

June 21, 2019

Reserve Marine Terminals (ENVREC102879)  
11600 S. Burley Ave.,  
Chicago, IL 60617

Department of Public Health  
ATTN: Environmental Permitting and Inspection  
333 S. State Street, Room 200  
Chicago, IL 60604

Re: Comments to CDPH Proposed Rules for Large Recycling Facilities

To whom it may concern:

The following comments are being presented to the Chicago Department of Public Health (CDPH) on behalf of Reserve Marine Terminals ("Reserve") located at 11600 S. Burley Ave., Chicago, IL 60617.

Comments to Proposed Environmental Regulations from CDPH

General Statement:

As a practical matter, Reserve understands and supports the efforts of the CDPH in establishing standards and regulations requiring Recycling Facilities to be professional and appropriate neighbors and citizens. As a general concern, a significant amount of information that is required, including but not limited to, identification of suppliers, customers, specific material volumes, processing capabilities, and other proprietary business related information, fall under the rubric of Trade Secrets and Proprietary Business Information. Seeking this information generally requires adherence to Confidentiality Agreements with legal remedies for violations. It is incumbent upon CDPH to consider how it shall safeguard Recycler's Trade Secrets and Proprietary Business Information and also consider its exposure to liability for failure to safeguard this information and prevent it from disclosure to a Facility's competitors and from entering the public domain. These are practical concerns involving thousands of employees' livelihoods and millions of dollars of investments already made and to be made that may be put at risk.

Moreover, it is incumbent upon CDPH to recognize that most Recycling Facilities are not only unique in their respective operations, but they differ greatly in terms of the variety of commodities processed and methods of processing employed. For example, due to the size and weight of certain types of scrap items, such as, but not limited to, large machinery and/or railroad equipment; processing does not lend itself to safe processing on a paved surface. The processing of certain grades of scrap would destroy pavement and make the area unsafe for the workforce. Generally speaking, consideration must be given to the multitude of commodities processed. Much of what is proposed is targeted at "Automobile Shredder" operations which are strikingly different than a significant number of general recycling operations rendering it not only impractical, and in some

cases impossible and unsafe to employ and comply with the Proposed Rules. As a general proposition, CDPH should include other Outdoor Metal Shredders that shred appliances and light iron as opposed to singularly labeling Automobile Shredders. Likewise, the proposed rules are seemingly arbitrary and capricious in their focus on the Recycling Industry, leaving many other industries free to operate in a like manner yet unregulated.

**Section 3 General Statement:** Reserve respectfully recommends that the permit applications only apply to New or Expanding Facilities and incorporates this statement throughout this entire Section. Existing Facilities that are already permitted or renewing their permits without expansion have continually and regularly been inspected and approved often over decades. Employing onerous compliance rules on these small businesses forces them to incur excessive costs and jeopardizes their existence which in turn impacts their respective workforces.

**Section 3.1** Reserve respectfully requests that in the case of permit renewals for existing facilities, the requirement that a Professional Engineer direct the permit application should be withdrawn. Existing Facilities previously approved, are already acceptable and in good standing, this requirement is cost prohibitive unless such facilities are modifying site structures. The requirements proposed by CDPH for a facility Design Report already require submittal of documents (i.e. survey, drawings, and studies) that would require preparation by professionals with expertise in their respective fields. Oversight of the entire permit application by a registered Professional Engineer would not provide an additional level expertise that would justify the high cost associated with it.

**Section 3.5 D & E** Reserve respectfully requests that for sections 3.5 D & E, estimates be utilized based on historical records. Although the historical information is available, it is very difficult to accurately predict flow patterns as they are impacted by, among other things, weather, commodity values, and competition.

**Section 3.9** Reserve respectfully requests clarification regarding those sections of the proposed Design Report that shall apply to New or Expanding Facilities and again suggests that the Design Plan not be applicable to Existing Facilities.

**Section 3.9.7** Reserve respectfully requests waiving the pavement requirements within a Facility for those specific operations, as discussed above, that are not conducive to processing on pavement due to the varying type(s) and configuration of the commodities processed at that Facility.

