relevant provisions of the 2024 International Fire Code, and research-based guidance such as Factory Mutual (FM) Global Data Sheet 7-112 and NFPA Codes 13, 72, 101, and 855. *Id.* at 1-5. OSFM suggested consideration of battery state of charge limitations, broader fire-prevention standards beyond NFPA 51B, and involvement of qualified fire protection professionals for deflagration analysis and sprinkler design. *Id.*

OSFM further recommended limiting indoor storage height, prohibiting rack storage, establishing NFPA-based installation standards for detection systems, clarifying requirements for egress separation, and recognizing that many local fire departments may lack specialized expertise to advise battery storage facilities. PC 1 at 1, 3-5. OSFM noted that sprinkler system capability assumptions may understate the hazard level associated with EV battery storage and

identified design density criteria from FM 7-112 that could necessitate upgrades to on-site water supplies. *Id.* at 5. OSFM offered to assist technical staff with additional information. *Id.*

In terms of specific proposed changes, OSFM recommended incorporating updated or forthcoming fire-code standards such as NFPA 800; applying NFPA 72 for smoke detection and NFPA 13 for sprinkler design; adopting egress remoteness consistent with NFPA 101 or the International Building Code; prohibiting rack storage or limiting stacking height to one pallet; addressing ventilation needs; requiring more detailed explosion and deflagration analyses and involvement of fire protection engineers; considering battery charge status, chemistry, and hazard classification; clarifying emergency access; and providing clear Department of Transportation (DOT) transport cross-references. PC 1 at 1-5. OSFM also raised cost concerns related to potential sprinkler upgrades and specialized aspirating smoke detection systems. *Id.* at 5.

IEPA Filings and the Hearings

The Board received testimony and written submissions from IEPA throughout the rulemaking proceeding, including pre-filed testimony, pre-filed and supplemental responses, an amended proposed rule, and post-hearing comments. Below, the Board summarizes the IEPA submissions and testimony presented at the first and second hearings that informed the Board's consideration of proposed Part 1220.

Pre-Filed Testimony

IEPA submitted pre-filed testimony from Vishnu Srinivasaraghavan, Section Manager of the Agency's Material Management & Compliance Section (IEPA Test.), describing the fire hazards associated with used EV batteries and the basis for the proposed storage requirements. IEPA Test. At 4-5. Srinivasaraghavan explained that the Agency used NFPA 855 as a guideline for developing the proposed requirements, adapting its safety principles for the storage of inert used EV batteries. *Id.* at 4. He described proposed requirements addressing indoor room size, fire-rated walls, spacing between rooms and battery piles, pile height, outdoor containerization, accumulation limits, setbacks from utilities and powerlines, fire safety plans, and management of fire-related runoff. *Id.* at 4-5. He testified that these measures are intended to limit fire spread, facilitate firefighting, and protect human health, the environment, and public safety. *Id.* He further testified that the proposed requirements are consistent with existing fire codes and fire-safety practices and are not expected to impose significant costs or undue burdens on facilities storing used EV batteries for reuse or recycling. *Id.* at 5.

First Hearing

At the first hearing, the Board proceeded through the questions contained in its March 6, 2026 hearing officer order. After the hearing commenced, IEPA advised that it had submitted written responses to the Board's Pre-filed Questions. *Id.* at 10-11. It was noted that the responses had not been provided in advance in the manner contemplated by the Board's procedural rules. *Id.* After confirming that there was no objection, the Hearing Officer accepted the responses into the record as Hearing Exhibit 3. *Id.* at 12-14. The Board then proceeded

through the questions on the record, allowing IEPA to address and clarify its written responses. *Id.* The hearing included testimony concerning the scope, technical basis, economic impact, and implementation of the proposed rules.

During the hearing, the Board questioned IEPA on several provisions and issues, including the application of Part 1220 to facilities storing small quantities of batteries, the distinction between storage and active recycling or disassembly, and the proposed fire-safety and storage requirements. Tr.1 at 46-48, 63-65, 122-23. The Board also questioned IEPA concerning the deflagration analysis, financial assurance and removal costs, emergency planning and notification, and runoff management. *Id.* at 29-30, 67-73, 92-94, 97-100, 128-29. IEPA provided additional clarification and indicated that it would consider or provide further information concerning several issues. *Id.* at 69-73, 93-94, 99-100, 107-12, 129. The Board identified several provisions for further consideration. No other testimony or public comment was presented at the first hearing. *Id.* at 132-33.

First Hearing Pre-Filed Answers

IEPA submitted pre-filed answers (PFA 1) responding to the questions posed in the Board's March 6, 2026 hearing officer order. IEPA explained that it used NFPA 855 as a guideline in developing the proposed fire-safety requirements, adapted principles concerning fire-rated separations, pile size and spacing, ceiling clearance, detection, suppression, and explosion protection for used EV battery storage. PFA 1 at 4, 9, 16-17, 26. IEPA stated that the proposed rules are intended to regulate storage of whole, used EV batteries and do not regulate active battery recycling or the storage of disassembled battery components, although a recycling facility storing whole used EV batteries would remain subject to Part 1220. *Id.* at 12, 24.

IEPA confirmed that the proposed rules would apply to storage sites regardless of the amount stored, although certain requirements are triggered at 5,000-kilogram or more at any one time. PFA 1 at 6, 15. IEPA stated that the proposed rules are intended to prevent and contain battery fires through requirements concerning fire-rated rooms and barriers, pile size and spacing, ceiling clearance, sprinklers, smoke detection, outdoor containers, and runoff capture to prevent contaminated firefighting water from reaching surface or groundwater. *Id.* at 6, 8-9, 17-18.

Regarding feasibility and economic impact, IEPA stated that compliance costs are site-specific and depend on the number of batteries stored and existing site conditions. PFA 1 at 7. IEPA did not provide a statewide estimate of affected facilities or total compliance costs. *Id.* In its JCAR economic analysis, IEPA identified potential costs associated with fire-rated barriers, fully enclosed containers, air-aspirating smoke detectors, and sprinkler systems, and stated that facilities storing 5,000 kilograms or more would incur additional registration and recordkeeping requirements. *Id.* at 13, 31. IEPA also stated that facilities storing used EV batteries would be required to provide financial assurance for battery removal. *Id.* at 31. IEPA characterized the proposed standards as best management practices based on industry standards and stated that they rely on readily available commercial products, materials, and existing fire-safety practices. *Id.*

IEPA stated that it considered less costly or intrusive storage methods but rejected those alternatives because the risk of fire or fire spread would increase without adequate containment. PFA 1 at 8. IEPA stated that basing the proposed requirements on appropriate NFPA standards and best management practices was the best approach because those standards were developed by experts in the field and reflect practices that people safely storing used EV batteries should already follow. *Id.* at 4-5, 8. IEPA stated that it has no cost information for the proposed deflagration analysis and has not developed specific guidance for conducting that analysis. *Id.* at 16. IEPA stated that it had consulted fire-safety experts and did not object to several clarifying and non-substantive revisions to the proposed rule text. *Id.* at 3, 15-16, 18-19.

Supplemental Responses and Amended Proposed Part 1220

In its supplemental responses, IEPA addressed the Board's questions from the March 19, 2026 hearing and submitted an amended proposed Part 1220 incorporating revisions responsive to the Board's pre-filed questions and hearing discussion. Supp. at 2.

IEPA proposed revisions concerning the scope of Part 1220, including clarification that an EV battery consists of the entire battery pack rather than individual cells. Supp. at 4-5. IEPA also proposed additional density factors to account for differences among battery types, including light-duty trucks and semis, and stated that it was working with experts to finalize those factors. *Id*. IEPA proposed revisions to the registration provisions, including changes to the timing of registration and a provision addressing the period following a facility first exceeding 5,000 kilograms of used EV batteries. *Id*. at 6.

IEPA proposed revisions to the technical requirements governing deflagration analyses. Supp. at 7. IEPA proposed qualifications for people conducting those analyses and stated that it was working with experts to develop examples of appropriate deflagration analyses. *Id*. IEPA also proposed revisions concerning storage-height requirements and stated that it was working with experts to determine appropriate height limits, including alternatives based on the type of fire-suppression system used. *Id*. at 8-10. IEPA further stated that it was working with experts to determine the appropriate building-code standard for the proposed requirements. *Id*. at 12.

IEPA proposed revisions concerning emergency planning and response. Supp. at 10-13. Those revisions address the role of local fire departments, consultation with local emergency planning committees where applicable, and the relationship between Part 1220 and federal and Illinois emergency-planning requirements. *Id*. at 10-12. IEPA also proposed using the incident-reporting mechanism employed under Part 848 and stated that it would coordinate with IEMA concerning emergency notification. *Id*. at 12-13.

IEPA clarified its approach to financial assurance. Supp. at 13-15. IEPA stated that financial assurance under Part 1220 is intended to cover the cost of removing used EV batteries from a storage site and is not intended to cover environmental remediation associated with a fire, explosion, or a release. *Id*. at 13-14. IEPA proposed revisions concerning Agency review of removal-cost estimates and stated that it was developing financial assurance guidance and forms. *Id*. at 14-15. IEPA also stated that it was working on an electronic submission portal. *Id*. at 15.

IEPA proposed additional revisions concerning transportation records, appeals, storage configurations, and runoff. Supp. at 15-19. IEPA clarified that Part 1220 does not regulate transportation, although storage sites would be subject to specified recordkeeping requirements concerning batteries received and removed from the site. *Id*. at 15-17. IEPA proposed revisions concerning appeals of Agency decisions and clarified the application of the 900-square-foot storage provision. *Id*. at 17-19. IEPA also stated that runoff from battery fires, explosions, or other damage must be disposed of in compliance with applicable Illinois administrative rules. *Id*. at 19.

IEPA further stated that it had consulted fire-safety experts in developing and revising the proposed requirements. *Id.* The amended proposal included with the Supplemental Responses incorporated IEPA's proposed revisions to Part 1220 and addressed issues raised in the Board's pre-filed questions and at the first hearing. *Id.* at 22-48.

Second Hearing Pre-Filed Answers

In advance of the second hearing, IEPA submitted its pre-filed responses to the questions posed in the Board's May 19, 2026 hearing officer order, wherein the Agency addressed the scope, applicability, technical requirements, and implementation of proposed Part 1220 and proposed or agreed to several revisions to the rule text. PFA 2 at 1-25.

IEPA provided additional information concerning the scope of Part 1220, including the treatment of used EV batteries awaiting recycling, reclamation, reuse, or disposal and the distinction between inert storage and activities such as charging, discharging, repair, testing, and transportation. PFA 2 at 1-9. IEPA also addressed the relationship between Part 1220 and other regulatory requirements, including hazardous waste and transportation requirements, and described proposed recordkeeping and registration requirements. *Id*. at 5-10. IEPA also addressed the definitions of "used EV battery" and "used EV battery storage site," the statutory licensing requirement for automotive parts recyclers, and the treatment of damaged, cracked, or leaking batteries. *Id*. at 14-15, 17.

IEPA addressed financial assurance and implementation, stating that financial assurance would cover costs associated with closing a storage site and removing, recycling, or disposing of used EV batteries. PFA 2 at 6. IEPA stated that it had not developed specific removal-cost estimates for facilities storing 5,000, 10,000, or 25,000 kilograms of batteries and did not have estimates of the number of affected facilities, transactions, or battery volumes over the next five years. *Id*. at 10-13. IEPA stated that implementation would primarily involve registration reviews, financial assurance approvals, and inspections, and that the resulting administrative workload would be manageable. *Id*. at 11-12.

IEPA also addressed the proposed fire-safety requirements, including storage height, rack and pile storage, suppression and detection systems, ventilation, and battery charge status. PFA 2 at 18-19, 21-24. IEPA described its consultation with fire-safety experts and local fire departments and addressed revisions concerning inspections, emergency response, and detection requirements. *Id*. at 20.

IEPA further addressed runoff and deflagration analysis, stating that it intended to make examples, templates, or other guidance concerning the required deflagration analysis available as soon as possible but could not provide an estimated completion date. PFA 2 at 25. The responses included IEPA's proposed revisions to Part 1220, as Attachment B (PFA 2, Attach. B). *Id.* at 56-83. The Board addressed these and other issues with IEPA at the second hearing.

Second Hearing

At the second hearing, the Board questioned IEPA regarding the proposed rule, IEPA's PFA 2, proposed fire safety requirements, and battery definitions. Tr.2 at 11-18, 25-29. The Board also questioned IEPA concerning environmental justice and registration and financial assurance. *Id.* at 20-22, 32-36. IEPA responded to the Board's questions and indicated that it would consider whether revisions or clarifications were warranted. *Id*. at 13-18, 23-27, 34-36. The Board's General Counsel noted that adding a new category of registrants after first notice could constitute a substantive change requiring legal and technical justification, and IEPA stated that it would take that concern into consideration. *Id*. at 37. No other participant offered public comment or additional testimony. *Id.* at 39-40.

Post-Hearing Comment

IEPA filed its post-hearing comment identifying additional amendments based on the Board's June 4, 2026, hearing. IEPA proposed revisions to several definitions, including "electric vehicle," "used EV battery," "EV battery," "fire," "explosion," "thermal runaway," and "deflagration." PC 2 at 2-7. IEPA also proposed amendments concerning battery storage heights and sprinkler systems, material safety data sheets, runoff capture, and post-event monitoring. *Id*. at 7-9.

IEPA also addressed environmental justice issues, stating that the technical standards would apply statewide while the Agency's evaluation of facilities and community engagement could include additional considerations in areas of environmental justice concern. PC 2 at 10. With respect to recordkeeping, IEPA proposed requiring owners and operators to obtain make, model, and year information for used EV batteries when battery chemistry is unavailable. *Id*. at 11-13.

IEPA further reconsidered the registration requirement discussed at the second hearing. Although the Agency had considered extending registration to facilities storing less than 5,000 kilograms, IEPA concluded that there was no significant risk in retaining the existing threshold and proposed to continue requiring registration only for facilities storing 5,000 kilograms or more. PC 2 at 12-13. The comments also included IEPA's proposed revisions to Part 1220 following the second hearing and addressed issues raised in the hearing record, as Attachment 1 (PC 2, Attach. 1). *Id.* at 16-44.

