



# Proposed Rules for Large Recycling Facilities

DEPARTMENT OF PUBLIC HEALTH

ENVIRONMENTAL PERMITTING AND INSPECTIONS PROGRAM

# RULES FOR LARGE RECYCLING FACILITIES OPERATED WITHIN THE CITY OF CHICAGO

**Whereas**, pursuant to Chapters 2-112 and 11-4 of the Municipal Code of Chicago (the Code), the Department of Public Health is charged with the enforcement of environmental rules, including management of Recycling Facilities within the City of Chicago and the protection of public health and safety; and

Whereas, the recycling of materials conserves natural resources, reduces energy consumption, saves landfill space, and generally decreases pollution; and

Whereas the Department of Public Health promotes the responsible separation and recycling of construction and demolition (C&D) debris to help contractors and property owners save on costly disposal fees while protecting the environment.

*Justification for Comment--:This section language is added to keep consistency with the current Rules and Regulation referred to in this document.*

Whereas, the City of Chicago enacted the Chicago Climate Action Plan in 2008 and completed a Waste Diversion Study in February 15, 2010 outlining the Current and Maximum Diversion Rates for each type of recyclable material.

*Justification for Comment--:The City of Chicago has been a leader in the development of recycling initiatives over decades and it is justified to mention these goals and guidelines, and studies of the progress complete and the progress remaining.*

Whereas, such facilities should be located in ~~areas where the surrounding uses are consistent with the industrial nature of Recycling Facilities and~~ Planned Manufacturing Districts ~~should~~ and be operated so that the environmental impacts can be minimized; and

*Justification for Comment--:Current zoning rules and regulations do not permit recycling facilities to be located in Districts other than Planned Manufacturing Districts.*

Whereas, the triennial operating permits and permit applications required of these Recycling Facilities are an important part of assuring environmentally sound operations; and

Whereas, the furtherance of these goals and principles can be advanced by a more detailed recitation of operational standards, permit application submittal requirements, location

standards, and design standards for these Recycling Facilities; and

~~Whereas, these facilities can be significant sources of dust, volatile organic matter, contaminated storm and process water discharges, metal-containing particulate or vapor, and possible radiation with the potential to harm human health and the environment, and cause a public nuisance or adversely impact the surrounding area or surrounding users;~~

~~Whereas, these facilities may present a high risk of fire and explosion;~~

~~Whereas, these facilities may be a significant source of noise;~~

*Justification for Comment--:Facilities regulated by the City of Chicago and covered under the Ordinance are currently required to maintain safe, clean operations that do not allow for any of these statements to be accurate. Specifically, in the handling of Class V, Type D, no high risk of fire or explosion exists. Noise source limits are established in the PMD for manufacturing activities.*

Whereas, pursuant to the authority granted by Section 2-112-160(b)(6) and Section 11-4-2660 of the Code, the Commissioner of Public Health of the City of Chicago (the Commissioner) is required authorized to promulgate issue rules and regulations necessary or proper to accomplish the purposes of Chapter 11-4 of the Code, and is further authorized to make reasonable administrative and procedural regulations or rules interpreting or clarifying the requirements which are specifically prescribed in Chapter 11-4 of the Code; now therefore,

*Justification for Comment--:Text changes were included based on previously issued Rules and Regulations.*

I, Julie Morita, Commissioner of Public Health of the City of Chicago issue the following rules pursuant to Section 2-112-160 and Chapter 11-4 of the Municipal Code of Chicago.

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## 1. Scope and Purpose

The purpose of these rules is to provide explanations, guidelines, and requirements regarding the Operation, location, design, and permitting of a Large Recycling Facility\* in the City of Chicago. Specifically, these rules address Existing, New, Expanding, and Modifying Large Recycling Facilities that are required to receive operating permits from the Department of Public Health (the Department) under Section 11-4-2520 of the Code. These rules supplement the requirements contained in the Recycling Facility Rules dated March 19, 2014. In the event of conflicts between the Recycling Facility Rules and these rules, the duly requirements and standards in these promulgated March 19, 2014 rules shall govern. ~~Only Large Recycling Facilities are covered under these rules.~~ New, Expanding, and Modifying facilities are covered under these rules.

*Justification for Comment:-:The scope of the document includes more than just “Large” Facilities.*

An application to the Department for a permit to operate a Large Recycling Facility must provide sufficient information to Demonstrate that the Facility will be designed and Operated in a manner that prevents public nuisance and protects the public health, safety, and the environment. The Documentation required to provide such a Demonstration, and the standards that must be met, are set forth in Chapter 11-4 of the Code, the Chicago Environmental Protection and Control Ordinance, and these rules.

These rules provide a minimum standard for the information required in a permit application. Pursuant to the Code, the Commissioner may request additional information, if necessary, due to the complexity of the Facility or to ensure that the Facility will not create a public nuisance and that the public health, safety, and the environment are protected. The information requested in Section 3 of these rules is consistent with the information required pursuant to Section 11-4-2530 of the Code. Information that is required for a New, Existing, Expanding or Consequential Facility only is indicated as such.

In addition to the permit application standards, these rules contain location, operational, and design standards which are applicable to all Large Recycling Facilities unless specifically exempted.

## 2. Definitions

“Applicant” means the Person applying for a permit to the Department to accept, handle,

Process, or otherwise manage a Large Recycling Facility.

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\* Capitalized terms are defined in Section 2 below.

“Closure” means those actions taken by the Owner and/or Operator to cease operations and to ensure that a Facility is closed in a manner that conforms with these rules and all other applicable laws and regulations in effect at the time of such Closure.

“Closure Plan” means a written plan describing the proposed engineering and other technical measures to be undertaken to terminate operation of a Facility and to render the Site or Facility stable and safe for the public health and environment as well as a description of the proposed utilization of the Site or Facility after Closure is complete.

“Code” or “Municipal Code” means the Municipal Code of the City of Chicago.

“Commissioner” means the Commissioner of Health of the City of Chicago.

~~“Consequential Facility” means a Large Recycling Facility that meets at least one of these criteria:~~

- ~~a. Has been found in violation of any federal, state, or local air quality law or regulation within the last three years;~~
- ~~b. Conducts the shredding of vehicles;~~
- ~~c. Is permitted to sort 100 tons per day or more of Recyclable Materials using magnetic systems, eddy current systems, mechanical screens, or other mechanical sorting equipment;~~
- ~~d. Conducts the torch cutting, welding, or heating of metals;~~
- ~~e. Accepts and handles Type D Recyclable Materials; or~~
- ~~f. Has a total outdoor recycling operation covering two acres or more and is within 600 feet of a Sensitive Area.~~

*Justification for Comment: :-Establishing a new category of Facility using limits on processing volume without regard to the type of material processed is an arbitrary application of the Commissioner’s authority. Type D material is benign, non-hazardous, is present in our daily lives, and around our homes and businesses. Additionally, the value of the commodity and the volume of processing performed varies widely between types of materials regulated under these rules and impacts all parts of the operations. Arbitrary inclusion of facilities in this category creates an undue burden on Existing Facilities operating in compliance with current rules and regulations.*

“Criteria Pollutant” means the six airborne pollutants for which the EPA has established National Ambient Air Quality Standards for safe levels of exposure. The current Criteria Pollutants include carbon monoxide, lead, nitrogen oxides, ground-level ozone, particulate matter, and sulfur dioxide.

“Demonstrate” means to provide sufficient Documentation to validate that the representations made in the application are accurate. A demonstration may include reports, analyses, calculations, modeling, studies, or other information necessary to validate the accuracy and

truthfulness of representations made in the application.

“Department” or “CDPH” means the Department of Health of the City of Chicago.