**Section 3.9.7.4** Reserve respectfully requests that hot-mix asphalt should be considered as an acceptable media for driveways and internal roadways intersecting the public way. Asphalt lasts considerably longer, especially when poured thicker; and it can be more easily and frequently repaired. Further it is our experience that concrete, asphalt, and grindings are suitable materials for use with internal roadways including material loading and unloading areas. Packed grindings/gravel are the most desirable where heavy equipment is utilized. Dust control measures are very effective on grindings/gravel which further facilitates control and mitigation of dust emissions on internal roadways.

**Section 3.9.9.1** Reserve respectfully requests that the requirement for water usage estimates should be revised given that the actual use of water is nearly impossible to predict especially with respect to fire suppression, dust control and irrigation – water usage will vary according to the unforeseen periods of lower than usual precipitation. Moreover, although fire prevention is constant it is equally difficult to predict water use for an unforeseen fire.

**Section 3.9.11** Reserve respectfully requests waiving of this requirement as it applies to Existing Facilities that have already received a permit and/or upon a permit renewal. That said, this is an appropriate requirement and should be a part of the Design Report for new/modified structures and new Facilities.

**Section 3.9.12** Reserve respectfully requests waiving of this requirement as it applies to Existing Facilities that have already received a permit and/or upon a permit renewal as operating facilities, as a practical matter, already employ functioning material flows. That said, this is an appropriate requirement and should be considered for Expanding/New Facilities.

**Section 3.9.12.2** Reserve respectfully requests that the requirement to maintain an area the size of 5% of daily capacity for staging Undesirable/Unauthorized Material be revised or withdrawn. Best Practices include an adequate inbound inspection process that effectively controls material acceptance and ensures that (little to) no unacceptable items are received. Requiring that a Facility maintains an area of this size is both inefficient and excessive. Best Practices also include good communication with customers/suppliers, posting of unacceptable items, and rejection of unauthorized materials at the point of delivery. If an item is discovered after a supplier has left, that Unauthorized Material is sequestered and quarantined then reported to that supplier. The volume/quantity of Unauthorized Material that may have been missed during the delivery/inspection/unloading process, is insignificant and can be easily managed without the need for establishing a proposed Temporary Storage of Unauthorized Materials staging area equal to 5% of daily permitted capacity.

**Section 3.9.12.5** Reserve respectfully requests that again, estimates be utilized because of the many factors discussed herein that reflect fluctuations and the difficulty and improbability of accurately providing predicted material flows. Likewise, peak flows change based on weather, season and market conditions.

**Section 3.9.14.1** Reserve respectfully requests that requiring calculations of the average and maximum number of vehicles generated by the facility as well as an hourly breakdown of Facility vehicle traffic should be revised to reflect a tracking of traffic as opposed to attempting to predict future traffic. It is nearly impossible to accurately predict future vehicular traffic figures for a period of time and especially for an hourly flow. The Recycling business is a commodity business experiencing increases and decreases of material flow based on value along with weather all of which are beyond the control of the Facility.

**Section 3.9.14.7** Reserve respectfully requests that requiring traffic counts taken in hourly intervals at all ingress/egress points is onerous and costly and recommends that the requirement be revised to request traffic counts for prior time periods since this information should already be recorded in a Facility's database. Requiring contemporaneous counts poses a safety risk by

distracting inspectors and supervisors. As discussed the information is recorded and may be available at a later time. Note, however, that such information is also classified as proprietary business information/Trade Secrets and subject to confidentiality provisions therefore having the potential of liability for CDPH should that information be leaked or used inappropriately.

**Section 3.9.18** Reserve respectfully requests that the Section 4.4 Comments are also applicable for this Section.

**Section 3.9.18.1B** Reserve respectfully requests that additional items or other functional materials, such as metal, be considered for use as Material Composition for facility barriers.

**Section 3.9.19** Generally speaking, Reserve respectfully suggests that compliance with all State of Illinois Environmental Standards and Regulations should be sufficient for Compliance under these Proposed Rules and that CDPH adopt the State of Illinois environmental and stormwater Rules and Regulations.