United States Environmental Protection Agency

The Board asked IEPA whether it consulted and sought comments from the United States Environmental Protection Agency (USEPA) regarding the proposed rules. Tr.1 at 21. IEPA

responded that it had not yet done so but that planned to consult with USEPA. *Id*. IEPA stated that the proposed requirements would be state rules and would not require USEPA approval. *Id.*

The Board also asked about current USEPA guidance concerning storage of lithium-ion EV batteries. Tr.1 at 20-21; PFA 1 at 5. IEPA stated that it considered USEPA's guidance concerning best management practices for end-of-life lithium batteries in developing the proposal but that the guidance did not address building and fire-safety infrastructure in the detail contemplated by Part 1220. *Id*. IEPA therefore also relied on the NFPA guidance in developing the proposed fire-safety requirements. PFA 1 at 13-14.

The Board further asked whether IEPA considered regulating used EV batteries under the federal Resource Conservation and Recovery Act (RCRA) hazardous waste rules or under the universal waste provisions. Tr.1 at 37-41. IEPA responded that it had considered the universal waste provisions but determined that used EV batteries warranted separate requirements under the Act because of their particular storage, reuse, and recycling considerations and the specific mandate in Section 22.23f. *Id.*; Supp. at 2-3. IEPA explained that used EV batteries may remain subject to applicable federal universal waste requirements and that there is no federal regulatory equivalent to the proposed Part 1220 requirements. *Id.*; PFA 1 at 13-14. IEPA also stated that lithium-ion batteries are likely to meet the federal ignitability and reactivity characteristics when disposed of, citing USEPA guidance. Tr.1 at 37-38; PFA 1 at 10.

Overview of Issues Addressed Since the Board Issued the First-Notice Proposal

Since the Board proceeded to first notice without commenting on the merits of IEPA's proposal, the principal issues addressed have concerned Part 1220's scope and definitions, fire-safety and storage requirements, and provisions on emergency response, recordkeeping, financial assurance, and registration. Based on the record, including OSFM's comments, IEPA's responses, comments, proposed revisions, and the hearing testimony, the Board rule text proposed today for second notice reflects a number of changes from the first-notice rule text.

As originally proposed by IEPA, Part 1220 would apply to the storage of used EV batteries and establish requirements addressing battery management, fire prevention, emergency response, recordkeeping, reporting, and financial assurance. *See* Prop. at 15-41; 50 Ill. Reg. 2313. IEPA based the fire-safety provisions substantially on existing fire-protection practices and NFPA 855, and proposed controls addressing room size, fire-rated separation, storage height and spacing, detection and suppression, outdoor storage, and runoff. SR at 8-11; TSD at 44-47. The requirements remain in the proposed rules, although the Board refines them at second notice based on subsequent input from participants concerning storage configurations, battery characteristics, and the potential progression of a battery fire.

At second notice, the Board clarifies the scope of the regulated activity and the meaning of a used EV battery. IEPA explains that Part 1220 is intended to regulate inert storage of whole used EV batteries after removal from an EV and before recycling, reclamation, reuse, or disposal, rather than batteries that are being actively charged or discharged, transported, repaired, refurbished, or tested. PFA 2 at 2-4, 7-9. IEPA also proposes revisions to distinguish used EV

batteries from damaged, cracked, or leaking batteries and to clarify that an EV battery encompasses the entire battery pack rather than individual cells. *Id* at 17; Supp. at 5.

In addition, the Board proposes revisions at second notice to provide additional specificity concerning the fire-safety provisions. OSFM raises concerns regarding storage height, rack storage, detection and sprinkler standards, ventilation, battery charge status, and the qualifications required for fire-protection analyses. PC 1 at 1-5. IEPA responded with proposed revisions concerning storage height and suppression systems, deflagration analyses, ventilation, detection, and post-event monitoring. Supp. at 7-10; PC 2 at 5-9. At the second hearing, the Board received testimony on thermal runaway, fire and explosion definitions, sprinkler capabilities, runoff containment, and monitoring following a fire or thermal runaway event. Tr.2 at 11-18. The resulting second-notice revisions provide greater specificity concerning measures to prevent, detect, contain, and respond to battery fires.

The Board's second-notice proposal also modifies the provisions governing emergency response and incident reporting. IEPA proposes revisions concerning consultation with local fire departments and local emergency planning committees where applicable, emergency notification, and incident reporting. Supp. at 10-13. The Agency also proposes additional provisions concerning inspections and the authority of local fire departments to address storage methods affecting emergency response. PFA 2 at 20. The resulting provisions proposed by the Board today address facility-level emergency planning and coordination with local emergency responders, together with Agency notification, reporting, and oversight.

At second notice, the Board also clarifies the relationship between Part 1220 and other regulatory programs. IEPA explains that the proposed rules govern the storage of used EV batteries and do not displace requirements applicable to hazardous waste, transportation, or other regulated activities. PFA 2 at 5-10. The Board agrees.

Additionally, the Board's second-notice proposal revises recordkeeping and financial assurance provisions. IEPA proposes revisions to battery receipt and removal records and proposes requiring owners and operators to obtain vehicle make, model, and year information when that information is not readily available from the transporter. Supp. at 15-17; PC 2 at 10-11. As compared to the first-notice rule text, the Board's second-notice proposal retains the basic regulatory framework but as indicated above, is more specific based on consideration of technical, implementation, and regulatory issues raised during first notice.

As compared to the first-notice rule text, the Board's second-notice proposal retains the basic regulatory framework but, as indicated above, is more specific based on consideration of technical, implementation, and regulatory issues raised during first notice. The additional specificity is expected to better foster the safe management and storage of used EV batteries.

Not all issues addressed during the first-notice period have resulted in changes to rule text at second notice. IEPA's original proposal required registration for facilities storing 5,000 kilograms or more of used EV batteries. Prop. at 50. During the second hearing, IEPA considered extending registration to facilities storing less than 5,000 kilograms. Tr.2 at 32-36. After further consideration, however, IEPA concludes that there is no significant risk in retaining

the existing threshold and proposes to continue requiring registration at 5,000 kilograms or more. PC 2 at 12-13. At second notice, the Board retains this threshold for registration.

Rule Text Analysis

The Board next considers the text of proposed Part 1220, as revised for second notice. The Board addresses the proposed provisions in the order in which they appear in Part 1220, beginning with the title and organizational provisions and proceeding through the substantive requirements, recordkeeping provisions, and financial assurance requirements. For each provision, the Board considers the rule text, the changes made during the proceeding, and the relevant comments and testimony in the record.

Title of Part 1220

The Board first considers the title of proposed Part 1220. The first-notice rule text was titled "Management of Used EV Batteries." IEPA's amended proposal revises the title to "Management of Used Electric Vehicle (EV) Batteries." The revision spells out "electric vehicle" in the title while retaining the abbreviation used throughout Part 1220. The Board finds that this revision is clarifying and does not expand or otherwise change the scope of the proposed Part.

Table of Contents and Subpart Headings

The Table of Contents and Subpart headings reflect the organization of Part 1220 following the non-substantive revisions made before first notice. The provisions formerly designated as Subparts E and F are now designated as Subparts C and D, respectively, with the corresponding headings "RECORDKEEPING AND REPORTING" and "FINANCIAL ASSURANCE." The Subpart B heading in the rule text also conforms to the corresponding heading in the Table of Contents as "MANAGEMENT STANDARDS FOR STORAGE." As discussed above, these organizational revisions did not alter the substantive requirements of Part 1220.

For second notice, the Board also revises the titles of Sections 1220.210 and 1220.215. Section 1220.210, formerly titled "Storage of Used EV Batteries Within Buildings," is retitled "Indoor Storage," and Section 1220.215, formerly titled "Storage of Used EV Batteries Outdoors," is retitled "Outdoor Storage." These changes are intended to provide more concise and understandable headings for the indoor- and outdoor-storage requirements and do not alter the substantive requirements of either Section. Using the same terminology in the section headings clarifies the distinction between the two storage settings. The revised section titles also provide consistency with the terminology used in the rulemaking record. *See* PC 2 at 8 (expressly identifying the requirements governing storage within buildings and storage outside buildings as "Indoor Storage Requirements" and "Outdoor Storage Requirements," respectively.).

The Board finds that the Table of Contents and Subpart headings, including the revised Section titles, accurately reflect the organization and content of the proposed rules.

Section 1220.100 Applicability

Section 1220.100 establishes the scope of Part 1220 and identifies activities and batteries that are outside Part 1220's applicability. The first-notice rule text stated that Section 22.23f of the Act establishes prohibitions concerning the receipt, handling, storage, and transfer of used EV batteries and that Part 1220 establishes additional requirements for those activities at used EV battery storage sites. 50 Ill. Reg. 2322. Section 1220.100 also excluded new EV batteries awaiting installation, batteries that remain installed in an EV, and used EV batteries that have returned to reuse or the economic mainstream as raw materials or products. *Id.*

IEPA revised Section 1220.100 before second notice. The amended language expressly states that Part 1220 applies to used EV battery storage sites regulated under Section 22.23f and replaces "sets forth" with "specifies" in describing the statutory prohibitions. Am. Prop. at 2. IEPA also revised the provision to use the defined abbreviation "EV" consistently and added an exclusion for local fire departments and other emergency response entities responding to a used EV battery fire. *Id.* The exclusions for new EV batteries awaiting installation, batteries that remain installed in an EV, and used EV batteries that have returned to reuse or the economic mainstream were retained.

The record developed during the proceeding further clarified the types of batteries and activities subject to Part 1220. IEPA explained that Part 1220 is intended to regulate the inert storage of whole used EV batteries after removal from an EV and before recycling, reclamation, reuse, or disposal. PFA 2 at 1-9. IEPA distinguished this storage from activities including charging, discharging, repair, testing, and transportation. *Id*. IEPA also explained that an EV battery means the entire battery pack rather than individual battery cells and proposed corresponding revisions to the definitions and applicability provisions. Supp. at 4-5; PFA 2 at 14-15, 17.

The Board also replaces "relative to" with "concerning" to use clearer and more direct language without changing the meaning of the provision.

The Board finds that Section 1220.100 is supported by the statutory framework and the record. Section 22.23f directs the Agency and the Board to establish requirements governing the receipt, handling, storage, and transfer of used EV batteries at storage sites. The applicability provision appropriately identifies the regulated activity as the storage of used EV batteries and distinguishes that activity from batteries that remain in vehicles, new batteries awaiting installation, and batteries that have returned to reuse or the economic mainstream. The record also supports limiting Part 1220 to whole used EV batteries that have been removed from an EV and are being stored pending a subsequent disposition.

The Board further finds that the revisions concerning the scope of regulated batteries and activities provide greater clarity without changing the basic scope of the proposal. In particular, the revisions clarify that Part 1220 addresses used EV batteries while they are being stored and does not regulate active charging, discharging, repair, testing, or transportation as storage activities under this Part. The record supports those distinctions.

The Board also finds that excluding local fire departments and other emergency response entities responding to a used EV battery fire is appropriate. The exclusion recognizes the distinction between regulated storage activities and emergency response to an incident at a storage site and avoids applying Part 1220's storage requirements to entities responding to a fire.

The Board finds that Section 1220.100 is supported by the record and is sufficiently clear. The exclusions appropriately distinguish new batteries and batteries remaining in vehicles from used EV batteries subject to Part 1220 and recognize that emergency response to a battery fire is distinct from the regulated storage activity.

Section 1220.105 Severability

Section 1220.105 provides that if any provision of Part 1220 is adjudged unconstitutional, invalid, or otherwise ineffective, that determination does not affect the validity of the remaining provisions of Part 1220. 50 Ill. Reg. 2322-23.

Section 1220.105 remained unchanged throughout the rulemaking, including in the amended proposed rule language and subsequent revisions. The record does not identify any concern regarding the substance or operation of the severability provision.

The Board finds that Section 1220.105 is appropriate and sufficiently clear. The provision preserves the remaining requirements of Part 1220 if a particular provision is later determined to be invalid or ineffective. Because the provision does not impose a substantive regulatory requirement on used EV battery storage sites, the record does not raise a separate technical-feasibility or economic-reasonableness concern.

Section 1220.110 Other Regulations

Section 1220.110 addresses the relationship between Part 1220 and other requirements that may apply to used EV battery storage sites. Subsection (a) provides that the requirements of Part 1220 are in addition to requirements under the Act or Board regulations and identifies considerations for determining applicability in the event of a conflict. Subsection (b) identifies several Board regulatory programs that may also apply to facilities subject to Part 1220. 50 Ill. Reg. 2323.

IEPA made limited revisions to Section 1220.110 before second notice. In subsection (a), IEPA replaced "such as, but not limited to," with "like" and added language providing that Part 1220 does not supersede or otherwise override requirements under the federal Emergency Planning and Community Right-to-Know Act (EPCRA) and the Illinois Emergency Planning and Community Right-to-Know Act (IEPCRA). Am. Prop. at 2-3. The revised language was retained in PFA 2, Attach. B and PC 2, Attach. 1.

The record developed the relationship between Part 1220 and other regulatory requirements. The Board questioned IEPA concerning the interaction between Part 1220 and other regulatory programs, including hazardous waste and transportation requirements. PFA 2 at

5-10 . IEPA explained that Part 1220 does not exempt a facility from other applicable requirements and does not govern transportation activities subject to federal transportation requirements. *Id*. IEPA also explained that Part 1220 operates independently of hazardous waste requirements and that a facility remains subject to other applicable requirements. *Id*. The Board continued to examine the relationship between Part 1220 and transportation requirements at the second hearing, including the information accompanying the receipt and transfer of used EV batteries. Tr.2 at 23-29.

The Board also replaces "be applicable" with "apply" to use clearer and more direct language without changing the meaning of the provision.