“Documentation” means items, in any tangible form, whether directly legible or legible with the aid of any machine or device, that are used to support facts or hypotheses, including but not limited to affidavits, certificates, deeds, leases, contracts or other binding agreements, licenses, permits, photographs, audio or video recordings, maps, geographic surveys, chemical and mathematical formulas or equations, mathematical and statistical calculations and assumptions, research papers, technical reports, technical designs and design drawings, stocks, bonds and financial records.

“Employee Facilities” means washrooms, toilets, potable water, changing rooms, lunch rooms, showers, and other amenities for employee sanitation and well-being.

“EPA” means the United States Environmental Protection Agency.

“Existing Facility” means a Large Recycling Facility that holds a current and valid operating permit issued by the Department.

“Expanding Facility” means an Existing Facility that has applied for a permit to allow an Expansion.

“Expansion” means an increase in the horizontal boundary and/or vertical limits of a Large Recycling Facility, ~~or an increase in the handling or processing capacity of a Large Recycling Facility beyond the limits established in its current permit.~~

*Justification for Comment: If a Facility is expanding the volume processed through the current system with no other components of Expansion occurring (no change in footprint, equipment, or general operations), has no current compliance issues outstanding, and has available processing capacity, the Expansion should not require a full Design Report and review.*

“Facility” means the land and all structures, equipment, and ancillary fixtures on said land used to Process, Store, or Recycle materials, including: structures, buildings, scales, roadways, parking areas, queuing areas, fences, Tipping Floors, processing equipment, Processing Areas, Staging Areas, and monitoring stations.

“Fugitive Dust” means any solid particulate matter that becomes airborne by natural or human-made activities, but does not include engine combustion exhaust and particulate matter emitted from a properly permitted exhaust stack equipped with a pollution control device.

“Fugitive Source” means the origin of a non-ducted airborne emission, such as dust from the handling or storage of aggregates, wind erosion of storage stockpiles, or material re-suspended from roads by traffic.

“Hazardous Waste” means any waste, or combination of wastes, which because of quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or serious, irreversible, or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when

improperly treated, stored, transported, or disposed of or otherwise managed, or which has been identified by characteristics or listing as hazardous pursuant to Federal and State law including, but not limited to Section 300 I of the Resource Conservation and Recovery Act of 1976, P.L. 94-580 as amended, the Illinois Environmental Protection Act, or pursuant to regulations promulgated by the Illinois Pollution Control Board.

“IEPA” means the Illinois Environmental Protection Agency.

“Large Recycling Facility” means a Facility that ~~1) is authorized to accept 250 tons or more per day of Recyclable Materials; or 2) has a Site area consisting of 2.51.0 acres or larger.~~

*Justification for Comment:—: With the mission of maximizing recycling in the City of Chicago in a way that protects human health and the environment, the City of Chicago will have greater control if the rules apply to all properties engaged in the activities covered by ~~in~~ these proposed rules.*

“Liquid Waste” means any waste which maintains the physical state of continuous volume relatively independent of pressure and which takes the shape of its container at ambient temperature; or is determined to contain “free liquids” as defined by Method 9095 (Paint Filter Liquids Test), as described in “Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods” (EPA Pub. No. SW-846).

“Measurable Rain Event” means (1) a rainfall event that results in a measurable discharge and follows the preceding event by a minimum of 72 hours, or (2) a snow event where measurable discharge occurs and results from melting snow.

“Modification” means one or more physical, operational, or administrative changes that do not constitute an Expansion and that require a permit amendment from CDPH. Such changes include, but are not limited to, changes in the nature of the Facility's operations, changes in Facility configuration, changes in the nature of the Process, and changes necessary to comply with the Consequential Facility requirements under these rules.

“Modifying Facility” means an Existing Facility that is seeking a Modification.

“MS4” or “Municipal Separate Storm Sewer System” means a “conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law)...including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the

Clean Water Act that discharges into waters of the United States. (ii) Designed or used for collecting or conveying stormwater; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.



“MWRD” means the Metropolitan Water Reclamation District of Greater Chicago.

“Municipal Waste” means garbage, general household and commercial waste, Landscape Waste, and construction and demolition debris. Municipal Waste includes industrial waste but does not include non-hazardous special waste, Hazardous Waste or Potentially Infectious Medical Waste.

“National Pollutant Discharge Elimination System” or “NPDES” means the program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits and imposing and enforcing pretreatment requirements under the Clean Water Act (33 U.S.C. 1251 et seq.), Section 12(1) of the Environmental Protection Act (415 ILCS 5/12(1)) and 35 Ill. Admin. Code 309, Subpart A and 35 Ill. Admin. Code 310.

“New Facility” means a Large Recycling Facility that does not hold a current or valid operating permit issued by the Department.

“Noise Disturbance” means any sound which is audible at a distance of 600 feet or more from the source.

“NPDES permit” means a permit issued under the National Pollution Discharge Elimination System program.

“One hundred (100) year flood plain” means any land area which is subject to a one percent or greater chance of flooding in a given year from any source.

“One hundred (100) year, 24-hour precipitation event” means a precipitation event of 24-hour duration with a one percent or greater chance of occurring in a given year using Illinois State Water Survey’s Bulletin 70 – Frequency Distributions of Heavy Rainstorms in Illinois.

“Operator” means a Person who has charge, care or control of the Site; who is responsible for the operation and maintenance of the Site; or who is entitled to control or direct the management of the Site.

“Operating Record” means a collection of documents maintained at the Facility that includes the recycling permit issued by CDPH; the most recent copy of the application submitted pursuant to Section 3 of these rules; a copy of the Facility’s emergency response plans and contingency plans; street sweeping and cleaning logs, vector control treatments; records of emergencies and acceptance of unauthorized waste; and other information specified to be kept in the Operating Record under these rules and the recycling permit.

“Ordinance” means the City of Chicago Environmental Protection and Control Ordinance, Chapter 11-4 of the Municipal Code of Chicago.

“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 Facility. The Owner is the Operator if there is no other person who is operating and maintaining a Facility.

“Owner’s Agent” means any person whom the Owner has authorized to act on their behalf or in their place.

“Person” means any individual natural person, trustee, court-appointed representative, syndicate, association, partnership, co-partnership or joint stock company, limited liability company, trust, estate, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, city, county, municipality, district or other political subdivision, department, bureau, agency or instrumentality of federal state or local government, contractor, supplier, vendor, installer, operator, user, or owner, or any officers, agents, employees, factors, or any kind of representative thereof, in any capacity, acting either for himself, or for any other person, under either personal appointment or pursuant to law, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstance.

“Point Source” means an exhaust stack or other discrete, typically ducted source of airborne emissions.

“Pollution Control Waste” means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from the air, water or land and which poses a threat or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. “Pollution Control Waste” includes but is not limited to, water and wastewater treatment plant sludges, baghouse dusts, landfill waste, scrubber sludges and chemical spill cleanings.

“Potentially Infectious Medical Waste” means wastes as defined in 415 ILCS 5/3.360.

“Process” or “Processing” means manual, mechanical or automated separation of recyclable material from other materials; separation of recyclable materials from each other; cleaning, bundling, compacting, cutting, packing of recyclable material or such other processing of recyclable materials as approved by the Commissioner.

“Processing Area” means any area contained within a Facility where handling or Processing of any recyclable material takes place.

“Professional Engineer” means a person who holds a current and valid certificate of registration and a seal pursuant to the “Illinois Professional Engineering Practice Act” (225 ILCS 325/1 et seq.).

“Professional Surveyor” means a person who holds a current and valid certificate of registration and a seal pursuant to the “Illinois Professional Land Surveyors Act” (225 ILCS 330/1 et seq.).