**Section 3.9.19** Reserve respectfully suggests if/when a Facility is discharging exclusively to an MWRD treatment facility, the Facility should only be subject to Appendix B of the Sewage and Waste Control Ordinance and required to meet that treatment facility's requirements as opposed to being subject to Storm Water regulations.

**Section 3.9.20.1 and 2** Reserve respectfully suggests that the language for these two requirements be modified to include a noise survey of the Facility at property boundaries and at 660 feet from property boundaries in order to determine average sound levels at these respective distances. Reserve suggests that these studies could involve multiple sampling events over a period of time and under a variety of conditions structured to obtain average/peak sound levels. It is our experience that although there are a variety of impact noises and certain unexpected noise that are not predictable occurring throughout operations, over time they are relatively consistent, and sampling will provide reliable data. We currently conduct periodic noise monitoring for our employees and typically observe consistent noise levels. If the 60 dB value referenced in the Code can be used as the Noise Disturbance Threshold, then the noise study may be used to satisfy item 3.9.20.3. Please clarify the definition for "computation of the total sound level".

**Section 3.9.20.3** Can it be assumed that the 60 dB (A) value referenced in the Code be used at the 660 foot distance from facility boundary to define a "Noise Disturbance". The current definition is arbitrary and cannot be measured/quantified.

**Section 3.9.20.4** Reserve respectfully suggests that if the above recommendations are followed, the requirement for a monitoring plan should be satisfied and the need for continuous noise monitoring should not be necessary. Sufficient controls have been previously designed from noise boundary studies to ensure that elevated noise levels are not present and will not create nuisance disturbances to neighbors. Note, however, that distinguishing between onsite and certain offsite noise at the required distance from the Facility may be severely hampered by wind speed and direction, atmospheric activity, and property boundaries. Moreover, Reserve's research has indicated that differentiating between onsite and offsite noise levels requires the use of recording devices and the review of results by personnel. The technology for differentiating does not seem

to be currently available rendering this requirement to be impractical. Periodic monitoring may be utilized to confirm sound levels and ensure noise is not exceeding prescribed values without the added costs and burden of providing weekly data to CDPH. Reserve would also suggest that this requirement apply to outdoor metal shredding and not limited to automobile shredding.

**Section 3.9.22.2** Reserve respectfully requests clarification of the meanings ascribed to “dust control plan incorporating the results of study.” Different from the evaluation of all Criteria Pollutants and Toxic Air Pollutants, required in air dispersion modeling, a dust control plan only addresses fugitive dust. Please clarify and provide examples for acceptable methods and procedures for modeling.

**Section 3.9.22.3** Reserve respectfully requests a revision to the language for the Dust Monitoring Plan to include the acceptable source(s) of wind rose and the accompanying period of time that the wind rose must represent.

**Section 3.9.22.4** Reserve respectfully requests that the language discussing emissions sampling plan be revised to include all outdoor metal shredders, not just automobile shredders, and further, are required to sample emissions every five years since the presence of PM 10 and VOCs is not unique to shredding of vehicles.

**Section 3.11.1 and 3.11.1.1** Reserve respectfully requests that the language of this provision should be revised to accept estimated volumes and an estimated range of the various types and grades of materials/commodities as defined by ISRI (Institute of Scrap Recycling Industries). As discussed above, please note The Recycling business is a commodity business experiencing increases and decreases of material flow based on value along with weather all of which are beyond the control of the Facility making it nearly impossible to predict the type and volume of material. **3.11.1.1** – Reserve further suggests that CDPH defer to the widely established and understood grades/nomenclature already existing as defined by ISRI (Institute of Scrap Recycling Industries).

**Section 3.11.1.2** Reserve respectfully requests removal of this requirement, again, it is impossible to predict the future source(s) of materials. However, there are existing requirements and procedures that effectively identify and record all suppliers and grades of materials at the time of receipt. Note that it would be nearly impossible to reliably predict the neighborhood where material originated. All material passes through radiation detectors and is visually observed at the time of receipt and unloading. With respect to the inbound screening process, as indicated above, all materials are screened/inspected in the same manner.