The Board finds that Section 1220.110 appropriately establishes that compliance with Part 1220 does not displace other applicable requirements. Subsection (a) provides that Part 1220 operates in addition to requirements under the Act and Board regulations, while subsection (b) identifies examples of other regulatory programs that may apply. The examples are nonexclusive and therefore do not limit the applicability of other requirements that may govern a facility or activity.

The Board further finds that the addition concerning EPCRA and IEPCRA appropriately clarifies that Part 1220 does not supersede or override emergency planning and community right-to-know requirements. This addition is consistent with IEPA's explanation that Part 1220 does not exempt facilities from other applicable regulatory requirements.

Section 1220.115 Definitions

Section 1220.115 establishes the definitions used throughout Part 1220. At first notice, this section defined the terms necessary to identify the persons, facilities, and materials subject to the proposed requirements for used EV battery storage, including "battery storage site," "electric vehicle" or "EV," "electric vehicle battery" or "EV battery," "fully enclosed container," "operator," "owner," "storage," and "used EV battery." 50 Ill. Reg. 2324. The first notice definition of "EV battery" described a rechargeable battery used to power the electric motors of an EV and identified lithium-ion and nickel-metal hydride batteries as examples. The definition of "used EV battery" included an EV battery sold, given, or otherwise conveyed to a battery storage site, including batteries sent for recycling and batteries removed from an EV at the storage site. *Id*. The Board finds that these definitions provide the necessary framework for the proposed requirements, but that several definitions warrant clarification based on the record developed.

The definition of "Agency" was revised in IEPA's amended proposal to identify the "Illinois Environmental Protection Agency," rather than simply the "Environmental Protection Agency." Am. Prop. at 3. The introductory language was also revised to provide that terms not defined in Section 1220.115 have the meanings otherwise "specified" in the Act and 35 Ill. Adm. Code 101. *Id*. The Board finds these revisions improve the precision and consistency of the rule text without changing the substance of the definitions. The Board finds that these definitions are sufficiently clear and supported by the record.

The Board subsequently raised issues concerning the scope of the terms "electric vehicle" and "EV battery." Tr.1 at 58-59; Tr.2 at 26-27. IEPA proposed clarifying that an "EV battery" encompasses the entire battery pack of an electric vehicle but does not include individual cells. Am. Prop. at 4. IEPA also revised the terminology by consistently using "EV" in place of "electric vehicle" within that definition. PFA 2, Attach. B at 59. IEPA proposes the following revisions (shown by underline) 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. "EV 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 EV battery. PC 2, Attach. 1 at 19.

The Board finds that these revisions provide greater specificity concerning the battery components subject to Part 1220, including the treatment of whole and intact individual modules, while maintaining the exclusion of individual cells. The Board further finds that the revisions are consistent with the purpose of regulating the storage of used EV batteries and provide sufficient clarity concerning the scope of the term.

IEPA also clarified the definition of "electric vehicle" in PC 2, Attach. 1. The definition continues to incorporate by reference the meaning assigned to "electric vehicle" in Section 11-1308 of the Illinois Vehicle Code, but now expressly states that the term includes passenger vehicles, light-duty trucks, and semi-trucks and does not include e-bikes, e-scooters, or other personal means of transportation that are not intended to carry more than one person. *Id*. The Board finds that retaining the statutory cross-reference, while providing these additional clarifications in the rule, appropriately identifies the vehicles to which Part 1220 applies without reproducing the Vehicle Code definition in its entirety. The Board therefore finds the revised definition sufficiently clear and supported by the record.

The definition of "used EV battery" was also refined during the rulemaking. In addition to removing the unnecessary phrase "but is not limited to," IEPA further clarified that the term includes uninstalled EV batteries sent by a manufacturer or another person for recycling and EV batteries removed from an EV at the battery storage site. PFA 2, Attach. B at 60. In addition to addressing the Board's concern regarding defective batteries, IEPA added that "Used EV battery" does not include batteries that are damaged, cracked, leaking, or defective. PC 2 at 4-5. The Board finds that these revisions more clearly identify the materials included within and excluded from the definition of "used EV battery" and provide greater certainty concerning the scope of Part 1220.

In response to the Board's question regarding meaning of the terms "deflagration," "explosion," "fire," and "thermal runaway," IEPA proposed adding definitions for those terms. Tr.2 at 13-14, 16; PC 2 at 6-7. Each of these terms is used in substantive requirements of Part 1220, including requirements concerning runoff, ventilation, explosion protection, monitoring, contingency planning, and notification.

First, IEPA defines "fire" to mean "any ignition of a flammable source (e.g., flammable internal EV battery components or vented flammable gases), either within an EV battery or externally." PC 2 at 6. IEPA explained that it based the proposed definition on the common understanding of the term "fire." *Id.* The Board finds that the proposed definition appropriately identifies the type of event addressed by the fire-related requirements of Part 1220 and is sufficiently broad to encompass ignition of flammable battery components or flammable gases vented from an EV battery.

Second, IEPA defines "explosion" as "any ignition event that results in a pressure wave, either originating from within an EV battery or externally." *Id.* The Board finds that the definition appropriately identifies the pressure wave characteristic of an explosion and does not limit the definition to events originating within an EV battery.

Next, while acknowledging that thermal runaway is difficult to define, IEPA proposed to define that term as "any self-sustaining reaction within an EV battery that causes a continuous rise in temperature." *Id.* IEPA explained that it did not want to limit the definition to a particular battery chemistry and identified the self-sustaining increase in temperature as the key characteristic of thermal runaway. *Id.* IEPA further explained that a thermal runaway event may not necessarily result in a fire, deflagration, or explosion and could instead involve, for example, venting of gases from an EV battery. *Id.* The Board finds that the definition appropriately distinguishes thermal runaway from those other events and is sufficiently broad to apply to different EV battery chemistries and failure modes.

IEPA also proposed a definition of "deflagration" as "an ignition that propagates through a combustible medium at a lower speed than the speed of sound." *Id.* IEPA explained that the principal characteristic distinguishing a deflagration is its subsonic propagation and further noted that a deflagration may nevertheless produce damaging pressure waves and damage EV battery cases. *Id.* The Board finds that the proposed definition appropriately identifies the subsonic propagation characteristic of a deflagration and provides sufficient clarity concerning the event addressed by the requirements of Part 1220.

The Board also adds a definition of the term "ignition," which is used in the definitions of "fire," "explosion," and "deflagration." The Board selected the definition from NFPA 921, *Guide for Fire and Explosion Investigations* (2024), which defines "ignition" as the process of initiating self-sustained combustion. Defining "ignition" provides a consistent meaning for the term as it is used in the definitions of "fire," "explosion," and "deflagration."

The Board also makes several non-substantive revisions to improve the clarity and concision of the definitions, including removing the words "that is" where unnecessary.

The Board finds that defining these terms is appropriate because they are used in the substantive requirements of Part 1220. The definitions provide regulated entities and the Agency with greater clarity concerning the events that trigger requirements concerning runoff capture, ventilation, explosion protection, monitoring, contingency planning, and notification. The Board further finds that the definitions appropriately distinguish among fire, explosion, thermal runaway, and deflagration, while the definition of "ignition" provides a consistent meaning for a

term used in each of those event definitions. For these reasons, the Board finds that the revisions to Section 1220.115 discussed above, including the new definitions, are appropriate.

Section 1220.120 Incorporation by Reference

Section 1220.120 incorporates by reference NFPA 51B, *Standard for Fire Prevention During Welding, Cutting, and Other Hot Work*. The provision also specifies that no later amendments or editions of the incorporated standard are incorporated. 50 Ill. Reg. 2324.

During first notice, OSFM noted that the 2014 edition identified in the proposal had been superseded by the 2019 and 2024 editions. PC 1 at 2. OSFM recommended that the Board consider incorporating a more recent edition and also questioned whether NFPA 51B, which addresses welding, cutting, and other hot work, was sufficiently broad to address fire-prevention concerns associated with used EV battery storage. *Id.* OSFM suggested consideration of the 2024 International Fire Code as a broader fire-prevention standard. *Id.* In response, IEPA explained that it had proposed the 2014 edition because the 2024 edition did not contain significant changes relevant to used EV battery storage. PFA 1 at 3; Tr.1 at 14-15. IEPA nevertheless stated that it had no objection to the Board incorporating the 2024 edition. *Id*. IEPA also stated that it did not have licensing rights to provide copies of the 2024 edition. *Id.*

The Board finds that the record supports updating the incorporated standard from the 2014 edition to the 2024 edition. IEPA has no objection to the update, and OSFM specifically recommended consideration of the more recent edition. PFA 1 at 3; PC 1 at 2. The Board further finds that the record does not support replacing NFPA 51B with the International Fire Code at this time. Although OSFM raised concerns regarding the broader scope of the International Fire Code, the record does not establish that incorporation of that code is necessary to address the proposed fire-prevention requirements in Part 1220. The Board therefore declines to make that additional change.

The Board also adds NFPA 72, *National Fire Alarm and Signaling Code*, 2025 Edition, to the documents incorporated by reference in subsection (a). The Board's inclusion of NFPA 72 in subsection (a) corresponds to the requirement in Section 1220.210(c)(4) that the required air-aspirating smoke detector system be installed in accordance with NFPA 72. *See* Section 1220.210.

The Board therefore changes the identified edition of NFPA 51B from 2014 to 2024 and adds NFPA 72, *National Fire Alarm and Signaling Code*, 2025 Edition, to the documents incorporated by reference. The Board retains the provision stating that no later amendments or editions of an incorporated standard are incorporated. Accordingly, a later edition of NFPA 72 does not become applicable under Part 1220 unless the Board separately amends the rule. The Board finds these changes are supported by the record, provide clear identification of the standards incorporated by reference, and establish a recognized technical standard for the installation of the air-aspirating smoke detection system in Section 1220.210(c).

Section 1220.125 Estimating the Weight of Used EV Battery Accumulations

Section 1220.125 establishes a method for estimating the weight of an accumulation of used EV batteries when the actual weight is unknown. As proposed for first notice, subsection (a) provided that the weight of an accumulation could be calculated by multiplying its volume, measured in cubic feet, by a density factor of 17 kilograms (38 pounds) per cubic foot. 50 Ill. Reg. 2325. Subsection (b) provides that a used EV battery storage pile may be divided into more than one accumulation for making the calculation under subsection (a). *Id.*

During first notice, the Board requested information regarding the basis for the 17-kilogram density factor and clarification of whether an "accumulation of used EV batteries" and a "used EV battery storage pile" were the same. IEPA explained that the 17-kilogram estimate was based on the weight and dimensions of batteries used in Tesla vehicles and, specifically, the largest-capacity battery then available in a Tesla vehicle, which IEPA considered a worst-case scenario because of the greater number of battery cells. PFA 1 at 14-15; Tr.1 at 59-60. IEPA clarified at hearing that the density factor refers to the physical density of the entire battery pack, rather than individual cells, and is intended as a worst-case method for facilities that cannot weigh batteries as they are received. Tr.1 at 60-61. IEPA initially acknowledged that the proposed language did not clearly address whether the factor applied to truck and semi-truck batteries and agreed to review both that issue and whether the rule should clarify that the calculation applies to battery packs rather than individual cells. *Id*. at 61-62. In response to questions concerning whether other EVs might have battery packs with a density greater than 17 kilograms per cubic foot, IEPA stated that it had conducted a preliminary analysis and would further evaluate the issue. *Id*. at 62-63.

In its supplemental response, IEPA proposed making the calculation under Section 1220.125 mandatory when the actual weight is unknown and proposed adding separate density factors for passenger cars, light-duty trucks, and semi-trucks or other heavy-duty EVs. Supp. at 4-5. At that time, however, IEPA did not specify the density factors for light-duty trucks and heavy-duty EVs as the pertinent information was unavailable. Subsequently IEPA removed the vehicle-specific density factors and returned to a single density factor of 17 kilograms (38 pounds) per cubic foot. PFA 2, Attach. B at 60. IEPA further explained that, based on its communications with industry experts, separate density factors were not expected to be necessary because facilities unable to weigh used EV batteries because they could obtain the specifications, including weight, for a particular battery. PFA 2 at 12. IEPA also stated that its research indicated that batteries from semi-trucks, mid-sized trucks, and other heavy-duty EVs do not pose an inherently higher risk than passenger-vehicle EV batteries and that no additional storage assumptions were therefore necessary for those batteries. *Id*. However, the most recent IEPA revision restored the vehicle categories and again included bracketed, unspecified density factors for light-duty trucks and semi-trucks or other heavy-duty EVs. PC 2, Attach. 1 at 20-21.

The Board finds that the record supports retaining a single density factor of 17 kilograms (38 pounds) per cubic foot and does not support adding separate density factors for different classes of EVs. IEPA provided a basis for the original factor and characterized it as a conservative, worst-case estimate based on the largest-capacity Tesla battery pack. PFA 1 at 14-15; Tr.1 at 59-61. Although the Board raised questions regarding the applicability of the factor to batteries used in trucks and other heavy-duty EVs, IEPA subsequently consulted with industry experts and determined that separate density factors were not expected to be necessary. PFA 2 at

12. The record therefore does not establish a technical basis for the additional density factors proposed for light-duty trucks and semi-trucks or other heavy-duty EVs. The Board declines to include those factors, particularly where the proposed values remain unspecified.

The Board also finds that changing "may" to "must" is appropriate. The Amended Proposed Part 1220 first introduced that change, and IEPA retained the mandatory language in subsequent filings. Am. Prop. at 4; PFA 2, Attach. B at 60; PC 2, Attach. 1 at 20-21. The change establishes the method a facility must use when the actual weight of an accumulation is unknown. The record indicates that the density calculation is intended as a conservative method for facilities that cannot weigh batteries as they are received. Tr.1 at 60-61. IEPA further stated that facilities unable to weigh used EV batteries should generally be able to obtain battery specifications, including weight, from available information. PFA 2 at 12. The Board finds that the mandatory calculation is supported by the record.