“Property” means the land described by a legal description that includes a Facility, or a proposed Facility, and may include a Site or other areas within the described legal description operated or controlled by other independent businesses or entities.

“Recycle” or “Recycling” has the same meaning ascribed to these terms in section 11-4-120.

“Recyclable Material(s)” has the same meaning ascribed in section 11-4-2510 and shall be categorized as Type A, Type B, Type C or Type D as these terms are defined in said section.

“Run-off” means water resulting from precipitation that flows overland before it enters a defined stormwater receptor (e.g. ditch, pond, sewer, stream channel), any portion of such overland flow that infiltrates into the ground before it reaches the stormwater receptor, and any portion that falls directly into a stormwater receptor.

“Run-on” means water resulting from precipitation that drains overland onto any part of the Facility.

“Secondary Containment” means a device or structure designed to contain a release of liquid from a tank, piping system, drum storage area, tanker truck loading/unloading area, liquid transfer point, pit, lagoon, impoundment, or similar liquid handling or storage system or device, thereby controlling the release of the liquid and preventing its escape into the environment.

“Sensitive Area” means any property not located within a Planned Manufacturing District that includes residential use or an area zoned for residential use, a park, a hospital, a clinic, a church, a day-care center, or a school.

*Justification for Comment:--: Planned Manufacturing Districts are intended for intense manufacturing uses and, by their nature, should be excluded from properties designated as “Sensitive Areas.” Some Planned Manufacturing Districts have been operating for approximately 30 years; inappropriately sited*

uses within such districts should not be accommodated in a way that reduces the effectiveness of the District.

“Site” means all areas of Property that are controlled by the Operator, including the Facility and other areas that are controlled by the Operator, whether or not they are used for Recycling Activities.

“Solid Waste” means abandoned or discarded materials that are not defined as a Liquid, Special, or Hazardous Waste.

“Special Waste” means any industrial process waste, Pollution Control Waste or Hazardous Waste, and other wastes as defined by the Illinois Environmental Protection Act as amended and in regulations promulgated by the Illinois Pollution Control Board. “Special Waste” includes Potentially Infectious Medical Waste.

“Staging Area” means a dedicated area of the Facility used for the temporary placement of materials awaiting processing at the Facility.

“Storage” means the containment or stockpiling of recyclable material, finished product, or residual waste on a temporary basis. Storage does not include the temporary placement of unprocessed or partially processed recyclable materials in a Staging Area.

“Store” means to contain or stockpile Recyclable material, finished product, or residual waste for future Processing or removal from the Site.

“SWPPP” or “Storm Water Pollution Prevention Plan” means a document that outlines how a Facility will minimize stormwater pollution by 1) employing best management practices (BMPs) and good housekeeping procedures that minimizes pollutants such as sediments, oil, chemicals and trash; 2) providing for inspections and BMP maintenance; and 3) performing continuous monitoring and periodic laboratory sampling and analysis.

“Tipping Floor” means the area within a Facility where receiving activities, including unloading, loading, and limited sorting occur.

“Toxic Air Pollutants” means chemicals (such as benzene or formaldehyde) or mixtures that, at sufficiently high concentrations, harm health, but that are not regulated via national ambient air standards.

“Unauthorized Materials” means materials not specifically authorized to be accepted and handled at the Facility under its CDPH recycling facility permit.

“Universal Waste” means Hazardous Waste such as batteries, pesticides, mercury-containing equipment, lamps, and other materials subject to the requirements under 35 Ill. Adm. Code 733.

“Utilities” means any service provided to the Site that has a dedicated system of service. Utilities may include, but are not limited to: electricity, potable water, process water, telephone, and natural gas.

“Vector” means any living agent, other than human, capable of transmitting, directly or indirectly, an infectious disease.

“Waste” means any discarded or abandoned material in solid, semisolid, liquid, or contained gaseous form, including but not limited to, industrial process waste, Hazardous Waste, Liquid Waste, Municipal Waste, special waste, garbage, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control Facility, but excluding: (1) sewage collected and treated in a municipal or regional sewage system; or (2) Recyclable Materials managed in compliance with the provisions of the City of Chicago Municipal Code and applicable regulations.

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon the City of Chicago. Examples of Waters include, but are not limited to, Lake Michigan, the Chicago River, Calumet River, and Lake Calumet.

“Wetland” means those areas defined in 40 CFR 232.2.

### 3. Application Requirements for a Large Recycling Facility Permit

A Large Recycling Facility must apply for and receive a permit in accordance with these rules as follows:

- A New Facility must receive a permit before beginning operations;
- An Expanding Facility must receive a permit for the Expansion before beginning construction or otherwise implementing the Expansion;
- A Modifying Facility must receive a permit amendment before beginning any Modification; and
- An Existing Facility must renew its permit every three years before the expiration of its current permit.

Permit applications shall contain Documentation sufficient to Demonstrate that the Facility is designed and will be operated in a manner that protects the public health, safety, and the environment. Documentation submitted to other regulatory agencies, such as the EPA, IEPA, and the MWRD, relating to a construction or operation of a waste facility, a recycling facility, a discharge source, or an emission source must be included in the application as an Attachment and referenced in the application.

The application requirements and contents for a Large Recycling Facility are described below and summarized in Appendix A.

#### 3.1. Professional Engineer

The permit application shall be prepared under the direction of, and shall contain the name, address, registration number, seal, and signature of, a Professional Engineer.

#### 3.2. Submission Format

The Applicant must submit the entire application electronically in portable document format (.pdf) file format, or in another format approved by CDPH.

#### 3.3. Description of Operations

Provide a brief description of the Operator's business and the operations that currently or will take place at the Facility.

### 3.4. Applicant Summary

The application shall contain an Applicant summary that clearly identifies the Person applying for the permit. In the case of a sole-proprietorship, the application shall include the name, address, and phone number of the owner of the proprietorship or, in the case of a partnership or corporation, the application shall include the name, address, contact name, and phone number of the partnership or corporation.

### 3.5. Facility Summary

The application shall include a Facility summary containing the following:

- A. The Facility's street address and telephone number.
- B. The Facility's Property Index Numbers (PINs).
- C. A list of the types and sources of Recyclable Materials to be brought to the Facility, including a brief description of the composition of each stream.
- D. The average and maximum daily quantities of each type of Recyclable Material anticipated to be brought to the Facility during the term of the permit.
- E. The average and maximum daily and weekly quantities of Recyclable Materials anticipated to be processed during the term of the permit. If seasonal variations in processing volumes are anticipated, the variations must be discussed in this section.

### 3.6. Property Owner's Authorization

The application shall include a notarized letter, signed by the Owner, authorizing the Operator to use the Property as a Large Recycling Facility. This letter is required even if the Applicant is the Owner.

### 3.7. Property Taxes

The application shall include Documentation evidencing the payment of real estate property taxes by providing copies of the most recent tax bill and check; or by providing a copy of the most recent tax bill that has been stamped paid by the Cook County Treasurer's office, or payment receipts issued by said office.

### 3.8. Nature of a Special Use



If applicable, an application for a New Facility or an Expanding Facility shall contain all reports and information intended to support an application for a variance in the nature of a special use (Special Use Variance) from the Zoning Board of Appeals (ZBA). If the Facility already has a Special Use Variance, the application shall contain a copy of the resolution of approval of the Special Use Variance and Documentation to Demonstrate that the Facility is in compliance with all conditions of the Special Use Variance.

Justification for Comment: Specificity will provide applicants and the Department with certainty about the requirements for compliance.