**Section 3.11.2.6** Reserve respectfully requests a definition of what is meant by “Emergency”. Further, what is meant by “Complaint” as only known, official complaints that have been communicated to the Facility’s management would likely be recorded. A company cannot respond to a complaint that they are unaware of and the complaint may not have a legitimate basis in fact.

**Section 3.11.3** Reserve respectfully requests that details requiring processing capabilities, rates and quantities be removed given that this information is protected proprietary business information and classified as trade secrets. Disclosure of this information puts the recipient (CDPH) at risk of liability and violation of the law should this type of information be leaked, or even inadvertently

revealed. Moreover, the request for OSHA-required safety devices or procedures employed are astoundingly extensive and needs clarification and specificity for what CDPH desires. There are significant systems, procedures, and devices employed and it is impractical to arbitrarily suggest a generalized list of all items.

**Section 3.11.8** Reserve respectfully requests clarification of the term “vehicle” and its definition. Does the CDPH mean over-the-road vehicles; internal heavy equipment; internal only? Likewise, variations exist with respect to the number of employees qualified to operate each type of vehicle over time. With regard to waste disposal, a facility needs the flexibility to send waste to different disposal facilities and utilize different traffic routes based on market conditions, traffic congestion, etc. Again, the requirement to disclose processing capability infringes on protected proprietary business information and all of the potential liability carries with the disclosure of that information.

**Section 3.11.9** Reserve would like it noted that disposal facility selection can change and recommends that updates should be made at the 3-year permit renewal.

**Section 3.11.11** Reserve respectfully requests the rescinding of the operating hours limitations. Operations tend to be a result of customer driven demand requirements. Most operations will operate under traditional hours (as suggested in the requirement) however, customer demand may require the option of operating outside of those requirements and time may not be available to seek a waiver especially given the just in time supply agreements with many customers.

**Section 3.11.12** Reserve respectfully requests removal of the requirement for disclosure of costs and financial information related to those costs. A company’s financial information is highly proprietary and again implicates legal liability on the part of the recipient. Moreover, disclosure may violate a businesses’ covenants with its lender. Such provisions will create liability on the part of CDPH and crosses the line of reasonableness. Moreover, predicting closure costs is highly unlikely to yield an accurate estimate. Any information is more or less a guess based on current costs.

**Section 4.2** Reserve respectfully requests the rescinding of the operating hours limitations. Operations tend to be a result of customer driven demand requirements. Most operations will operate under traditional hours (as suggested in the requirement) however, customer demand may require the option of operating outside of those requirements and time may not be available to seek a waiver especially given the just in time supply agreements with many customers.

**Section 4.3** Reserve respectfully requests the rescinding the material volume limitations. There are many circumstances under which a Facility is required to receive volumes of material that exceed its consistent level of material in order accommodate customers. For example: (1) a large domestic Auto Production Facility does a major “model changeover” and must deposit its older equipment, presses, and other scrap in a very limited period of time so it does not jeopardize its production capabilities; or (2) a municipality has a major demolition project that requires access for depositing the scrap. Note, as previously stated, operations, including accessibility tends to be a result of customer/supplier driven demand requirements.

**Sections 4.4.1 and 4.4.2** Reserve notes that Storage Stockpiles and Staging Stockpiles are interchangeable terms. Reserve respectfully requests modification of the outdoor stockpile height limitation so it is permitted to be greater than 20 feet and that the height limitation considers certain situational factors including, but not limited to, distance from the public way, distance from residential areas, distance from property lines, size and location of adjacent structures, composition of material and a Facility's dust mitigation program. Reserve also requests that CDPH make note of the potential negative environmental impact associated with handling broader piles at the lower height limit of 20 feet that would require multiple handling increasing the potential for air emissions from such handling equipment. A more realistic height would be in the 40 – 50 foot range given a facilities equipment and proximity to processing and boundaries.