Accordingly, the Board will retain the 17 kilograms (38 pounds) per cubic foot density factor and delete the vehicle-specific density-factor provisions for passenger cars, light-duty trucks, and semi-trucks or other heavy-duty EVs. The Board will also retain subsection (b), which allows a storage pile to be divided into more than one accumulation for purposes of the calculation. The Board finds that the resulting language is clear, technically supported by the record, and responsive to the questions raised during first notice.

Section 1220.200 Applicability

Section 1220.200 establishes the scope of Subpart B by providing that owners and operators of any battery storage site containing one or more used EV batteries are subject to the Subpart. No participant raised a substantive concern regarding the applicability provision during first notice.

The Board, however, identified an issue of terminology and consistency in the rule text. Section 1220.115 defines "owner" and "operator" in the singular, while the proposed rule text uses both singular and plural formulations and, in some provisions, refers to "owners and operators" and, in others, an "owner or operator." The Board reviewed the rule text and identified several provisions, including Sections 1220.200, 1220.210, 1220.215, 1220.220, 1220.500, and 1220.600, that refer to "owners and operators." The Board finds that greater consistency in the use of these terms will improve the clarity of Part 1220 without changing its substantive applicability.

The Board finds that Section 1220.200 is appropriately drafted to establish that the requirements of Subpart B apply to the owner or operator of a battery storage site containing one or more used EV batteries. Because "owner" and "operator" are defined terms in Section 1220.115, the Board finds it appropriate to use those terms consistently throughout Part 1220. The Board therefore changes "Owners and operators" to "The owner or operator." This change does not alter the intended scope of the provision. Rather, it clarifies that the applicability of Subpart B extends to an owner or an operator of a qualifying battery storage site and is consistent with the singular defined terms used elsewhere in Part 1220.

Section 1220.205 General Requirements

Section 1220.205 establishes general requirements for owners and operators of sites storing used EV batteries, including requirements addressing storage location, battery-terminal protection, hot work, registration, emergency response, firefighting access, combustible materials, explosion protection, and inspections. The Amended Proposed Part 1220 added requirements concerning runoff, registration timing and threshold calculations, gas ventilation and deflagration analyses, and inspections by the Agency and local fire departments. Am. Prop. at 4-6. PFA 2 retained those provisions, and PC 2 added a 24-hour post-incident monitoring requirement. PFA 2, Attach. B at 60-63; PC 2, Attach. 1 at 21-24.

The Board finds that the record supports these requirements, with the clarifications described below. The Board changes "Owners and operators" to "The owner or operator," consistent with the defined terms in Section 1220.115 and the change made in Section 1220.200. The Board also corrects the punctuation in subsection (b), changes "deemed" to "considered" in subsection (g)(1)(B), and corrects the cross-reference in subsection (g)(3) from "Subpart E" to "Subpart C." In subsection (i), the Board removes "all of" and makes the related grammatical correction to clarify the explosion-protection and gas-ventilation requirements. The Board also clarifies the placement of the requirement that deflagration analyses be maintained on site and made available to the Agency.

The Board retains the inspection provisions in subsection (l), including the provisions allowing a local fire department to determine whether storage methods permit safe emergency response and, when necessary, require modification of those methods. The Board finds these provisions supported by the fire-safety purpose of Part 1220. The Board also recognizes that an owner or operator may request an inspection when, for example, changes are made at the site and the owner or operator seeks an assessment of the site's fire-safety conditions. The Board also clarifies the inspection language to identify when the Agency or local fire department may request an inspection and changes "shall" to "must" in subsection (l)(1). The Board further clarifies subsection (l)(2) to provide that the Agency's determination concerning the 5,000-kilogram threshold may be appealed to the Board as an Agency Final Decision under 35 Ill. Adm. Code 105.

The Board also finds that the 24-hour post-incident monitoring requirement added in PC 2 warrants clarification. The Board supports continued monitoring following a fire, explosion, or thermal runaway but is concerned that the proposed language could place an employee or owner or operator in the position of independently determining whether the site is safe to reenter. The Board therefore revises subsection (k) to require coordination with the local fire department or other emergency service concerning safe reentry and monitoring. With these changes, the Board finds Section 1220.205 clear, supported by the record, and appropriate for second-notice consideration.

Section 1220.210 Indoor Storage

Section 1220.210 establishes requirements for the indoor storage of used EV batteries and is intended to address the fire, explosion, thermal runaway, and related risks associated with

storing used EV batteries in enclosed structures. The first-notice rule text required enclosed buildings to meet specified structural conditions and imposed requirements concerning pile size, fire-rated separation, access, fire detection and suppression, ceiling clearance, and, for sites storing more than 5,000 kilograms of used EV batteries, battery storage plans, emergency response, and recordkeeping. Following first notice, IEPA and the other participants proposed revisions addressing building conditions, storage configurations and heights, ventilation, runoff containment, and the contents and implementation of the battery storage plan. The Board has considered those revisions in the context of the record developed in this proceeding.

The Board finds that the revisions to subsection (a) clarify that the requirements apply to an owner or operator of a battery storage site that stores used EV batteries within buildings. The Board restores subsection (a) and revises its numbering following the blank subsection designation in PC 2. In subsection (b)(1), the Board replaces the requirement to "maintain" all windows and doors with a requirement that the building "have" all windows and doors in working order "at all times" and be secured against unauthorized access. The Board finds that this language more directly describes the required condition of the building and provides a clear, enforceable requirement. The Board retains the requirements that the building be fully enclosed, have a roof and sides impermeable to precipitation, and not be a single-family home or other residential building. The Board concludes that these requirements are sufficiently clear and are supported by the record concerning the need to limit indoor battery storage to structures capable of providing the physical and fire-safety protections contemplated by the rule. *See* Tr.1 at 73-74; PFA 1 at 17; Supp. at 7-8.

The Board retains the requirement that used EV batteries stored indoors be confined to rooms no greater than 900 square feet in area and retains the requirements for fire-rated walls and ceilings and separation between piles and other building areas. The Board finds that the record establishes that the 900-square-foot limitation is intended to limit the size of the room in which used EV batteries are stored, while permitting one or more piles within that room subject to the applicable separation requirements. *See* Tr.1 at 124-26; PFA 1 at 24-25; Supp. at 18.

The Board retains the requirements for fire detection, automatic sprinkler protection, ventilation, and independent access and egress, while making the revisions discussed below. OSFM recommended adding language to Section 1220.210(c)(4) to require an air-aspirating smoke detector system be installed in accordance with NFPA 72. PC 1 at 3-4. OSFM explained that specifying NFPA 72 would establish a nationally recognized standard for installation of the required detection system and provide greater clarity concerning the design and installation of the system. *Id.* IEPA stated that it had no objection to this addition. PFA 2 at 23. The Board agrees that requiring installation of the smoke detection system in accordance with NFPA 72 provides greater specificity and consistency in implementation of the proposed rules. Additionally, the Board will incorporate NFPA 72 (2025) by reference in Section 1220.120.

In subsection (c)(5), regarding the automatic sprinkler system requirement, the Board adds the OSFM recommendation that the sprinkler system be "designed and installed based on an analysis performed by a Fire Protection Engineer, registered professional with expertise in fire protection engineering, or similarly qualified individual." PC 1 at 4. OSFM explains this requirement provides greater assurance that the sprinkler system is appropriately designed for the

hazards associated with used EV battery storage and to avoid reliance on a system designed for a lower-hazard occupancy. *Id.* IEPA's response to the Board's economic and technical questions acknowledges that this requirement was among the professional-skill requirements proposed by OSFM. PFA 1 at 8. The Board finds that requiring an appropriately qualified individual to analyze the sprinkler system provides additional specificity concerning the design basis for the required automatic sprinkler system and is supported by the record.

The Board finds that the record supports the addition of runoff-capture and disposal requirements proposed by IEPA under subsection (c)(6). IEPA states that the new requirement would explicitly require storage rooms to be capable of capture and disposal of runoff generated from any used EV battery fire, explosion, thermal runaway, deflagration, or other damage, or firefighting activities. PC 2 at 8-9. IEPA explained that the runoff-capture provisions were adapted from principles in NFPA 855 and are intended to prevent contaminated firefighting water from reaching surface water or groundwater, including contaminants such as heavy metals and PFAS. Tr.1 at 35-37; PFA 1 at 9; PC 2 at 8-9. The Board finds that the requirement appropriately addresses an environmental consequence of the fire and thermal events otherwise regulated by this Section and provides a necessary complement to the fire-protection requirements. The record supports these requirements as measures intended to detect a fire or other hazardous event, limit the development or spread of fire and dangerous gases, and provide appropriate protection for the indoor storage configuration. *See* PC 1 at 3-5; PFA 1 at 6-7.

In subsection (c)(8), the Board replaces the former two-foot ceiling clearance requirement with different height limits for used EV batteries stored with whole-room sprinkler systems, and on racks with per-rack fire suppression. The record reflects that OSFM proposed limiting storage to one pallet height to facilitate fire protection and firefighting and to limit the fire load. *See* PC 1 at 3-4. The Board questioned whether a fixed clearance measured from the ceiling was appropriate for buildings of substantially different heights. *See* Tr.1 at 79-92; PFA 1 at 17-18. IEPA subsequently proposed height limits based on the type of fire-protection measure used, i.e. whole-room sprinkler systems or racks with per-rack fire suppression that permits greater storage heights. *See* Supp. at 8-10; PFA 2 at 21-22. IEPA specifies a maximum storage height of five feet for storage protected by a whole-room sprinkler system, including the height of a pallet if used, and permits rack storage with per-rack fire suppression up to eight feet below the ceiling, subject to a maximum rack-storage height of 35 feet. PC 2 at 7. The Board finds that this approach appropriately relates storage height to the applicable fire-protection system while preserving a controlled rack-storage configuration supported by the record.

The Board has considered OSFM's recommendation that used EV batteries not be stored on racks. PC 1 at 3. However, IEPA subsequently stated that it did not oppose rack storage when accompanied by appropriate fire-safety measures, including per-rack fire suppression. PFA 2 at 21-22. IEPA further explained that the FM Global provisions cited by OSFM concern defective batteries, while Part 1220 is intended to address used EV batteries that are not damaged or defective. *Id*. Because subsection (c)(8)(B) establishes a specific rack-storage configuration and associated suppression and height requirements, the Board finds that a categorical prohibition on rack storage is not supported by the record. The Board finds that retaining rack storage under the specified conditions is consistent with the record and avoids a conflict between a categorical rack-storage prohibition and the provisions expressly governing rack storage.

For sites storing more than 5,000 kilograms of used EV batteries, the Board retains subsection (d)'s requirement for a battery storage plan developed in consultation with the local fire department and the associated requirements concerning storage arrangement, aisle spacing, clearances, firefighting access, availability of the plan, and certification. The Board changes "adhered to" to "complied with" to more clearly state the regulated party's obligation and changes the cross-reference from Subpart E to Subpart C to conform the provision to the rule's recordkeeping and reporting structure. The Board also uses "the owner or operator" consistently in subsection (d). These changes improve clarity without altering the substantive purpose of the provision.

The Board also changes the title of Section 1220.210 from "Storage of Used EV Batteries Within Buildings" to "Indoor Storage." The revised title more concisely and clearly identifies the subject of the Section and is easier to understand. The Board finds that the revised title is non-substantive and does not alter the scope or requirements of the Section.

Taken as a whole, the revisions to Section 1220.210 clarify the scope and operation of the indoor-storage requirements, resolve the ambiguity concerning the 900-square-foot limitation, replace the former ceiling-clearance requirement with storage-height limits tied to the applicable fire-protection configuration, clarify the treatment of rack storage, require installation of the air-aspirating smoke detection system in accordance with NFPA 72, and address capture of contaminated runoff from fire and related events. The Board finds that the revised requirements are sufficiently clear, technically supported by the record, and responsive to the concerns raised during the proceeding.

Section 1220.215 Outdoor Storage

Section 1220.215 establishes requirements for the outdoor storage of used EV batteries to reduce the risk of fire, thermal runaway, explosion, and resulting environmental impacts. This section requires outdoor batteries to be stored in enclosed, non-combustible or purpose-designed containers, on concrete or asphalt pads, with specified separation distances from other containers and potential exposure hazards. It also requires appropriate emergency access and prohibits placement beneath certain electrical power lines.

For sites storing 5,000 kilograms or more of used EV batteries, subsection (c) additionally requires a battery storage plan developed in consultation with the local fire department, compliance with the contingency planning and emergency response requirements of Section 1220.220, and applicable recordkeeping and reporting requirements. IEPA explained that the outdoor-storage provisions, including container spacing, concrete or asphalt pads, and runoff capture, are based on principles adapted from NFPA 855 and are intended, in part, to minimize the potential for contaminated firefighting water to reach surface or groundwater. PFA 1 at 9; Tr.1 at 35-37.

The Board also changes the title of Section 1220.215 from "Storage of Used EV Batteries Outdoors" to "Outdoor Storage." The revised title more concisely describes the subject matter addressed by the Section and does not alter any substantive requirement.

During first notice, participants raised questions concerning the technical basis and clarity of the outdoor-storage requirements. In particular, the Board asked about the 5,000-kilogram threshold, the scope of the rules, emergency access and egress, the materials and availability of outdoor storage containers, and whether the rule should expressly address disposal of captured fire runoff. IEPA clarified that the threshold-specific requirements apply at 5,000 kilograms or more and that the rules are intended to regulate whole, used EV batteries rather than components or shredded batteries. PFA 1 at 5-6, 18-19, 24. IEPA further stated that commercially available fire-resistant containers can accommodate the volumes permitted by the spacing requirements and that NFPA 855 does not prescribe a particular container material. PFA 1 at 25. With respect to runoff, IEPA agreed that captured battery-fire runoff must be disposed of in compliance with applicable Illinois regulations, including 35 Ill. Adm. Code 309. PFA 1 at 25-26.