### 3.9. Design Report

The application for New or Expanding Facilities, not to include Expanding Facilities only in storage or processing volume, shall contain a design report for the Facility (“Design Report”) that shall include the following components, in order:

Justification for Comment:-: Existing facilities should be able to request changes to volume of materials, which are benign and non-hazardous, in accordance with the standard conditions listed in the existing permit process approved by the City of Chicago, Department of Public Health, without requiring a Design Report each time. Also see comments regarding volume limits in the provided cover letter.

#### 3.9.1. Plot Plan

The design report shall contain a plot plan drawing(s) of the Facility (“Plot Plan”). The Plot Plan shall be prepared at a legible scale, no smaller than one-inch equals 100 feet, and shall include the following components, at a minimum:

- 3.9.1.1. The Facility boundaries and the location of all buildings, access roads, parking areas, and any ancillary structures or features within the Facility; and
- 3.9.1.2. Topographic contours, at a minimum two-foot contour interval, of existing conditions and any proposed regrading of the Site. The

footprints and volumes of all outdoor stockpiles.

### 3.9.2. USGS Site Location Map

The Design Report shall contain a USGS 7.5 Minute Quadrangle Map that includes:

- 3.9.2.1. The delineated boundaries of the Facility; and
- 3.9.2.2. A clearly marked one-mile radius around the entire Facility that identifies any feature such as a residential property, stream, river, pond, lake, Wetland, road, highway, school, park, and any other Sensitive Area.

### 3.9.3. Aerial Photograph Drawing(s)

The Design Report shall contain aerial photography drawings taken within the year before the date of the permit application that show the following:

- 3.9.3.1. The delineated boundaries of the Facility;
- 3.9.3.2. Clearly marked radiuses of 150 feet and 660 feet around the entire Facility boundary to identify features such as a residential property, road, highway, school, park, non-manufacturing land uses and any other Sensitive Area within these radiuses;
- 3.9.3.3. Zoning districts clearly delineated. The district boundaries and their respective designation shall be clearly marked; and
- 3.9.3.4. Any additional characteristic or feature that has a location standard established in 3.9.4, or any other applicable standard. The drawing(s) shall identify the characteristic or feature and indicate the setback distance from the Facility boundary.

#### 3.9.4. Location Standards

At a minimum, the Design Report for a New or Expanding Facility shall Demonstrate compliance with the following standards:

- 3.9.4.1. Residential Setbacks. A Facility must meet the setback requirements set forth in Section 17-9-0117 of the Municipal Code.
- 3.9.4.2. Lake Michigan. A Facility shall not be located within the Lake Michigan and Chicago Lakefront Protection District as specified in The Lake Michigan and Chicago Lakefront Protection Ordinance (Chapter 16-4 of the Municipal Code).
- 3.9.4.3. 100-Year Flood Plain. A Facility and all ancillary structures, including storage areas, shall not be located within the 100-year flood plain, unless the Facility can Demonstrate compliance with the Chicago Flood Control Ordinance (Chapter 16-6 of the Municipal Code) and all other applicable state and federal requirements.
- 3.9.4.4. Wetlands. A Facility shall not have a negative impact on Wetlands located on or near the Facility, in accordance with Section 404 of the Clean Water Act (33 U.S.C. 1344) unless application is made, and a permit received from the US Army Corps of Engineers, and the Commissioner approves such impact as part of the Facility's permit.

- 3.9.4.5. Endangered Species. A Facility shall not pose a threat to any endangered species of plant, fish, or wildlife as defined by the Endangered Species Act (16 U.S.C. 1531, *et seq.*) or the Illinois Endangered Species Protection Act (520 ILCS 10/1, *et seq.*).
- 3.9.4.6. Historic and Natural Areas. A Facility shall not pose a threat to any historic site as listed pursuant to the National Historic Preservation Act (54 U.S.C. 300101, *et seq.*) or the Illinois Historic Preservation Act (20 ILCS 3410/1, *et seq.*) or designated as an official Chicago Landmark Building or within an official Chicago Landmark district, or any natural landmark, as designated by the National Park Service, the Illinois State Historic Preservation Office, or as a Dedicated Illinois Nature Preserve pursuant to the Illinois Natural Areas Preservation Act (525 ILCS 30/1, *et seq.*).

### 3.9.5. General Layout of the Facility

The Design Report shall contain sufficient scale drawings to describe the general layout of the Facility. These drawings shall include and indicate, but not be limited to:

- 3.9.5.1. The main areas of the Facility, at a legible scale, not less than one-inch equals 100 feet. The scale shall be represented on each drawing in graphical format.
- 3.9.5.2. The internal and external layout including dimension and setback information of all buildings and structures.
- 3.9.5.3. The layout and location including dimension and setback information for all fixed equipment including, but not limited to, all Processing equipment, and conveyors.
- 3.9.5.4. The footprints of all Processing, handling, staging, rejected materials storage areas, and stockpile areas.
- 3.9.5.5. All pertinent features of the stormwater management system (e.g. on-site stormwater flow, inlets, storm water pipelines, catch basins, and detention/retention ponds). For a New or Expanding Facility, the extent of the high-water level during a one hundred (100) year, 24-hour precipitation event, shall also be depicted.

- 3.9.5.6. All pertinent features of the wastewater management system (e.g. floor drains, sumps, oil filters/separators, sewer lines and treatment facilities).
- 3.9.5.7. The locations of the primary Utilities within and adjacent to the Facility.
- 3.9.5.8. The locations of the primary water sources and water distribution system components for Employee Facilities, fire suppression, Facility cleaning, and dust control.
- 3.9.5.9. The locations of all fire suppression equipment (e.g. sprinklers, hoses, and extinguishers), areas where torch-cutting or welding occurs, and all flammable material storage areas.
- 3.9.5.10. The locations of all Facility or Site control features and all screening devices such as fences, gates, and signage.
- 3.9.5.11. The locations and layout of all parking and on-site queuing areas, including the number of parking spaces and the maximum number of vehicles that can be queued at one time in the allowed queuing area.
- 3.9.5.12. The locations and layout of all employee facilities.
- 3.9.5.13. The location of all first-aid equipment and other emergency supplies and equipment.

### 3.9.6. Site Survey

The Design Report shall contain a legal plat of survey, prepared by a Professional Surveyor, that depicts the Facility boundaries.

- 3.9.6.1. Legal Description. The Design Report shall contain legal descriptions, prepared by a Professional Surveyor, that describes the Facility boundaries.

### 3.9.7. Pavements

All roads and parking areas within the Facility shall be paved with concrete, ~~or~~ hot-mix-asphalt, or gravel when deemed appropriate by the Commissioner. The Design Report shall Demonstrate that all internal roads and parking areas are designed, constructed,

and maintained to accommodate the volume and type of traffic loading expected at the Facility, including, but not limited to:

- 3.9.7.1. A plan scaled drawing depicting all pavements at the Facility by pavement type. For a New or Expanding Facility, this drawing shall also depict the minimum turning radiuses required by vehicles and equipment transporting or handling materials at the Site.
- 3.9.7.2. A pavement maintenance plan describing how and at what frequency the Operator will inspect, repair, and maintain all pavements at the Facility to minimize ponding, dust, and mud.
- 3.9.7.3. For new pavements, provide cross-sectional drawings showing the thickness and material composition of the pavement system layers from sub grade to the surface slab or wearing course, and elements of the roadway such as the traveled way, shoulders, cross slope, side slopes, curbs, gutters, medians, barriers, guardrails, and ditches.
- 3.9.7.4. For a New or Expanding Facility, all internal roadways intersecting the public way shall be paved with concrete or bituminous asphalt pavement. The length of the concrete pavement shall be the lesser of 1) the distance between the public way and the primary scale; or 2) a length of 250 feet into the Facility commencing from the public way. If the Facility does not operate a scale, the distance to the Tipping Floor or receiving building may be used to determine the minimum required length of the ~~concrete~~ pavement.