**Section 4.4.1.2** Reserve respectfully requests withdrawal of the requirement for 4 foot barriers around three sides of all stockpiles. The requirement actually creates unsafe working conditions for plant workers and equipment operators. 4 foot barriers further reduce visibility in and around operational areas. Staging/Stock Piles are “worked” from multiple directional locations/positions around the stockpiles, often based on wind, sun, pile configuration, material process demands/considerations, and a variety of other factors. Imposing such a requirement impairs the operation and increases the potential for an unsafe incident especially considering the elimination of directional operational positioning. Moreover, the disruption of operational process flows would actually increase material handling resulting in the increase of dust and fuel consumption

Reserve respectfully suggests that in regard to Auto Shredder Residue (ASR), that the CDPH review the tremendous volume of data before implementing rules and regulations that may be counter-productive to the CDPH's objectives. The data supports the fact that ASR is non-hazardous. It is unclear why there is a requirement to protect ASR from precipitation considering that ASR is quite often used as Daily Cover at many landfills across the country – if it posed undue hazards (health and/or environmental) it would stand to reason that ASR use as daily cover would be prohibited. The temporary storage of ASR in an uncovered setting does not pose an environmental or safety threat. Furthermore, what is meant by ignition sources? Perhaps more practical measures may be implemented to provide protection rather than attempting to house ASR in a building.

**Section 4.4.2.1** Reserve respectfully requests that this rule should be eliminated and we reference the discussion above for Sections 4.4.1 and 4.4.2.

**Section 4.4.2.2 and 4.4.2.3** Reserve respectfully submits that these requirements should be eliminated. These requirements are not only onerous they create an impossible situation for business. These requirements are antithetical to good safe sound business practices. The scrap metal business is market driven. The business requires extensive capital investment, a significant focus on safe operations with a skilled workforce, and the utilization of heavy equipment. Many factors exist that make this requirement unsafe and untenable including, but not limited to, equipment breaks down causing delays; workforce management must consider weather conditions and customer driven production priorities that may be counter to achieving the 2-day operating window. As discussed above, the business is market driven and specific quantities and grades of material are not predictable due to market values, weather and other factors therefore an arbitrary 2-day processing window is entirely counter-productive to good customer driven business

planning and operation. Processing methods vary depending on the type and configuration of raw material and it is highly unsafe to assign an arbitrary time limit for processing scrap metal. There are a significant number of examples of situations and conditions where these requirements are unsafe and impossible to achieve. Such an onerous requirement also places a burden on operations and its ability to schedule workers enough in advance to meet certain notice provisions related to workplace fairness principles. Scheduling must take certain factors into consideration such as weather, safety, and customer-demand and worker notification. The 2-day requirement will run counter to the objectives of CDPH because attempting to meet these requirements will undoubtedly create more material handling utilizing more heavy equipment and resulting in greater noise generation, greater dust generation and increased interference with traditional traffic flow combining to create an environment that is less safe. The Business must maintain sufficient levels of raw materials in order to meet projected customer demands. Such onerous limitations will disrupt the workforce and may likely result in job loss due to inadequate work raw material levels.

**Section 4.4.2.4** Reserve respectfully requests that the requirement for daily mass-balancing be changed to monthly. A daily requirement is excessive and burdensome, and based on visual estimates. A stockpile may not change for several days. Please clarify what the safety/environmental benefit is for this requirement?