The record also resulted in several revisions to Section 1220.215. IEPA added to subsection (b)(1) a requirement that containers allow venting to prevent the buildup of dangerous gases. It replaced "a minimum of" with "at least" in the 10-foot and 20-foot separation requirements and removed references to "whole or shredded" batteries from the factors to be considered in the storage plan after clarifying that Part 1220 does not regulate storage of shredded batteries. PFA 1 at 24. IEPA also proposed an express requirement that outdoor containers be capable of capturing runoff generated by a used EV battery fire, explosion, thermal runaway, deflagration, other damage, or firefighting activities. PC 2 at 8-9. The Board retains that requirement and further clarifies that captured runoff must be disposed of in compliance with all applicable Illinois administrative rules. This clarification is consistent with IEPA's response that disposal of battery-fire runoff must comply with applicable Illinois requirements and its agreement to consider clarifying that requirement in the rule. PFA 1 at 25-26. The Board also reorganized and clarified subsection (c)(1) by placing the required certification in a separate subparagraph and replacing "adhered to" with "complied with." Finally, the Board has corrected the cross-reference to Subpart C.

These substantive requirements, as amended, address identifiable fire and environmental risks associated with outdoor storage and are supported by the technical information and fire-safety principles identified by IEPA, including the need for containerization, separation, emergency access, and containment of potentially contaminated fire-fighting runoff. The record also demonstrates that the Board's questions concerning the scope and clarity of the provision have been addressed. In particular, the revisions clarify the required container characteristics, expressly address venting and runoff capture, and make clear that captured runoff must be handled in accordance with applicable Illinois requirements. The revisions concerning the storage plan likewise improve clarity by distinguishing the required contents of the plan from the separate certification requirement.

The Board also finds that the emergency access requirement, including two sufficiently separated access points, provides a meaningful means of addressing emergency ingress and egress, particularly when considered with the required storage plan and local fire department consultation. IEPA did not object to further consideration of standards concerning remote egress, but the record does not require incorporation of a particular external standard into this section to make the provision sufficiently clear for second notice. PFA 1 at 18-19.

Accordingly, the Board finds that Section 1220.215, with the amendments discussed above, is sufficiently clear, technically supported, and responsive to the concerns raised during the rulemaking.

Section 1220.220 Contingency Planning and Emergency Response

Section 1220.220 establishes contingency planning and emergency response requirements for used EV battery storage sites where more than 5,000 kilograms (11,023 pounds) of used EV batteries are located at any one time. This Section requires development of a contingency plan in consultation with the local fire department and specifies requirements addressing fire and runoff hazards, emergency response actions, evacuation procedures, emergency equipment, emergency coordinators, plan maintenance, Agency notification, and incident reporting. During the hearing, the Board asked whether contingency planning should also involve a local emergency planning committee (LEPC) for facilities subject to the federal Emergency Planning and Community Right-to-Know Act (EPCRA). IEPA initially explained that the proposed rules did not supersede or exempt facilities from applicable EPCRA requirements and agreed to consider LEPC involvement. Tr.1 at 93-94; PFA 1 at 18. IEPA subsequently proposed adding consultation with a LEPC for facilities subject to EPCRA. Supp. at 11-12. The Board retains that addition.

The Amended Proposal also added "or explosion" to the circumstances requiring review and amendment of the contingency plan and to the circumstances requiring immediate Agency notification. These changes respond to the Board's questions concerning whether the contingency plan and notification requirements should expressly address explosions that may occur without a fire. Tr.1 at 98-99; PFA 1 at 19. IEPA agreed that an explosion without a fire should be reported and explained that a report is required when an event activates an alarm or fire-suppression system or, in the absence of that activation, when there is evidence of an explosion, such as damage to containers, buildings, or access points. PFA 1 at 19. IEPA also explained that it intends to use the same incident reporting mechanism used for used or waste tire regulations under Part 848, and therefore retained the proposed language in subsections (e) and (f). Supp. at 13.

The Board makes several additional non-substantive revisions to improve clarity and organization, including changing "Owners and operators" to "The owner or operator," revising "such as" to "like," separating the certification requirement from the requirement that the contingency plan be maintained and made available to the Agency, and revising the language concerning compliance with the contingency plan. The Board finds that these revisions do not alter the substance of the requirements. The Board further finds that the addition of LEPC consultation for facilities subject to EPCRA and the express inclusion of explosions in the contingency plan review and Agency notification requirements address issues raised during the proceeding and improve the clarity and completeness of the Section. The record provides an adequate technical and regulatory basis for Section 1220.220, as amended.

Section 1220.225 Removal Performance Standard

Section 1220.225 establishes performance standards for removal of used EV batteries from storage sites subject to the battery removal cost estimate requirements of Section 1220.620. This Section requires removal activities to minimize the need for further maintenance or remediation, remove all used EV batteries and residues, safely transport recyclable batteries to a battery recycling facility and non-recyclable material to a disposal facility, and protect human health during and after removal.

The Amended Proposal deletes the word "therefrom" from subsection (b). The Board finds that this revision is non-substantive. No party or participant subsequently proposed substantive changes to this Section.

Section 1220.500 Applicability

Section 1220.500 establishes the applicability of Subpart C to used EV battery storage sites where 5,000 kilograms (11,023 pounds) or more of used EV batteries are stored at any one time. The Amended Proposal changes "located" to "stored," more precisely describing the activity regulated by this Subpart.

The Board makes one additional non-substantive revision, changing "The owners and operators" to "The owner or operator" for consistency with the terminology used throughout Part 1220. The Board finds that these revisions do not alter the applicability or substantive requirements of the Section. No participant raised an issue specifically concerning Section 1220.500 during first notice.

Section 1220.505 Records

Section 1220.505 establishes records that an owner or operator of a used EV battery storage site must maintain, including Battery Tracking Receipts, Weekly Battery Records, and Annual Battery Summaries. This Section also requires those records to be maintained in the form and format prescribed by the Agency and kept on site for inspection and photocopying during normal business hours. These recordkeeping requirements are intended to provide the Agency with information necessary to oversee receipt, storage, and movement of used EV batteries at regulated storage sites.

During the first hearing, the Board asked whether the recordkeeping requirements should include information concerning battery chemistry. IEPA responded that chemistry information should be included if available and indicated that it would review the issue. Tr.1 at 100-101; PFA 1 at 19. The Board also asked whether subsection (b) was intended to refer to "subpart (a)" or "subsection (a)," and IEPA confirmed that the reference should be to subsection (a). Tr.1 at 101; PFA 1 at 20. The Board therefore revises the reference to accurately identify the records listed in subsection (a).

IEPA also explained that it was developing forms for registration and records under Part 1220 and intended to accept both electronic and paper submissions, with paper submissions available until an electronic portal was established. Tr.1 at 44, 114-115; PFA 1 at 11, 22. The Board finds that this explanation provides sufficient context for the Agency-prescribed form and

format requirement and that the requirement is sufficiently clear.

The Amended Proposal changes "in accordance with" to "in compliance with" in subsections (a)(1) through (3). The Board finds this change is non-substantive and does not alter the recordkeeping requirements.

The Board also asked IEPA to consider requirements involving Material Safety Data Sheets (MSDS). IEPA agreed to consider the requirements. Tr.2 at 16. IEPA subsequently proposed adding "Any applicable Material Safety Data Sheets for used EV batteries stored at the used EV battery storage site" to the records required under subsection (a). PC 2 at 8. The Board finds that the proposal is responsive to the Board's concern that records maintained at a used EV battery storage site should include available safety information relevant to the batteries being stored. The use of "applicable" also limits the requirement to MSDSs that pertain to the used EV batteries stored at the site; it does not require an owner or operator to create or obtain an MSDS when no applicable document exists.

The Board makes no other substantive changes to Section 1220.505. The Board finds that the record supports the Section's recordkeeping requirements and the amendments made during the proceeding.

Section 1220.510 Battery Tracking Receipts

Section 1220.510 establishes receipt and recordkeeping requirements for used EV batteries received at and transported from a used EV battery storage site. The requirements are intended to document the movement of used EV batteries to and from the storage site, including the transporter, date, quantity or weight, and destination information. As proposed in the first-notice rule text, subsection (a) required the owner or operator to provide and retain a receipt when batteries were received, subsection (b) required the transporter to provide and retain a receipt when batteries were transported from the site, subsection (c) required the owner or operator to maintain records of receipts and dispositions, and subsection (d) required the owner or operator to retain specified information when batteries were removed from a vehicle at the site.

During the first hearing, the Board asked whether the transporter referenced in Section 1220.510 was intended to be a RCRA transporter or simply the physical transporter of the batteries and noted that the proposed requirements appeared similar to a manifest system. Tr.1 at 117-118. IEPA subsequently clarified that the rule is intended to address the physical transporter and does not regulate transportation. Supp. at 15-16; PFA 2 at 7-8. IEPA explained that applicable U.S. Department of Transportation requirements may apply to transportation, but Part 1220 addresses only the transfer of batteries to and from storage sites and the storage site's recordkeeping of those transfers. *Id*. Consistent with that clarification, IEPA's amended proposal removed the references to a special waste hauler permit number and transporter registration number and added battery chemistry information, or, if unavailable, the make, model, and year of the vehicle from which the battery was removed. The Board finds these revisions appropriately clarify that Section 1220.510 establishes recordkeeping requirements for storage sites rather than an independent transportation program.

The Board also sought clarification concerning how an owner or operator would obtain the make, model, and year of the vehicle when that information was not provided by the transporter. At the second hearing, IEPA explained that batteries have identifying information, such as a serial number or other identifying marker, that may allow a storage site to determine the applicable vehicle information, including through automotive information databases used by recyclers. Tr.2 at 24-25. IEPA agreed that the rule should clarify the responsibility of the storage site in those circumstances. *Id*. IEPA subsequently proposed language making it the duty of the owner or operator to retrieve the make, model, and year information when it is not readily available from the transporter. PC 2 at 11-12. The Board finds, however, that the proposed language in subsections (a) and (b) could be read ambiguously because subsection (b) requires the transporter to provide the receipt while separately assigning a duty to the owner or operator to obtain the vehicle information. Accordingly, the Board revises the language to make clear that the transporter remains responsible for providing the receipt, while the owner or operator is responsible for obtaining the make, model, and year information when that information is not provided by the transporter.

The revised provisions provide a means of tracking used EV batteries received at and removed from storage sites without imposing transportation requirements beyond those otherwise applicable under federal or state law. The revisions also appropriately identify the owner or operator's responsibility to obtain vehicle information when it is not readily available from the transporter.

Section 1220.515 Weekly Battery Record

Section 1220.515 requires an owner or operator of a used EV battery storage site to maintain a Weekly Battery Record documenting the receipt and disposition of used EV batteries. The record must identify the site and include information concerning batteries received at and transported from the site, batteries removed from vehicles on site, batteries recycled at the site, and batteries remaining at the site. Subsection (c) requires the entries to be completed by the end of each operating week. The amended proposal removed the phrase "at a minimum" from subsection (a) and "but not limited to" from subsection (b), removed transporter registration numbers, and added battery chemistry information or, if unavailable, the make, model, and year of the vehicle from which the battery was removed.

At the first hearing, the Board asked whether the information in subsection (b)(1), (b)(2), (b)(4), and (b)(5), which is described by reference to the "operating day," must be recorded for each operating day of the week to develop the Weekly Battery Record. IEPA confirmed that daily operating-day data is to be used to compile the weekly record. The Board also asked why "operating day" was not used in subsection (b)(3), concerning batteries removed from vehicles on site. IEPA agreed that "operating day" should apply to subsection (b)(3) as well. Tr.1 at 103; PFA 1 at 20. Accordingly, the Board revises subsection (b)(3) to specify that the information concerning batteries removed from vehicles on site must be recorded for each operating day.

The Board also requested that the recordkeeping provisions require an owner or operator to obtain make, model, and year information for a used EV battery when that information is not

readily available from the transporter. IEPA proposed corresponding language in Sections 1220.510, 1220.515, and 1220.520. PC 2 at 11-12. The Board finds that the language proposed for Section 1220.515 should be revised to more clearly state when the owner or operator must obtain this information. The proposed language in subsections (b)(1) and (b)(3) states that "[i]t shall be the duty of the owner or operator to retrieve" the make, model, and year information, but does not clearly identify the circumstances triggering that duty. At the second hearing, IEPA explained that the intent was for the owner or operator to obtain the information when it is not provided by the transporter and agreed that the rule should clarify that responsibility. Tr.2 at 24-25. Accordingly, consistent with the clarification made to Section 1220.510, the Board revises subsections (b)(1) and (b)(3) to provide that, unless the make, model, and year information is readily available from the transporter, the owner or operator must obtain the information.

With these revisions, the Board finds that Section 1220.515 establishes a clear and workable weekly recordkeeping requirement and that the record supports the information required to be maintained. The revisions make the operating-day reporting period consistent throughout subsection (b) and clarify the owner or operator's responsibility for obtaining vehicle information.

Section 1220.520 Annual Battery Summary

Section 1220.520 requires the owner or operator of a used EV battery storage site to submit an Annual Battery Summary to the Agency for each calendar year. The summary must identify the storage site and reporting year and provide information concerning the annual receipt and disposition of used EV batteries, including the weight of batteries received, removed from vehicles, recycled on site, stored at the site, and remaining in storage at the end of the calendar year. The Agency's amended proposal changes the deadline for submitting the Annual Battery Summary from January 31 to February 1 of each year.

The Board also requested that the recordkeeping requirements include a specific provision requiring owners or operators to obtain make, model, and year information for used EV batteries when possible. PC 2 explains that IEPA's proposed amendments responding to this request apply to Sections 1220.510, 1220.515, and 1220.520. PC 2 at 11-12. Although IEPA identified Section 1220.520 as part of this recordkeeping framework, the proposed text for Section 1220.520 contains no corresponding substantive amendment. The Board therefore makes no additional change to Section 1220.520 based on this request. However, the Board made a non-substantive change by removing the phrase "but not limited to" in subsection (b), which is intended to remove wordiness and maintain consistency with the changes proposed to other sections of the rules.

The Board finds that the record supports the reporting requirements in Section 1220.520 and that changing the submission deadline from January 31 to February 1 is clear and appropriate.