*Justification for Comment:—: This section should be consistent with other areas of the Proposal and the Municipal Code that reference the acceptable use of concrete, hot-mix asphalt, or gravel. The proper use and construction of asphalt pavement for roadways intersecting the public way are equivalent to concrete pavement.*

### 3.9.8. Utilities

For a New or Expanding Facility, the Design Report shall Demonstrate that Utilities are

of adequate capacity and are readily available for the operations of the Facility. The information in the Design Report regarding Utilities shall include:

- 3.9.8.1. A plan scaled drawing showing the location of all Utilities within and adjacent to the Facility.
- 3.9.8.2. Calculations demonstrating the peak demand for Utilities required for the proper operation of the Facility. This shall include, but is not limited to, gas and electrical demands.

- 3.9.8.3. Documentation to Demonstrate that sufficient capacity for Utilities is available to the Facility to satisfy the demands calculated in 3.9.8.2. Such Documentation may be in the form of an approval letter or permit from the utility provider.

### 3.9.9. Water Sources

For a New or Expanding Facility, the Design Report shall Demonstrate that sufficient quantities of water are available to support Facility operations, and shall include:

- 3.9.9.1. An estimate of water usage at the Facility for fire suppression, dust control, cooling, cleaning, irrigation, and Employee Facilities.
- 3.9.9.2. The locations of each source of water, foams and other fire-extinguishing materials, and oils or other chemical dust suppressants.
- 3.9.9.3. The total amount of water, foams and other fire-extinguishing materials, and oils or other chemical dust suppressants available from each source.
- 3.9.9.4. The rate at which water, foams and other fire extinguishing materials, and oils or other chemical dust suppressants can be obtained from each source.
- 3.9.9.5. A list of the equipment and specifications that will be used to pump, distribute, and convey water, foams and other fire-extinguishing materials, and oils or other chemical dust suppressants.

### 3.9.10. Site Security

The Design Report shall Demonstrate that the Facility is secure from unauthorized entry access at all times, and shall include, at a minimum:

- 3.9.10.1. A description and specifications of the ~~fences, gates, signs, and other~~ barriers that prevent unauthorized ~~access~~ entry to the Facility.
- 3.9.10.2. A description of the security measures taken during both operating hours and closed hours.

*Justification for Comment--: Clarification is necessary to be consistent with the language in the current rule (Article XX, Section 3.0(1)). Facilities are able, to the greatest extent practical, to limit and control entry to areas but cannot be*



responsible for unauthorized access to areas, especially for locations with easements and/or common use roadways shared by adjoining or adjacent property owners. Each facility has site specific security procedures for both operating and non-operating hours and works with neighboring properties to ensure access to common use areas is not restricted.

### 3.9.11. Structures and Fixed Equipment

The Design Report shall Demonstrate that all structures and fixed equipment are designed so that the Facility can be operated as proposed and in a safe manner, and shall include, but not be limited to:

- 3.9.11.1. Detailed design drawings and manufacturers' specification sheets for all structures and fixed equipment.
- 3.9.11.2. Documentation that the buildings used to store recyclables meet all building and fire prevention requirements set forth in the Municipal Code.
- 3.9.11.3. Calculations of the handling capacity of all structures and fixed equipment.
- 3.9.11.4. An operating and maintenance plan for all structures and fixed equipment.

#### 3.9.12. Tipping Floor and Storage Capacity

The Design Report shall Demonstrate that sufficient floor and staging capacity exists to accommodate the inspection and unloading of peak volumes of inbound material; to load out peak volumes of outbound materials; and to store materials, and shall include, but not be limited to:

- 3.9.12.1. Detailed calculations of the volume available for the unloading of inbound materials on the Tipping Floor(s). The Facility shall have a dedicated Tipping Floor for the unloading of vehicles with comingled or unknown Recyclable Material, and another dedicated Tipping Floor for accommodating homogeneous loads or loads with known content and shipped under a bill of lading.
- 3.9.12.2. Detailed calculations of the volume available for the temporary Storage of Unauthorized Materials. Such area shall be located adjacent to or near the Tipping Floor, designed to accommodate any Unauthorized Material that can reasonably be encountered in the inbound stream, and shall be sized to accommodate at least 5% of the Facility's daily permitted capacity.

- 3.9.12.3. Detailed calculations of the volume available for the Storage of raw materials, processed materials, products and residual waste on the Tipping Floor(s), loadout area, and in all Staging/Storage areas.
- 3.9.12.4. Drawings of the maximum horizontal and vertical limits of all raw materials, processed materials, products and residual waste on the Tipping Floor(s), loadout area, and in all Staging/Storage areas.
- 3.9.12.5. Estimates of the volume of incoming materials during the peak inflow period of the day, in ~~cubic yards~~ tons per hour. This estimate shall reflect periods of peak volume.

*Justification for Comment--: Maintain consistency with the rest of the Rules and references to "per ton" v. "cubic yard."*

### 3.9.13. Water Drainage

For an Existing Facility that is requesting an expansion only in storage volume or material processed, Water Drainage review will be limited to the impact of the increase in storage or processing volume on existing conditions. For a New or Expanding Facility, the Design Report shall Demonstrate that adequate systems exist to handle stormwater and wastewater flows from the Facility, and shall include:

*Justification for Comment--: This exception is needed as there is no discernible purpose to penalize a facility that is requesting to recycle a larger volume of Class V and Type D materials, which are benign and non-hazardous, in accordance with the standard conditions listed in the existing permit approved by the City of Chicago, Department of Public Health.*

- 3.9.13.1. A stormwater management plan approved by the Chicago Building Department pursuant to the stormwater ordinance under Chapter 11-18 of the Municipal Code, or a letter from the Chicago Building Department that the Facility is exempted from the stormwater ordinance requirement. The 100-year high water elevation must be depicted on the general layout requirements in subsection 3.9.5, even if the Facility is exempted from Chapter 11-18.

- 3.9.13.2. Copies of the Facility's NPDES and MWRD discharge permits, or anticipated submittal date, along with a copy of the permit application(s), and any other permit issued by the IEPA Bureau of Water.
- 3.9.13.3. Documentation that any receiving sewer system has sufficient capacity to handle the quantity of stormwater and wastewater generated by the Facility. Such Documentation may be in the form of an approval letter(s) or permit(s) from the Chicago Building Department and/or the Chicago Department of Water Management.
- 3.9.13.4. Drawings, specifications, and design calculations to Demonstrate effective management, treatment or disposal of contaminated stormwater and process waters generated by the Facility.

### 3.9.14. Traffic

The Design Report shall Demonstrate that traffic generated by the Facility will not significantly affect impact existing traffic flows, and that the points of ingress and egress are designed according to Illinois Department of Transportation (IDOT) standards. This demonstration shall include, but not be limited to:

For an Existing Facility:

- 3.9.14.1. ~~Calculations of the average and maximum number of vehicles generated by the Facility as well as an hourly breakdown of Facility vehicle traffic.~~
- 3.9.14.2. ~~Diagrams of the points of ingress and egress depicting the layout of ingress/egress points, sight distances, and improvements necessary to minimize accidents at the ingress/egress points.~~
- 3.9.14.3. ~~A listing of roads and highways designated for use by traffic generated by the Facility.~~
- 3.9.14.4. ~~A stacking plan showing the number of vehicles and the on-site and off-site locations of these vehicles during the maximum peak Facility traffic hours.~~

*Justification for Comment:—: Existing facilities operating in compliance should not be required to submit traffic calculations and perform traffic studies solely due to their existence. The traffic generated by these facilities under current conditions already exists and no public benefit can be derived from studying an existing operation under normal conditions. Further expansion of volumes only further benefits the City through reduced overall vehicle volumes and additional host fees.*

*“Impact” describes a condition that is derived from the conduct of the applicant, not potential conditions that may exist in the absence of the Facility.*

- 3.9.14.5. An idling reduction plan that Demonstrates compliance with Section

9-80-095 of the Code, and that minimizes unnecessary idling of vehicles and equipment in order to avoid contributions to poor air quality and noise.