**Sections 4.5.1 – 4.5.2** Reserve respectfully requests that this requirement be modified to include only outbound vehicle loads that contain items prone to airborne dispersion as well as inbound loads from company-owned vehicles. Reserve respectfully makes two points: (1) We cannot control the manner in which an independent third party chooses to deliver material to our facility, however, we can assist and insist in controlling the outbound movement of materials that may create airborne dispersions; (2) Many items transported (inbound/outbound) are large, solid items, posing no threat of creating airborne dispersions. Automatic tarping devices exist for many of the lighter/airborne types of materials and we support the continued use of these items. We would like to make a couple of additional points for consideration. The requirement to require tarping of all loads may pose added safety concerns to drivers while attempting to access any type of vehicle to tarp or remove a tarp, drivers have to climb on the vehicle posing exposure to unsafe conditions if that load is not conducive to tarping. Moreover, requiring the tarping for a load of steel plate or I-Beams – whether those beams or 20 feet long or 5 feet long counters other carriers entitled to travel on the highway delivering new steel without a tarping requirement. This seems to be arbitrarily targeting scrap companies. The State of Illinois does not have tarping requirements for dump trucks. To the best of our knowledge, the equipment for covering rail cars does not exist for Gondolas and legally, a Recycling Facility cannot alter, in any fashion, rail cars or rail equipment. Moreover, the requirement for barges serves no purpose or value since barge loading, by law, must be below the “Comings Level” which renders that below the exposure to wind. Again, enforcement of these provisions disparately targets scrap companies despite the thousands of trucks, rail and river traffic that ship similar or the same types of materials free from the proposed requirements and will travel through the City of Chicago.

**Section 4.6.1** Reserve respectfully requests that requirement involving noise monitoring should be revised such that any outdoor metal shredder, not merely vehicle shredders, are required to conduct noise monitoring.



**Section 4.7** Reserve respectfully requests that water quality standards and monitoring be revised to state that facilities that only discharge storm water to a combined sewer system, and ultimately to a waste water treatment facility (i.e. MWRD), (1) are not subject to Appendix A of MWRD's Sewerage and Waste Control Ordinance; (2) are not required to obtain a NPDES permit issued by IEPA; and (3) are not required to conduct water quality monitoring and sampling. As discussed above, Reserve further respectfully requests that the language in Section 4.7 regarding storm water and waste water flows from a facility be revised in consideration that a facility that discharges all storm and sanitary water to a waste water treatment facility (i.e. MWRD) should only be required to meet the discharge requirements established by the treatment facility (i.e. Appendix B of the MWRD Sewerage and Waste Control Ordinance).

**Section 4.8.3.1** Reserve respectfully asks for clarification on the exact type of PM10 monitors required by these rules. The proposed rules state a requirement of "Continuous Federal Equivalent Method Real-Time PM10 Monitors". We are requesting a clearer explanation on the meaning of continuous versus real-time and whether these represent two distinct technicalities. Does the monitor have to display real-time PM10 levels, as in a direct-read instrument? Or does the monitor have to take a continuous average PM10 concentration level every 15 minutes, giving 4 average concentrations per hour? Or must the monitor do both: record 15 minute PM10 concentration averages and also simultaneously display real-time PM10 levels? This technical clarification is necessary for the compliance and the correct purchase and utilization of such monitors.

**Section 4.8.3.4** Reserve respectfully asks for clarification on what specific data must be logged. If monitors are required to display real-time PM10 levels, are we also required to log that real-time, direct-read data? Or are we only required to log the 15-minute average PM10 levels that we report on to the CDPH (RAL exceedances)?

**Section 4.8.3.5 and 4.8.3.7** Reserve respectfully proposes an alternate RAL concentration of 150  $\mu\text{g}/\text{M}_3$ , i.e. the existing NAAQ Standard. This national standard is an appropriate value for PM10 levels, as evidenced by its nationally accepted limit, and will more appropriately take into account the already elevated background concentrations previously measured within the Chicago industrial area in which Reserve is located. Specifically, IEPA Annual Air Quality Reports between 2015 and 2017 indicate that the annual average PM10 concentration in this area was 21  $\mu\text{g}/\text{M}_3$ . An elevated background concentration of PM10 exists in this area, and the baseline level is already approaching the proposed RAL of 50  $\mu\text{g}/\text{M}_3$ , independent of any operations or processing, and outside our ability to control the many fugitive sources in this area. Therefore, we request that the NAAQS standard be applied to Reserve. A lower RAL would cause constant exceedances due to the high PM10 background concentration established in the area and do little to provide any compliance related information associated with our operations. Nearly all reported exceedances would be arbitrary and have little to do with our operations and more to do with local weather factors.