Section 1220.525 Certification

Section 1220.525 establishes certification requirements for records, summaries, and

reports submitted to the Agency. It requires those documents to be signed by a person designated by the owner or operator as responsible for preparing and reviewing the documents in the regular course of business and requires the signer to certify the accuracy and completeness of the submission, while acknowledging the penalties under Section 44 of the Environmental Protection Act for knowingly submitting false information.

The amended proposal changes "his or her duties" to "that person's duties" to clarify the reference to the designated person. PC 2 subsequently moved subsection "b)" from its location preceding the certification language in first notice to a position immediately before the certification statement. The Board restores the designation "b)" to the beginning of the second subsection, before the certification requirement, to maintain the structure of the section. The Board makes no substantive changes to the certification language.

No participant raised a substantive comment concerning Section 1220.525. The Board finds that the section clearly identifies who must sign Agency submissions and the certification that must accompany those submissions.

Section 1220.530 Retention of Records

Section 1220.530 requires owners and operators of used EV battery storage sites to retain copies of all records required under this Subpart for three years and to make those records available at the storage site during normal business hours for Agency inspection and photocopying. The provision is intended to ensure that the Agency can review records documenting the receipt, disposition, and storage of used EV batteries after the records are created and submitted or maintained under the preceding recordkeeping requirements.

The amended proposal changes "during the normal business hours of the operator" to "during the normal business hours of operation." PFA 2 further explains that IEPA intends for reported data to be verified or audited through the Agency's general inspection powers and the requirements of Sections 1220.205, 1220.210, 1220.215, 1220.220, 1220.505, and 1220.530. PFA 2 at 10. The Board finds that the three-year retention period and Agency access to the records provide a clear mechanism for maintaining and reviewing the information required by this Subpart.

The Board revises the provision to delete "of operation" from the phrase "during the normal business hours of operation," leaving "during the normal business hours." The Board also adds "used EV" to clarify that the retention requirement applies to records maintained by used EV battery storage sites. Finally, the Board places the requirements in active voice to be consistent with the other provisions of the proposed rules. The Board finds these revisions appropriate to clarify the provision without changing the three-year retention period or the Agency's authority to inspect and photocopy the required records.

Section 1220.600 Scope and Applicability

Section 1220.600 establishes the scope of the proposed financial assurance requirements under Subpart D and identifies the used EV battery storage sites that are exempt from those

requirements. Subsection (a) requires an owner or operator of a used EV battery storage site to comply with the Subpart before storing any used EV batteries, except for sites exempted under subsection (b). Subsection (b) exempts sites where the real estate is owned by the United States or one of its agencies, the State of Illinois or one of its agencies, or a unit of local government.

The amended proposal changes "except to the extent" to "as" in subsection (a). The Board further revises subsection (a) to identify directly the exemption in subsection (b), replacing "As exempted by subsection (b), owners and operators" with "The owner or operator" and adding "except for the sites exempted under subsection (b)" at the end of the provision. The Board also revises subsection (b) to identify the exempt sites as those "where the real estate of the site is owned by the following," and deletes former subsection (c), incorporating the ownership-based exemptions previously stated in subsection (c) into subsection (b). These changes consolidate the exemptions in subsection (b) and make clear that subsection (b) contains the exemptions referenced in subsection (a).

No participant raised a substantive comment concerning Section 1220.600. The Board finds that the revised structure clearly identifies the owners or operators subject to the Subpart and the sites exempt from its requirements.

Section 1220.605 Maintaining Financial Assurance

Section 1220.605 requires the owner or operator of a used EV battery storage site to maintain financial assurance in an amount at least equal to the current approved removal cost estimate under Section 1220.620. The provision also requires the owner or operator to increase the amount of financial assurance within 60 days if the removal cost estimate increases or the value of a trust fund established under Section 1220.640 decreases. The amended proposal further provides that the financial assurance requirement continues until the owner or operator is released from the requirement under Section 1220.610.

At the first hearing, the Board asked whether the removal cost estimate for financial assurance includes remediation associated with a release, spill, or fire debris necessary to meet Tiered Approach to Corrective Action Objectives (TACO) requirements. IEPA explained that the financial assurance is intended to cover removal and other closure activities, while remediation following a fire or other release would be addressed through an enforcement action concerning TACO requirements. Tr.1 at 103-106; PFA 1 at 20. The Board finds that this explanation supports limiting the financial assurance requirement to the removal and closure activities addressed by this Subpart rather than remediation of pollution resulting from a release.

The amended proposal also changes "pursuant to" to "under" in the references to Sections 1220.620 and 1220.640. PC 2 moved the designation "b)" from its original location to a position before paragraphs (1) and (2). The Board restores the designation "b)" to the beginning of the second subsection, consistent with the structure of the first-notice rule text. The Board also retains the language establishing that the financial assurance requirement continues until the owner or operator is released from that requirement under Section 1220.610. IEPA does not oppose these changes. Tr.1 at 107; PFA 1 at 20.

The Board finds that Section 1220.605 clearly establishes the amount of financial assurance that must be maintained, the circumstances requiring an increase in financial assurance, and the point at which the obligation ends.

Section 1220.610 Release of Financial Institution

Section 1220.610 establishes the circumstances under which the Agency must release a trustee, bank, surety, or other financial institution from its financial assurance obligation. The Agency must release the financial institution as soon as practicable after the owner or operator submits a written request and demonstrates either that alternate financial assurance has been substituted in an amount equal to or greater than the current removal cost estimate, without counting the amounts to be released, or that the Agency has released the owner or operator from the requirements of this Subpart following completion of removal.

The subsequent amended and revised rule text makes no substantive changes to Section 1220.610. No participant raised a substantive comment concerning this section. The Board revises subsection (b) to clarify that the Agency may release the financial institution after the owner or operator of the used EV battery storage site has been released from the requirements of this Subpart following completion of removal. This change conforms the terminology in subsection (b) to the subject matter of the rule.

The Board finds that Section 1220.610 clearly identifies the circumstances under which financial assurance may be released and provides an appropriate mechanism for protecting the continuity of financial assurance when alternate assurance is substituted.

Section 1220.615 Application of Proceeds and Appeal

Section 1220.615 establishes the Agency's authority to enforce financial assurance instruments, provides for Board orders concerning the modification of removal plans and application of financial assurance proceeds, and identifies Agency actions concerning financial assurance that may be appealed to the Board. IEPA's Amended Proposal revised subsection (c) to provide that the listed Agency actions may be appealed as an "Agency Final Decision under" 35 Ill. Adm. Code 105, rather than as a "permit denial pursuant to" those provisions, and added a sixth appealable action for the Agency's refusal to approve a written estimate of removal costs.

At the first hearing, the Board questioned the reference to a "permit denial," noting that the decisions identified in subsection (c) are not permit denials. IEPA agreed that the decisions should instead be characterized as final actions. The Board also asked whether other Agency determinations, such as a determination that a site meets the 5,000-kilogram threshold, could be appealed. IEPA indicated that it would review whether these situations could arise. Tr.1 at 118-119. IEPA subsequently proposed corresponding appeal language in Section 1220.205(j) and retained the revised language in Section 1220.615(c). Supp. at 16-17.

IEPA further confirmed that it considers the six actions identified in Section 1220.615(c) appealable under 35 Ill. Adm. Code 105 and states that this approach is consistent with appeal provisions in other Parts of the Illinois Administrative Code. PFA 2 at 19. The Board finds that

replacing the reference to a "permit denial" with an "Agency Final Decision" accurately describes the actions identified in subsection (c). The Board also finds the addition of the refusal to approve a written estimate of removal costs supported by the record because that decision directly affects the financial assurance requirements established under this Part.

The Board further revises subsection (b) to replace "order that" with "the" and revises subsection (c) to clarify that an owner or operator may appeal the specified Agency actions to the Board as an Agency Final Decision. These changes clarify the operative language without changing the substantive rights or obligations established by the provision. The Board finds that Section 1220.615, as revised, clearly identifies the financial assurance decisions subject to appeal.

Section 1220.620 Removal Cost Estimate

Section 1220.620 establishes the requirements for calculating and submitting the estimated cost of removing the maximum number of used EV batteries that may be accumulated at a site. It requires an owner or operator to submit the estimate to the Agency by February 1 of each year, revise the estimate when a change would increase the removal cost, base the estimate on the costs of battery removal in the area where the site is located, include the costs necessary to remove all used EV batteries in compliance with this Part, and allow the estimate to be reduced when specified removal activities have been completed.

At the first hearing, the Board asked whether the "current approved removal cost estimate" referenced throughout the financial assurance provisions would be subject to Agency review and written approval and how an owner or operator would determine the costs of battery removal. IEPA explained that it intends to review and approve removal cost estimates and proposed language requiring Agency review and written approval. IEPA further explained that an owner or operator would determine the estimate based on site-specific information and local costs for battery transport and removal, using the highest total number of used EV batteries stored at the site during a given year. Tr.1 at 108-110; PFA 1 at 20-21. The Board also questioned whether the proposed timing was sufficiently clear, and IEPA agreed to review the language for clarity. Tr.1 at 111-12.

The record also identified a potential inconsistency between the removal cost estimate requirement and the annual registration requirement under Section 22.23f(c) of the Act. The Board noted that the statutory February 1 registration requirement applies to sites meeting or exceeding the 5,000-kilogram threshold, while the removal cost estimate requirement generally applies to sites regardless of size. IEPA agreed to delete the requirement that the removal cost estimate be submitted with the annual registration and to make a corresponding change to Section 1220.205(a)(6)(A). PFA 1 at 21-22. The Board finds that these changes appropriately separate the removal cost estimate requirement from the annual registration requirement.

IEPA's Amended Proposal also added a provision addressing an Agency rejection of a written removal cost estimate. The Board restructures subsection (a) to designate the requirement to use Agency-prescribed forms as subsection (a)(1) and the rejection provision as (a)(2), providing a complete numbering sequence within subsection (a). The Board further

revises subsection (a)(2) to provide that, if the Agency rejects a written estimate, the owner or operator may submit a corrected estimate within 30 days of the rejection notice or appeal the Agency decision to the Board under Section 1220.615(c). This language clarifies that correction of a rejected estimate is not the only option available to an owner or operator and conforms the appeal provision to Section 1220.615(c).

The Board finds that Section 1220.620, as revised, clearly establishes the timing, content, and methodology for removal cost estimates and provides a mechanism for Agency review and owner or operator response to a rejected estimate. The Board finds the record supports the removal-cost requirements and the revisions discussed above.

Section 1220.625 Mechanisms for Financial Assurance

Section 1220.625 identifies the financial assurance mechanisms that an owner or operator may use to satisfy the financial assurance requirements for removal of used EV batteries. The provision identifies a trust fund, a surety bond guaranteeing payment, and a letter of credit, and allows the use of a combination of mechanisms to the extent authorized under Section 1220.630.

At the first hearing, the Board asked whether the first "may" in subsection (a) should instead be "must" to clarify that an owner or operator is required to use one of the listed mechanisms, rather than being permitted to provide financial assurance through another means such as self-insurance or a corporate guarantee. IEPA agreed that "may" should be changed to "must," explaining that an owner or operator must use one of the listed mechanisms, or multiple mechanisms as permitted under Section 1220.630. IEPA also agreed that the reference to Section 1220.640 should be changed to Section 1220.630 because Section 1220.630 addresses the use of multiple financial assurance mechanisms. Tr.1 at 115-116; PFA 1 at 22-23. The Amended Proposal incorporates these changes.

The Board also restructures the final sentence concerning Agency-prescribed forms as subsection (d). This change avoids leaving the sentence as an unnumbered provision following subsections (a) through (c) and clearly identifies the requirement that financial assurance mechanisms be submitted on forms prescribed by the Agency. The Board finds this organizational change appropriate and makes no substantive change to the forms requirement. The record further indicates that IEPA is revising its financial assurance forms and intends to accept submissions electronically and on paper, although paper submissions will be required until an electronic portal is available. Tr.1 at 114-115; PFA 1 at 22.

The Board finds that Section 1220.625, as revised, clearly identifies the financial assurance mechanisms available to an owner or operator, requires use of one or more of the mechanisms authorized under Section 1220.630, and clearly states the requirement to use Agency-prescribed forms.

Section 1220.630 Use of Multiple Financial Mechanisms

Section 1220.630 establishes how an owner or operator may use more than one financial assurance mechanism at a site. The section allows an owner or operator to combine the

mechanisms identified in Section 1220.625, requires the mechanisms to comply with the requirements applicable to each mechanism, and provides that the combination, rather than any single mechanism, must provide financial assurance in an amount at least equal to the current approved removal cost estimate. The section also allows a trust fund to serve as a standby trust fund for a surety bond or letter of credit and permits a single standby trust fund to be established for two or more mechanisms.

The Amended Proposal and subsequent revisions make no changes to Section 1220.630. The Board revises the provision for clarity by deleting the sentence that separately identifies the three mechanisms listed in Section 1220.625 and by specifying the type of mechanism covered by each cross-reference to Sections 1220.640, 1220.645, and 1220.650. The Board also changes the final cross-reference from Sections 1220.640, 1220.645, and 1220.650 to Section 1220.625, consistent with the section's identification of the mechanisms that may be used to provide financial assurance. These changes clarify the relationship among the provisions without changing the mechanisms available or the amount of financial assurance required.

The Board finds that Section 1220.630 clearly establishes the circumstances under which multiple financial assurance mechanisms may be used and how those mechanisms operate together to satisfy the financial assurance requirement.

Section 1220.635 Use of a Financial Mechanism for Multiple Sites

Section 1220.635 allows an owner or operator to use a financial assurance mechanism for more than one used EV battery storage site. The provision requires evidence submitted to the Agency to identify each site covered by the mechanism and the amount of funds assured for each site. It also requires the total amount available through the mechanism to be at least equal to the amount that would be available if separate financial assurance mechanisms had been established for each site and sufficient to remove used EV batteries from all sites covered by the mechanism.