Additional Information for a New or Expanding Facility:

- 3.9.14.6. A Demonstration that traffic generated by the Facility will not interfere with the flow of traffic or exceed the intended level of service of any public street or right-of-way.
- 3.9.14.7. Traffic counts taken in hourly intervals at all ingress/egress points throughout the anticipated operating hours of the Facility. The entire operating period shall be represented in this traffic count study and shall identify the peak hours of traffic volumes occurring in the morning and afternoon. The traffic counts shall include a classification of vehicles.

- 3.9.14.8. A description of the measures taken to reduce the impact of the Facility generated traffic on the existing traffic flows.

### 3.9.15. Expected Waste Generation

For a New or Expanding Facility, the Design Report shall include a description and estimate of the amount of Waste anticipated to be generated at the Facility, and shall include:

- 3.9.15.1. An estimate of Liquid Waste generated at the Facility each month, broken down by activity. Such activities may include, but not necessarily be limited to, the draining of fluids from vehicles, the collection of leachates from stockpiles, the cooling of equipment, and the cleaning, draining or washout of sumps and pollution control devices. In addition, the estimate shall include a description of both onsite and offsite methods employed to collect and manage the Liquid Waste from each activity.
- 3.9.15.2. An estimate of Waste generated at the Facility each month, broken down by activity, and categorized by Waste type (Municipal Waste, Special Waste, Hazardous Waste, Universal Waste, Liquid Waste, etc.). Waste may include residue generated from the Processing of Recyclable Materials, cleaning and housekeeping activities, and Waste from filter media and pollution control devices. In addition, the estimate shall include a description of onsite storage methods and a listing of offsite disposal facilities for each category of Waste.

### 3.9.16. Parking

The For any New or Expanding Facility, the Design Report shall Demonstrate that sufficient parking exists at the Facility, and shall include:

*Justification for Comment:—: Existing facilities are permitted, whether through Variance or otherwise, to operate in the manner detailed in the permit. Inasmuch as permitted facilities were required to submit a Design Report at the time of the initial permit application and existing facilities are required to submit operational information, a new Design Report is redundant and should not be required.*

- 3.9.16.1. The number of employees at the Facility and the corresponding

number of parking spaces.

- 3.9.16.2. A layout of all parking areas, including bicycle parking, short-term vehicle parking, and vehicle queuing areas. This layout may be shown on the general layout required in subsection 3.9.5.

### 3.9.17. Employee Facilities



The For any New or Expanding Facility, the Design Report shall contain a description of the Employee Facilities available at the Facility.

*Justification for Comment:—: Existing Facilities provide the Employee Facilities required under current permits, many operations are pre-existing non-conforming structures or uses under all other code updates adopted by the City or the Commissioners. It would be burdensome to operators and inconsistent with other provisions of the Municipal Code for the Department to require operators of legally operating non-conforming uses and structure to review all zoning and building regulations that may have been adopted since inception of the operation and to advise the City of the extent of potential non-conformities.*

### 3.9.18. Perimeter Barrier

Unless otherwise enclosed by a fence or other appropriate structure, rail line, or waterway, tThe Design Report shall Demonstrate that the barrier around the Facility will adequately control noise, dust, and blowing litter; prevent unauthorized access; and obscure Facility operations from the public way and nearby properties, and shall include:

- 3.9.18.1. A description of the Facility’s perimeter barrier, including, but not limited to:
  - A. Height – On sides of the Facility where there are non-manufacturing land uses within 660 feet, the barrier must be at least 15 feet tall. For all other sides, the barrier must be at least 8 feet high.
  - B. Material Composition – The barrier must be solid and constructed of durable material such as concrete, cinder block, brick, or another material approved by the Commissioner.
  - C. Site Access Locations – When possible, all gates and access openings shall be located away from adjacent or nearby non-manufacturing land uses.
  - D. A detailed drawing of the construction of the barrier, its height, and the placement around the Site. The drawing may be included in the general layout required in subsection 3.9.5.

- E. A demonstration that the barrier, along with other structural and non-structural best practices and controls proposed for the Site, will control noise, dust, blowing litter, and unauthorized ~~access~~entry.

*Justification for Comment--: The perimeter barrier should not be an unnecessary expense, nor should it restrict the facility's ability to access either the rail or water to load and/or unload materials for the site. Storage space and configuration at these recycling facilities fluctuates with market conditions. Provided that the facility complies with the requirements outlined in the existing rules and permit issued for the site as well as air monitoring requirements, the perimeter barrier limit should not be increased. Also see comments in the submitted cover letter.*

#### 3.9.19. Stormwater Pollution Prevention

For New or Expanding Facilities, the ~~The~~ Design Report shall include a Stormwater Pollution Prevention Plan (SWPPP) that includes, but may not necessarily be limited to:

- 3.9.19.1. Identification of offsite receiving Waters and sewerage systems. If discharge is to a sewer, identify the sewer type (combined, MS4, sanitary) and ultimate destination of the connecting sewer network.
- 3.9.19.2. An inventory of potential pollutants at the Facility and their sources. The types of pollutants to be considered shall, at a minimum, include sediments, oil and grease, toxic chemicals, pH, heavy metals, nutrients, and trash/debris.
- 3.9.19.3. A description of best management practices (BMPs) to address the pollutants identified. The description shall Demonstrate that the BMPs are designed and will be maintained to effectively remove the pollutants described in 3.9.19.2.
- 3.9.19.4. For Facilities that discharge to Waters or MS4, the SWPPP shall include a stormwater monitoring and sampling plan that satisfies the requirements under Section 4.7 of these rules.

### 3.9.20. Noise Impact Assessment

For applications requesting a waiver to operate outside of the standard operating hours in Section 4.2, the Design Report shall include a noise impact assessment that includes, but is not limited to:

- 3.9.20.1. An inventory of noise-generating equipment (including HVAC and air-handling systems) and activities at the Facility and their corresponding sound pressure level in dB(a) and one-band octaves. This inventory shall include loud noises from explosions, slamming of tailgates, and other impulse noise sources. Sound level data may be derived from existing acoustical data, sound power levels from equipment manufacturers, or through noise measurements of comparable operation or equipment.
- 3.9.20.2. Ambient noise levels of the area surrounding the subject site shall be collected. These levels shall be factored into the overall assessment to establish ambient noise concentrations of the entire area surrounding the subject. ~~computation of the total sound level in dB(a) at a distance of 660 feet from the Facility boundaries.~~

*Justification for Comment--: Class V facilities that conduct recycling of Type D materials should be given an opportunity*

to demonstrate compliance through the permit application process, which already outlines standard operating hours and controls for managing noise. If an assessment is required, ambient conditions must be included to establish an appropriate baseline level to determine compliance, if the controls outlined in the permit application are deemed insufficient.

The City should increase the noise levels permitted. At this time, the noise level limits are so low, that almost any industrial activity causes the operation to be in violation of the limits. A low noise standard that prohibits an operation at a location that is designated for that operation gives regulators too much authority to shut down an operation for reasons unrelated to problems caused by noise. Allowing regulators unfettered authority leaves the City vulnerable to charges that an exercise of such authority is arbitrary and capricious.

- 3.9.20.3. If any sound levels exceed applicable standards contained in Chapter 8-32 of the Code, or constitute a Noise Disturbance, the noise impact assessment shall include a noise abatement plan to bring sound levels down to acceptable standards.