**Section 4.8.3.6** Reserve respectfully asks for revision regarding Reportable Action Levels (RALs) to identify and clarify the criteria for establishing additional RALs. Please further clarify, for instance, whether additional RALs will be established based on health-based standards, NAAQS or some other criteria.

**Section 4.8.3.8** Reserve respectfully requests clarification of the required format for the monthly data reports. Will these reports include spreadsheets containing all averages measured daily by the monitors (every 15 minutes) for every day of the month, or one 24-hour daily average for every day of the month? Is there a specific program that must be used to collect and report this data to the CDPH?

**Section 4.8.3.9** Reserve respectfully seeks revisions regarding RAL Notification since the only reasonable way to notify CDPH within 15 minutes of an exceedance of the 15-minute threshold is to make the notification automatic. This would not allow a facility the opportunity to evaluate the conditions that contributed to the alleged exceedance and will likely result in reporting “false alarms” or exceedances that are not related to facility activities (i.e. off-site vehicle traffic). Since there could potentially be a large number of exceedances of the proposed standard which are not related to onsite activities, the requirement to submit written reports within 24 hours seems to be onerous based on the level of effort required, particularly if the alleged exceedance occurs on weekends or non-business days. Further, if such data becomes accessible to the public prior to evaluating the accuracy or potential contributing factors of the incident, pose an unfair burden of defense placed on a facility. Instead we request that the language regarding an RAL Notification should be revised to permit an exception during periods of high wind (in excess of 25 mph) thus consistent with the Illinois EPA standards for fugitive dust emissions.

**Section 4.8.3.12** Reserve respectfully requests revisions regarding quarterly opacity measurements in order to clarify the types of sources that are subject to opacity testing since the costs associated with measuring opacity will be prohibitively high depending on the number of sources to be measured. Further, the requirement to conduct opacity testing “during a range of weather conditions” is undefined and unreasonable since USEPA Method 9 contains no such requirements.

**Section 4.8.3.13** Reserve respectfully requests revisions regarding the fugitive dust plan to establish minimum requirements for a fugitive dust plan in order to ensure consistency of application.

**Section 4.12** Reserve respectfully requests that the term “paved” refers to the previously described types of pavement sought including concrete, asphalt and grindings, further noting that as previously discussed there are significant types of materials and operations that cannot be safely performed on paved surfaces. In the case of oil/fluid bearing items, delivery/processing on an impermeable surface is appropriate and we concur.

**Section 4.15** Reserve respectfully requests a revision regarding pavement maintenance to state that “broken pavements and potholes shall promptly be backfilled, patched, or repaired.”

**Section 4.18** Reserve respectfully requests that the Quarterly reporting be rescinded. Again, the information requested falls under the rubric of proprietary business information and trade secrets for which liability will attach to the recipient (CDPH) for disclosure (even accidental disclosure). This provision is overreaching and has no apparent relationship to Public Health.

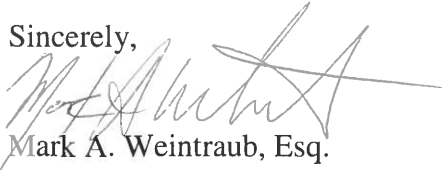
**Section 5** Reserve respectfully requests that a hard and fast 365-day implementation requirement is not reasonable. The implementation schedule is heavily dependent on knowing the final rules

and requirements before being in a position to assess a commercially reasonable implementation schedule.

Reserve respectfully suggests that CDPH consider the varying types of Recycling Facilities and the varying types of commodities and processes. Although, Reserve appreciates the ultimate objectives of CDPH, recognizing that not all facilities fit into one specific category is critical to the thousands of jobs and millions of dollars of investments that Recycling Facilities provide in the City of Chicago. Reserve is willing to work with CDPH and provide deeper understanding and reasonable solutions in meeting its goals.

Thank you for the opportunity to provide insight and comment on the Proposed Rules for Large Recycling Facilities.

Sincerely,



Mark A. Weintraub, Esq.

General Counsel

Reserve Marine Terminals

MarkWeintraub@Reserve-Group.com

(440) 287-7209