The Amended Proposal and subsequent revisions make no changes to this section. The Board revises the reference to a "financial assurance mechanism specified in this Subpart" to instead refer to a "financial assurance mechanism specified in Section 1220.625." Section 1220.625 identifies the financial assurance mechanisms that may be used to provide financial assurance under this Part. The Board finds that this more specific cross-reference clarifies that the provision addresses the use of one of the mechanisms identified in Section 1220.625 to cover multiple sites, consistent with the purpose of Section 1220.635 and distinct from Section 1220.630, which addresses the use of multiple mechanisms.

No participant raised a substantive comment concerning Section 1220.635. The Board finds that the section clearly establishes the requirements for using a financial assurance mechanism for multiple sites and that the revised cross-reference improves clarity without changing the substantive requirements of the provision.

Section 1220.640 Trust Fund

Section 1220.640 establishes the requirements for using a trust fund as a financial assurance mechanism for the removal of used EV batteries. The section addresses the qualifications of the trustee, the required terms and documentation for the trust, the timing and amount of payments into the trust, annual valuation of the trust, adjustments when the removal cost estimate changes, release of excess funds, and reimbursement of removal expenses. The Amended Proposal makes several clarifying changes, including replacing "pursuant to" with "under" in subsection (g)(3) and replacing "in accordance with" with "according to" in subsection (h)(2).

The Board also makes several clarifying revisions to the trust fund requirements. In subsection (c), the Board deletes the parenthetical reference to "(c)" when referring to "this subsection." In subsection (d)(8), the Board changes "in" to "equal to" to clarify the amount required for the first payment when a trust is established after use of an alternative financial assurance mechanism. In subsection (e), the Board revises the language concerning the trustee's annual valuation to clarify the timing and submission of the statement confirming the value of the trust fund to the owner or operator and the Agency. The Board also replaces "he or she" with "they" in subsection (g)(2). The Board finds these changes clarify the requirements without changing the substantive obligations concerning establishment, funding, valuation, or release of the trust fund.

The Board revises subsection (g)(3) to provide that the Agency must act "as soon as practicable, but within 120 days" after receiving a request for release of excess trust funds under subsection (g). The Board also revises the provision to state that the Agency must instruct the trustee to release funds as specified by the Agency. The Board retains "as soon as practicable" because it requires prompt Agency action while the 120-day provision establishes a definite outside deadline. The Board finds that this revision clarifies the timing and content of the Agency's instruction without changing the circumstances under which excess funds may be released.

The Board also reorganizes the reimbursement provisions in subsection (h)(2). PC 2 deleted the separate designation for former subsection (h)(3), which addressed withholding reimbursement when the remaining cost of removal exceeds the value of the trust fund. The Board retains the substance of that provision by incorporating it into subsection (h)(2)(B). The Board further places the existing four claim priorities under subsection (h)(2)(C) and redesignates them as subparagraphs (i) through (iv). The Board also makes conforming language changes, including replacing "in accordance with" with "according to" and replacing "such" with "the." These revisions reorganize the reimbursement and priority provisions for clarity without eliminating the substantive requirements concerning withholding reimbursement or the order of payment of claims.

The Board finds that Section 1220.640, as revised, clearly establishes the requirements for a trust fund financial assurance mechanism, including funding, valuation, adjustment, release, and reimbursement. The Board finds that the revisions described above improve clarity and organization without changing the substantive requirements of the trust fund mechanism.

Section 1220.645 Surety Bond Guaranteeing Payment

Section 1220.645 establishes the requirements for an owner or operator to use a surety bond as a financial assurance mechanism for removal of used EV batteries. This section addresses the qualifications of the surety, the required terms of the bond, the requirement for a standby trust fund, the circumstances under which the surety becomes liable, the amount of the bond, increases and decreases in the penal sum, cancellation of the bond, and release of the surety. IEPA's Amended Proposal makes several clarifying changes, including deleting "at a minimum" from subsections (b) and (c), replacing "in accordance with" with "according to" or "in compliance" in several provisions, and replacing "pursuant to" with "under" in subsection (e)(2)(C).

The Board makes several additional clarifying changes. In subsection (a), the Board replaces "satisfy" with "meet" to more directly state that an owner or operator may meet the requirements of this Subpart by obtaining a conforming surety bond. In subsection (c), the Board deletes "at a minimum" to clarify that the bond must contain the identified provisions without suggesting that the listed provisions are merely a minimum set of requirements. In subsection (e)(1), the Board adds "surety" before "bond" to clarify the reference to the surety bond, and in subsection (e)(2)(A), the Board adds "used EV" before "battery storage site" to conform the terminology to the subject matter of this Part. These revisions improve clarity without changing the substantive requirements for using a surety bond.

No participant raised a substantive comment concerning Section 1220.645, and the section was not the subject of discussion at either hearing or in the subsequent filings. The Board finds that the record supports the surety-bond requirements and that the revisions described above clarify the provision without altering the substantive financial assurance obligations.

Section 1220.650 Letter of Credit

Section 1220.650 establishes the requirements for an owner or operator to use an irrevocable standby letter of credit as a financial assurance mechanism for removal of used EV batteries. This section addresses the qualifications of the issuing institution, the required forms and accompanying information, the requirement for a standby trust fund, the circumstances under which the Agency may draw on the letter of credit, the amount of financial assurance required, increases and decreases in the amount of the credit, the term and renewal of the letter of credit, and the circumstances under which the Agency must return the letter of credit for termination. IEPA's Amended Proposal makes several clarifying changes, including replacing "pursuant to the requirements of" with "under," replacing "in accordance with" with "according to" or "in compliance," and making a corresponding terminology change in subsection (e)(2)(C).

The Board makes additional clarifying revisions to subsection (c)(2) and subsection (e)(2). In subsection (c)(2), the Board deletes "at a minimum" to clarify that the information identified in the provision must be included in the letter from the owner or operator accompanying the letter of credit. In subsection (e)(2), the Board deletes "one or more" from the introductory language describing the circumstances under which the Agency may draw on the letter of credit. In subsection (e)(2)(D), the Board reorganizes the existing language concerning

the nonrenewal of the letter of credit to clarify the triggering condition: if the issuing institution notifies the owner or operator and the Agency that the letter of credit will not be extended for another term, and the owner or operator fails to provide additional or substitute financial assurance as required by this Subpart, the Agency may draw on the letter of credit. The Board finds that these revisions clarify the circumstances under which the Agency may draw on the letter of credit without creating a new substantive obligation.

No participant raised a substantive comment concerning Section 1220.650, and the section was not the subject of discussion at either hearing or in the subsequent filings. The Board finds that the record supports the requirements for use of a letter of credit and that the revisions described above improve clarity concerning the information required and the circumstances under which the Agency may draw on the letter of credit.

ECONOMIC REASONABLENESS AND TECHNICAL FEASIBILITY

Section 27(a) of the Act requires the Board to consider whether the proposed rules are technically feasible and economically reasonable. The Board addresses these considerations below.

Affected Facilities

Proposed Part 1220 would apply statewide to all sites that store used EV batteries. SR at 9; TSD at 47. Facilities that store 5,000 kilograms or more of used electric vehicle batteries at one time would have additional requirements under proposed Part 1220. SR at 9. The proposed rules would not apply to facilities that store new, unused batteries. *Id.*

Technical Feasibility

IEPA stated that the proposed rules are technically feasible because they are based on recognized fire-prevention and safety practices for lithium-ion batteries. SR at 10; TSD at 47. In its Technical Support Document, IEPA states that the proposed rules are technically feasible because they are consistent with existing fire codes and fire-safety best management practices and rely on commonly available or commonly used fire-safety measures, including air-aspirated smoke detectors, automatic sprinkler systems, fire barriers, and fully enclosed containers. TSD at 47.

The record also reflects that IEPA consulted with the Morris Fire Chief and an industry expert regarding response protocols and protections for incidents involving used EV batteries. Supp. at 19; PFA 2 at 23-24; Tr.2 at 15-16. IEPA stated that both experts provided input on the proposed requirements, including ventilation requirements intended to address thermal-runaway events. PFA 2 at 23-24.

OSFM separately reviewed the proposed rules and provided recommendations concerning, among other things, state-of-charge limitations, storage configuration and height, detection and suppression systems, explosion protection, and emergency egress. PC 1 at 1-5. OSFM also identified implementation considerations concerning the potential need for

specialized expertise and raised concerns regarding the capability and cost of sprinkler and detection systems appropriate for used EV battery storage. *Id*. at 5.

The record reflects that the proposal draws on existing fire codes, recognized fire-safety practices, and commonly available or commonly used fire-safety measures, while also addressing the particular fire, thermal-runaway, and emergency-response risks associated with used EV battery storage. Additionally, the Board has considered OSFM's comments and made several changes to the proposed rules to incorporate OSFM's recommendations. Thus, based on the entire record, the Board concludes that the proposed rules are technically feasible.

Economic Reasonableness

IEPA stated that the proposed rules are economically reasonable because any associated costs arise from necessary fire safety measures. SR at 11. IEPA further explains that it does not foresee these measures as adding a significant cost or creating an undue burden on people storing used EV batteries for reuse or recycling. TSD at 47.

OSFM questioned whether most facilities would already have sprinkler systems capable of addressing the hazards associated with used EV battery storage and noted that some facilities could require upgrades to sprinkler systems, fire pumps, water supplies, or specialized detection systems. PC 1 at 5. These potential costs are relevant to the Board's evaluation of the economic reasonableness of the proposed requirements. The Board recognizes that compliance may require some facilities to incur costs for upgrades or other measures. The Board finds, however, that the record does not establish that those costs would impose an unreasonable economic burden, particularly considering the statutory requirements and the protections afforded by the proposed rules, especially when considering protection of human health, the environment, and public safety.

The proposed financial assurance requirements also affect the economic burden imposed by the rules. Section 22.23f(d) of the Act specifically requires the Board to adopt rules on financial assurance provisions for used EV battery storage sites. IEPA explained that it considered removal cost assumptions in other rules that regulate the storage of hazardous materials in proposing the requirements for used EV battery storage sites. However, IEPA noted that cost estimates for providing financial assurance are not available because used EV battery storage sites were previously unregulated activity under the Act. PFA 2 at 13. The Board notes that it has previously found similar financial assurance requirements, including those applicable to used or waste tire storage under Part 848, to be economically reasonable. Further, as discussed above, the proposal requires financial assurance for only the cost of removing used EV batteries, but does not require financial assurance for environmental remediation following a release, fire, or other incident. The Board finds that limiting financial assurance to removal costs appropriately limits the financial burden imposed by those requirements.

As required by Section 27(b) of the Act, the Board requested that DCEO conduct an economic impact study of the proposed rules. DCEO did not respond to the Board's request. Tr.1 at 133-34; Tr.2 at 39-40. No participant at either hearing testified or commented on the Board's request for an economic impact study or DCEO's failure to respond. *Id*. However, in

the small business impact analysis it performed at JCAR's request, DCEO's Office of Small Business Regulatory Flexibility concludes:

> This rule may impose short-term costs on small businesses that store used EV batteries, particularly those requiring facility upgrades or falling under the registration threshold. Long-term benefits include reduced fire risk, clearer compliance expectations, and potential avoidance of costly incidents. Impacts will vary based on existing infrastructure, storage volumes, and ability to meet spacing and construction standards. DCEO SBIA at 2.

The Board has considered the entire record and finds no evidence establishing that the proposed requirements would impose an unreasonable economic burden. The Board concludes that the rules are economically reasonable and will not have an adverse economic impact on the people of the State of Illinois. *See* 415 ILCS 5/27(a), (b) (2024).

CONCLUSION

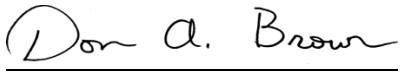
For the reasons above, the Board proposes new Part 1220, as amended, for second notice. The Board finds that the proposed rules are technically feasible and economically reasonable within the meaning of Section 27(a) of the Act and submits them to JCAR for its review. The proposed second-notice text for Part 1220 appears in an addendum to this opinion and order.

ORDER

The Board directs the Clerk to submit proposed new Part 1220 to JCAR for second-notice review.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 1, 2026, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board

ADDENDUM

[This page is intentionally left blank.]

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

1220.100 Applicability
1220.105 Severability
1220.110 Other Regulations
1220.115 Definitions
1220.120 Incorporation by Reference
1220.125 Estimating the Weight of Used EV Battery Accumulations

SUBPART B: MANAGEMENT STANDARDS FOR STORAGE

Section

1220.200 Applicability
1220.205 General Requirements
1220.210 Indoor Storage ~~of Used EV Batteries Within Buildings~~
1220.215 Outdoor Storage ~~of Used EV Batteries Outdoors~~
1220.220 Contingency Planning and Emergency Response
1220.225 Removal Performance Standards

SUBPART ~~E~~C: RECORDKEEPING AND REPORTING

Section

1220.500 Applicability
1220.505 Records
1220.510 Battery Tracking Receipts
1220.515 Weekly Battery Record
1220.520 Annual Battery Summary
1220.525 Certification
1220.530 Retention of Records

SUBPART ~~F~~D: FINANCIAL ASSURANCE

Section

1220.600 Scope and Applicability
1220.605 Maintaining Financial Assurance
1220.610 Release of Financial Institution
1220.615 Application of Proceeds and Appeal
1220.620 Removal Cost Estimate

1220.625 Mechanisms for Financial Assurance
1220.630 Use of Multiple Financial Mechanisms
1220.635 Use of a Financial Mechanism for Multiple Sites
1220.640 Trust Fund
1220.645 Surety Bond Guaranteeing Payment
1220.650 Letter of Credit

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 concerning the receipt, handling, storage, and transfer of used EV batteries at used EV battery storage sites. Notwithstanding any other provision of this Part, this Part does not apply to:

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

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

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

Section 1220.110 Other Regulations

a) The requirements of this Part are in addition to other requirements in the Act or Board regulations. In case of conflict, applicability will be determined on the basis of considerations such as 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~~apply 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.

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 specified~~set forth~~ 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. "EV battery" encompasses the entire battery pack of an EV, and any individual modules removed from an EV battery that are whole and intact, but does not include the individual cells of an 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 gases), 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.