- 3.9.20.4. For a Facility that conducts shredding of automobiles, the noise impact assessment must include a noise monitoring plan to continuously record sound pressure levels at the Facility and collect the data required in 4.6.1 of these rules. The monitoring plan shall be designed to distinguish noise from onsite and offsite sources.

### 3.9.21. Storage Tanks

The Design Report shall Demonstrate that all storage tanks used to store oil, chemicals, and flammable liquids have secondary containment and are approved by the State Fire Marshall's Office and the CDPH's Storage Tank Unit. A Facility subject to Spill Prevention Control and Counter Measures (SPCC) regulations under 40 CFR 112 shall provide a copy of the Facility's SPCC Plan.

### ~~3.9.22. Air Quality Impact Assessment~~

~~The Design Report for a Consequential Facility shall contain an air quality impact assessment that includes, but is not necessarily limited to:~~

- ~~3.9.22.1. An emissions and air dispersion modeling study ("Study") of the Facility and its operations. The Study shall evaluate airborne emissions from each Point Source and Fugitive Source. The Study shall evaluate all Criteria Pollutants and Toxic Air Pollutants that may be generated at the Facility from sources such as, but not limited to, Processing equipment, diesel engines, and emissions from roadways, stockpiles, material handling, sorting, welding, torching, grinding and cutting activities.~~
- ~~3.9.22.2. A dust control plan incorporating the results of the Study. The plan shall detail specific controls and best practices to mitigate dust and PM10 emissions from the Facility in compliance with 4.8 of these rules, and all applicable federal, state, and local requirements.~~
- ~~3.9.22.3. A Dust Monitoring Plan that describes the placement, operation, and maintenance of the PM10 monitors and a weather station as required under subsection 4.8.3.1 and 4.8.3.3 of these rules, and a schedule and plan for quarterly testing to ensure compliance with the prohibition of dust set forth in 4.8.3.12. The Dust Monitoring Plan shall provide for at least one monitor at each 45-degree direction from the center of the Facility where there is a Sensitive Area or~~

commercial land use within 660 feet of the Facility boundary. If there are no Sensitive Area or commercial land uses within 660 feet of the Facility, one monitor shall be placed at the perimeter barrier opposite each section of an eight-point wind rose with an annual frequency of 25% or more. If all frequencies are below 25%, then monitors shall be placed at opposite ends of the Facility along the direction of the wind rose point having the highest frequency.

- 3.9.22.4. For a Facility that conducts the mechanical shredding of vehicles, the Dust Monitoring Plan must include an emissions sampling plan of the shredder stack for PM10 and volatile organic compounds (VOCs). Such emissions shall be sampled at least once every five years. A report of the sampling results shall be submitted to the Commissioner no later than 90 days following completion of sampling activities.

Justification for Comment: With the inclusion of this Section of the proposed rules, the City begins an overreach of its purview. The requirement for an Emissions and Air Dispersion Modeling Study is overly excessive. The majority of facilities which crush Type D recyclable materials currently operate under an Illinois Environmental Protection Agency (IEPA) granted Lifetime Operating Permit or a Registration of Smaller Source (ROSS). In rare instances, the IEPA may require emission and air dispersion modeling for the following types of sites:

- CAAPP (Title V Air Permit) sites
- FESOP (Synthetic Non-Major Source) sites
- Sites which must adhere to the Toxic Air Contaminant requirements listed in 35 IAC 232

Currently, the IEPA does not mandate or require Emission and Air Dispersion Modeling Studies for ROSS and Lifetime Air Permit Facilities. As required by the ROSS program, the majority of Type D Recyclable Material Facilities currently operating in the City of Chicago emit less than five tons per year of particulate matter emissions. Note that if the emissions generated at these sites exceed the five tons per year of emissions, the facility is required to obtain a more comprehensive permit. Specifically, in the Chicago region, the CAAPP Permit threshold for Particulate Matter is 100 tons per year. If the majority of Type D Recyclable Material Facilities emit 95% less than the CAAPP annual threshold of particulate matter, then it is excessive and burdensome for these recycling sites to perform an Emission and Air Dispersion Modeling Study. Fugitive Dust Control Plans and/or Dust Monitoring Plans which are prepared properly and adhered to on a daily basis provide more than enough assurance for compliance of all applicable regulations. Finally, to require these rules only of Consequential Facilities is biased and unfair, particularly in a case where a site has operated in compliance with no findings of liability and no sustained violations have been issued over a period of time (i.e. 3 years). Further, before any Air Monitoring requirements are imposed, the City should set forth the emission limits and enforcement action levels.

### 3.10. Environmental Impact Assessment

As applicable, the Design Report shall include a complete copy of the Environmental  
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Assessment prepared pursuant to the Chicago Zoning Ordinance. The application shall also include responses and any additional information related to any recommendations included in the Environmental Assessment.

### 3.11. Operating Plan

The application shall contain an operating plan (“Operating Plan”) for the Facility that shall include, at a minimum, the following components, in order:

#### 3.11.1. Types of Recyclable Material

The Operating Plan shall include a detailed description of the types of materials and volumes of each type accepted and produced at the Facility. It shall also include the screening measures to be used by the Facility to ensure that Unauthorized Materials are not accepted, improperly disposed of, or reused offsite. The operating plan shall include, but not be limited to:

- 3.11.1.1. A list of all the types of materials and the daily volumes of each type of material accepted and processed at the Facility. The list shall be specific and shall not include terms such as “other,” “general,” “miscellaneous,” or similar terms that are vague in nature. Each item

included in the list shall be accompanied by a description of the materials.

- 3.11.1.2. A description of the specific source locations (names of Chicago neighborhoods, suburbs, counties, states, or countries) and source types (industrial, commercial, residential, construction or demolition activity, junk peddlers, tow-truck drivers, waste transfer stations, recycling service pick-ups, etc.) from which the different types of materials will be accepted, and the source-screening protocol, including radiation screening of metal scraps, that will be followed to ensure materials to be accepted do not contain Unauthorized Materials.
- 3.11.1.3. A screening plan that provides for the screening of loads entering the Facility. The plan shall describe in detail the inspection procedures for materials unloaded and include a description of procedures.
- 3.11.1.4. An emergency response plan for the segregation and removal of all Unauthorized Material from the Facility.

### 3.11.2. Quantity of Recyclable Material

The Operating Plan shall include a description of the daily quantities of materials accepted at the Facility during average and peak volume seasons. The Operating Plan shall also Demonstrate the Facility's ability to handle the accepted quantity, and include, but not be limited to:

For a New Facility or Expanding Facility:

- 3.11.2.1. A list of the average and peak quantities of each type of material that will be accepted at the Facility during the term of the permit. The estimated material quantities shall be provided on a ton per day basis or cubic yard per day basis for each type of material and shall include a daily average quantity calculated on a monthly basis, and a maximum peak season daily quantity for each material type.
- 3.11.2.2. The locations and volumes of all raw material, processed material, finished product, and residual waste stockpiles at the Facility. For Class III Facilities, include locations of all windrows and composting



areas. This layout shall be shown on the general layout required in subsection 3.9.5.

- 3.11.2.3. Documentation to Demonstrate that the Facility has a sufficient number of covered containers to store all newsprint, paper, corrugated paper and cardboard that will be accepted.
- 3.11.2.4. Documentation to Demonstrate that the Facility has the ability to determine and record the amounts of material entering and exiting the Facility, material processed at the Facility, and can readily generate a summary report on these quantities in a reasonable period of time, when requested by the Commissioner.