"Ignition" means the process of initiating self-sustaining combustion.

"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 that are available from National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169-7471:

NFPA 51B, "~~"~~Standard for Fire Prevention During Welding, Cutting, and Other Hot Work,"~~"~~, 2024 ~~2014~~ Edition~~, National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169-7471~~.

NFPA 72, "National Fire Alarm and Signaling Code," 2025 Edition.

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 mustmay, for the purposes of this Part, be calculated by multiplying the volume of the accumulation, measured in cubic feet, by 17 kilograms (38 pounds) per cubic foot.

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

SUBPART B: MANAGEMENT STANDARDS FOR STORAGE

Section 1220.200 Applicability

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

Section 1220.205 General Requirements

a) The owner or operator Owners and operators of any battery storage site who stores used EV batteries must comply with the following requirements:

a1) Used EV batteries must not be placed or accumulated outside of a building, except as provided in Section 1220.215.

b2) Used EV batteries must not be placed or accumulated inside a building, except as provided in Section 1220.210.:

c3) Used EV batteries must not be placed or accumulated in any area where the grade of the ground surface exceeds two percent slope.

d4) Battery terminals must be protected either through battery design methods or a protective packaging method to prevent short-circuit of each used EV battery.

e5) All activities at the used EV battery storage site that present a risk of fire must be conducted in complianceaccordance with the NFPA 51B standard for fire prevention, including but not limited to welding, cutting, and other hot work, and either:

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

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

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.

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

1A) Register the site with the Agency by February 1 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

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

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

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

h7) 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.

i8) Combustible materials in used EV battery storage sites must comply with all of the following:

1A) 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; and.

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

j9) Explosion Protection. The potential for a deflagration involving the off-gassing of flammable gases during a thermal runaway must be analyzed. 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. If the potential for a deflagration exists, ~~and~~ explosion protection and gas ventilation to prevent the build--up of dangerous gases ~~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.

k) Following any fire, explosion, or thermal runaway event, the owner or~~/~~ operator must coordinate with the local fire department or other emergency service regarding the safety of returning to the used EV battery storage site. If the local fire department or other emergency service determines that the site is safe to enter, the owner or operator must, for the first 24 hours after the event, monitor all stored used EV batteries for any subsequent fire, explosion, thermal runaway, or deflagration.

l) Used EV battery storage sites must be available for inspection by the Agency upon request by the Agency or the owner or operator. Used EV battery storage sites must also be available for inspection by the local fire department upon request of the owner or operator, the Agency, or the local fire department upon request by the local fire department or the owner or operator to assess fire-safety conditions and facilitate emergency response.

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 must modify its storage method's to comply with the local fire department's 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 Agency's determination may be appealed to the Board as an Agency Final Decision under 35 Ill. Adm. Code 105.

Section 1220.210 Indoor Storage ~~of Used EV Batteries Within Buildings~~

a) The owner or operator ~~Owners andoperators~~ of a ~~any~~ battery storage site ~~who~~ that ~~stores~~~~store~~ used EV batteries within buildings must comply with this Section.

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

1) Have all ~~All of the building's~~windows and doors ~~are~~ in working order at

all times and bearare secured to prevent unauthorized access;

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

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

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

1) Used EV batteries stored indoors must be stored in piles within a room of no greater thanmore 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 complianceaccordance 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, installed in accordance with NFPA 72, incorporated by reference in Section 1220.120, or a radiant-energy detection system with occupant notification.

5) Rooms where used EV batteries are stored must contain an automatic sprinkler system designed and installed as determined by an analysis performed by a Fire Protection Engineer or registered professional with expertise in fire protection engineering or similarly qualified individual and a ventilation system to prevent the dangerous buildup of gases.

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 for disposal in compliance with all applicable Illinois administrative rules.

7~~6~~) Rooms~~All rooms~~ where used EV batteries are stored must ~~not~~ have at least~~fewer than~~ ~~2~~ two points of access that are sufficiently separated from one another to provide ~~2~~ two independent means of ingress and egress during a fire event.

8~~7~~) Used EV battery~~batteries~~ must be stored according to one of the following height requirements: ~~not be placed or accumulated within 2 feet of the room ceiling.~~

A) For used EV batteries stored with a whole room sprinkler system, the storage height must not exceed five feet 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 8 feet below the ceiling; and

ii) Rack storage must not exceed 35 feet in height.

d) In addition to ~~the requirements in~~ subsections (b) and (c), if ~~more than~~ 5,000 kilograms (11,023 pounds) or more of used EV batteries are stored~~located~~ at any one time at the battery storage site, the owner~~s~~ or ~~and~~ operator~~s~~ 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~~ complied with~~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~~C.

Section 1220.215 Outdoor Storage ~~of Used EV Batteries Outdoors~~

a) The owner or operator ~~Owners and operators~~ of any battery storage site who stores 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~~ must be placed or accumulated in fully enclosed containers that are non-combustible and allow for the venting to prevent the buildup of dangerous gases 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 for disposal in compliance with all applicable Illinois administrative rules.

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

5~~4~~) Individual containers must be separated by at least~~a minimum of~~ 20 feet from the following:

A) Lot property lines;

B) Public ways;

C) Buildings and other structures;

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

E) Hazardous materials;

F) Vegetation; and

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

6~~5~~) Any area where containers holding used EV batteries are placed must be:

A) Capable of containing all battery fire runoff; and

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

7~~6~~) Containers must not ~~-~~be placed or accumulated within 250 feet horizontally of the ground surface from any point directly beneath any electrical power line that (i) has a voltage exceeding~~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) or more of used EV batteries are located at any one time at the battery storage site, the owner~~s~~ ~~and~~ or operator~~s~~ 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) Includes 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."

D)~~C)~~ Is maintained on site, ~~adhered to~~complied with at all times, and 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~~C.

Section 1220.220 Contingency Planning and Emergency Response

The owner or operator~~Owners and operators~~ of any used EV battery storage site where ~~more than~~ 5,000 kilograms (11,023 pounds) or more 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~~ like 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) Includes~~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, if the used EV battery storage site is subject to EPCRA, the local emergency planning committee, and that a copy of this contingency plan has been filed with the local fire department."; and

8) Is maintained on site, always complied with, made available for inspection and photocopying by the Agency during normal business hours.

b) Ensure that all emergency equipment at the used EV battery storage site is ~~at all times~~always 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 compliance~~accordance~~ with all applicable federal and State laws and regulations, all contaminated soils, contaminated waters, and other wastes and materials resulting from the used EV battery fire; and

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 owner or operator~~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 Standards

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 ~~E~~C: RECORDKEEPING AND REPORTING

Section 1220.500 Applicability

The owner~~s~~ ~~and~~ or operator~~s~~ of any used EV battery storage site where 5,000 kilograms (11,023 pounds) or more of used EV batteries are stored~~located~~ at any one time ~~are~~ is 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 compliance~~accordance~~ with Section 1220.510;

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

3) Annual Battery Summaries, in compliance~~accordance~~ with Section 1220.520; and~~.~~

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~~ subsection (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) The owner or operator of a used EV battery storage site upon~~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. Unless readily available from the transporter, the owner or operator must obtain information on the make, model, and year of the vehicle from which a used EV battery was removed.

b) A transporter upon~~Upon~~ transporting any used EV batteries from ~~the~~ a used EV battery storage site~~, the transporter~~ must provide a receipt to the owner or operator of the storage site 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; and the destinations of the used EV batteries. The owner or operator of the used EV battery storage site must obtain information on the make, model, and year of the vehicle from which a used EV battery was removed if that information is not provided by the transporter.

c) The owner or operator~~Owners and operators~~ of a used EV battery storage site~~s~~ 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 of the used EV battery storage site 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~~ a 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. Unless readily available from the transporter, the owner or operator must obtain information on the make, model, and the 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 during the operating day, and the chemistry, or if unavailable, the make, model, and year of the vehicle from which the battery was removed. Unless readily available from the transporter, the owner or operator must obtain information on the make, model, and the 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~~ a 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 February 1 ~~January 31~~ of each year and must cover the preceding calendar year.

Section 1220.525 Certification

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

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

"I certify that I am responsible for preparing and reviewing this document and that this document and all attachments were prepared under my direction or supervision as part of my duties in the regular course of business. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the

information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties under Section 44 of the Environmental Protection Act, 415 ILCS 5/44, including the possibility of fine and imprisonment for knowingly submitting false information."

Section 1220.530 Retention of Records

The owner or operator of a used EV battery site must retain copies~~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~~ make them available at the battery storage site during the normal business hours ~~of the operator~~ for inspection and photocopying by the Agency.

SUBPART ~~F~~D: FINANCIAL ASSURANCE

Section 1220.600 Scope and Applicability

a) The owner or operator~~Except to the extent exempted by subsection (b), owners and operators~~ of any used EV battery storage site must comply with this Subpart before~~prior to~~ storing ~~of~~ any used EV batteries, except for the sites exempted under subsection (b).

b) The owner or operator~~Owners and operators~~ of any used EV battery storage site where the real estate of the site is owned by the following~~meeting the qualifications below~~ are exempt from this Subpart:

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

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 under~~pursuant to~~ Section 1220.620 until the owner or operator is released from financial assurance requirements under Section 1220.61~~2~~0.

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 under~~pursuant to~~ Section 1220.620:

1) The current removal cost estimate increases; or

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

Section 1220.610 Release of Financial Institution

The Agency must release a trustee, bank, surety or other financial institution as soon as practicable after the owner or operator of the used EV battery storage site makes a written request for release and demonstrates that either one of the following events has occurred:

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

b) The Agency has released the owner or operator of the used EV 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 the owner or operator of a used EV battery storage site modify a removal plan, or order that the proceeds from financial assurance be applied to the execution of a removal plan.

c) The owner or operator of a used EV battery storage site following Agency actions may appeal be appealed to the following Agency actions to the Board as an Agency Final Decision undera permit denial pursuant to 35 Ill. Adm. Code 105:

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

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

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

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

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

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

Section 1220.620 Removal Cost Estimate

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

1) AAny removal cost estimate under this subsection must be submitted on forms prescribed by the Agency.

2) If the Agency rejects a written estimate, the owner or operator may submit a corrected written estimate within 30 days of the rejection notice.

b) TheIn 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 mustmay 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 1220.6301220.640:

a) A trust fund (Section 1220.640);

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

c) A letter of credit (Section 1220.650);

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

Section 1220.630 Use of Multiple Financial Mechanisms

An The 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. These The mechanisms must be used as specified in Sections 1220.640 for trust funds, 1220.645 for surety bonds guaranteeing payment, and 1220.650 for letters of credit 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 The 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 Section 1220.625Sections 1220.640, 1220.645, and 1220.650 to provide for removal.

Section 1220.635 Use of a Financial Mechanism for Multiple Sites

An The owner or operator may use a financial assurance mechanism specified in Section 1220.625 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's or operator's sites.

Section 1220.640 Trust Fund

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

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

c) The trust agreement must be irrevocable, must be on forms prescribed by the Agency, must be accompanied by a formal certification of acknowledgment on a form prescribed by the Agency, and must contain provisions addressing, at a minimum, the establishment, management, and termination of the trust and a schedule listing, at a minimum, the sites covered by the trust, the current approved

removal cost for each of those sites, and prohibitions against third party access to the trust funds other than as provided in the trust agreement. The schedule required under this subsection ~~(c)~~ must be in the form prescribed by the Agency and must be updated within 60 days after a change in the amount of the current approved removal cost for any site covered by the trust.

d) Payments into the Trust

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

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

3) Annual payments are determined by the following formula:

Annual payment = (CE-CV)/Y

where:

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

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

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

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

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

8) If the owner or operator establishes a trust fund after having used one or

more alternative mechanisms, the first payment must be ~~in~~ equal to 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 on ~~as of~~ the date 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~~ submit to 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~~ submitted 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 exceeding~~in excess of~~ the current approved removal cost estimate.

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

3) As soon as practicable, but within 120 days after receiving a request from the owner or operator for a release of funds under~~pursuant to~~ this subsection ~~(g) but not more than 120 days following the Agency's receipt of the request~~, the Agency must instruct the trustee to release to the owner or operator ~~such~~ funds as specified by 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~~ the 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, but within 120 days 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 according to ~~in accordance with~~ the removal plan.

A) 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 the~~such~~ amounts as specified by the Agency ~~specifies~~ in writing as expenditures according to~~in accordance with~~ the removal plan.

B)~~3)~~ If the Agency determines, based on ~~such~~ the 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~~ the 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.

C) If ~~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~~i) Persons with whom the Agency has contracted and authorized to perform removal activities (first priority);

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

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

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

Section 1220.645 Surety Bond Guaranteeing Payment

a) ~~An~~ The owner or operator may ~~satisfy~~ meet 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~~ The 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 according to~~in accordance with~~ instructions from the Agency. The standby trust fund must meet the requirements of a trust fund specified in Section 1220.640, except that:

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

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

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

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

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

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

e) Conditions

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

A) Perform removal according to~~in accordance with~~ the removal plan; or

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

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

A) Abandons the used EV battery storage site;

B) Is adjudicated bankrupt;

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

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

f) Penal Sum

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

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

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

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

B) Obtain alternate financial assurance in complianceaccordance 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~~ The 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~~ The owner or operator may ~~satisfy~~ meet 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~~ The owner or operator who uses a letter of credit to ~~satisfy~~ meet the requirements of this Subpart must also establish a standby trust fund. Any amounts drawn by the Agency underpursuant to the letter of credit must be deposited in the standby trust fund. The standby trust fund must meet the requirements of a trust fund specified in Section 1220.640, except that:

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

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

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

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

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

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

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

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

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

A) Abandons the battery storage site;

B) Is adjudicated bankrupt;

C) Fails to initiate removal when ordered to do so by the Board underpursuant to Title VIII of the Act, or when ordered to do so by

a court of competent jurisdiction;

D) Fails to provide additional or substitute financial assurance under this Subpart withinWithin 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 complianceaccordance 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;explos

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~~ The 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.