An Existing Facility shall provide the following additional information:

- 3.11.2.5. The following volumes for the preceding permit term categorized by type of material:

- A. The average daily volume of site-generated vehicle traffic, including the numbers of inbound and outbound vehicles by type (e.g. semi-trailers, roll-off, etc.) and the peak hour site traffic experienced at the Facility;

*Justification for Comment:-:As a host benefit, the recycling facility should not be required to include tonnages from these types of construction projects as they help the City of Chicago achieve the recycling objectives of the Construction and Demolition Site Waste Recycling Ordinance and the waste reduction initiatives of the Chicago Climate Action Plan presented in 2008, provided the facility can safely and efficiently handle the material.*

- B. The average and maximum daily volumes of material processed at the Facility, broken down by process type (i.e. shredding, crushing, torching, etc.);
- C. The monthly volume of materials brought to the Facility;
- D. The monthly volume of materials transported out of the Facility; and
- E. The average and maximum daily volumes of material brought to the Facility.

- 3.11.2.6. A chronological summary of the following events at the Facility in the past three years:
- A. All emergencies that occurred at the Facility for the previous three years;

- B. All environmental, health, fire and building code violations as well as all corrective actions implemented; and
- C. All complaints concerning the Facility.

### 3.11.3. Devices, Apparatus, and Processes

The Operating Plan shall Demonstrate, through detailed calculations, flow diagrams, and operating guidelines, that the Facility is capable of Processing the average and maximum peak season daily quantities anticipated for the Facility in a safe manner, including, but not limited to:

- 3.11.3.1. A flow diagram(s) indicating the quantity of material flow between each Process or device on the diagram. The diagram(s) shall also indicate equipment Processing rates, staffing requirements, storage capacity, mean staging time, and inflow/outflow rates, including operating hours, peak daily, weekly, monthly and seasonal periods, peak quantities, Processing capacities, number of employees, and all other applicable factors.
- 3.11.3.2. A list of the OSHA-required safety devices or procedures employed for all Processing equipment such as, but not limited to, electric lockout devices, guarding, emergency stopping devices, and explosion-proof switches and controls. All job hazard assessments should be included with the application.
- 3.11.3.3. A Description of any OSHA-required worker air and noise exposure sampling for Facility activities such as, but not necessarily limited to, welding, torching, sanding, crushing and grinding.

### 3.11.4. Fire Prevention

The Facility shall comply with the requirements of the Municipal Code and all applicable local, State, and Federal laws and regulations relating to fire prevention. The Operating Plan shall include a Fire Prevention and Response Plan. At a minimum, the Fire Prevention and Response Plan shall include:

- 3.11.4.1. A description of the safety measures employed to prevent fires.

- 3.11.4.2. A list of all flammable or explosive materials used in the day-to-day operation of the Facility, their amounts, storage method and location at the Facility.
- 3.11.4.3. A description of the handling procedures for the flammable or explosive materials listed.
- 3.11.4.4. Details and specifications of a fire detection system for the Facility.
- 3.11.4.5. Specifications and locations of all fire suppression equipment including, but not limited to extinguishers, automatic sprinklers, and hoses.
- 3.11.4.6. A description of the responsibilities of all employees in the event of a fire.

#### 3.11.5. Emergency Communications

The Operating Plan shall contain a description of the emergency communication system. This description shall include, but not be limited to:

- 3.11.5.1. A listing of all equipment available for routine communications and emergency communications.
- 3.11.5.2. A list of authorities and on-call emergency environmental contractors that may be contacted in the event of an emergency situation.
- 3.11.5.3. A description of the internal chain-of-command in the event of an emergency, including a description of responsibilities.

#### 3.11.6. First Aid Equipment

The Operating Plan shall contain a description of the first aid equipment available at the Facility. This description shall include, but not be limited to:

- 3.11.6.1. A listing of first aid supplies available at the Facility.
- 3.11.6.2. A description of the location of first aid equipment.

#### 3.11.7. Rodent/Vector Control

The Operating Plan shall include a plan for the effective prevention and control of rodents and other Vectors, and at a minimum, shall include:

- 3.11.7.1. A minimum of monthly inspections to be conducted by a Vector control specialist of the entire Facility for rodents, mosquitos and other Vectors. A record of the most current inspection and eleven previous inspections shall be maintained at the Facility.
- 3.11.7.2. A detailed description of all measures employed to prevent infestation by rodents, mosquitos and other Vectors, including good housekeeping practices used to control rodents, mosquitos, and other Vectors.
- 3.11.7.3. A detailed description of all measures and controls employed (e.g. bait stations and traps) to provide for the control of rodents, mosquitos and other Vectors.

#### 3.11.8. Vehicles

The Operating Plan shall describe the vehicles to be used at the Facility, including:

- 3.11.8.1. A list of all types of vehicles proposed to be maintained at the Facility and maintenance activities to be performed.
- 3.11.8.2. The quantity of each type of vehicle maintained at the Facility.
- 3.11.8.3. The intended use and operating plan for each vehicle.
- 3.11.8.4. The number of employees qualified to operate each vehicle.
- 3.11.8.5. The quantity of material each vehicle is expected to be able to Process or transport.

#### 3.11.9. Disposal Facilities

The Operating Plan shall identify all disposal facilities to which residual waste from the Facility will be hauled. The information shall include:

- 3.11.9.1. The name and location of all disposal facilities.
- 3.11.9.2. The proposed traffic routes to each disposal facility.
- 3.11.9.3. The estimated travel distances, frequency, and times to each disposal facility.

### 3.11.10. Daily Housekeeping and Cleaning

The Operating Plan shall Demonstrate that the daily housekeeping and cleaning procedures are sufficient to minimize dust, track-out, and the presence of rodents, mosquitos, and other Vectors and odors, and shall include, but not be limited to:

- 3.11.10.1. A description of all daily cleaning activities, including the cleaning of pavements complying with Section 4 of these rules.
- 3.11.10.2. A schedule indicating the initiation and completion of daily cleaning activities.
- 3.11.10.3. A description of materials and equipment and quantities necessary to complete the daily cleaning activities.
- 3.11.10.4. A description of the staffing that will be dedicated to conducting the required daily cleaning activities.
- 3.11.10.5. A record-keeping plan to document daily cleaning-activities.

#### 3.11.11. Hours of Operation

The Operating Plan shall specify the hours of operation of the Facility, including Processing, receipt, and maintenance activities. Operating hours shall be limited to the hours specified in 4.2, unless a waiver is granted by the Commissioner.

#### 3.11.12. Closure Plan

The application shall contain a Closure Plan. The Closure Plan shall include, at a minimum, the following components, in this order:

- 3.11.12.1. Closure Plan Activities. The Closure Plan shall list activities that will occur upon Closure, including a listing of materials necessary for Closure and a schedule for completion.
- 3.11.12.2. Material Removal. The Closure Plan shall include a plan for removing all Recyclable Materials and waste material from the Facility.
- 3.11.12.3. Equipment Decommissioning. The Closure plain shall include a plan for decommissioning and cleaning all equipment and structures at the Facility.
- 3.11.12.4. Cost Estimates. The Closure Plan shall include cost estimates for the completion of all Closure activities. The cost estimates shall be based

on the cost necessary for Closure at any time during the life of the Facility and shall not be discounted to current values. The cost estimate shall reflect a worst-case scenario.

- 3.11.12.5. Financing. The Closure Plan shall include Documentation to Demonstrate that sufficient financing is available to complete all Closure activities.



## 4. Recycling Facility Operating Standards

A Large Recycling Facility shall comply with the following operational standards. All plans required for the application must be consistent with the standards described below.

### 4.1. Permit

The Facility shall be operated in accordance with the current permit application on file with the Department and the current permit issued by the Department. A copy of the permit shall be maintained at the Facility as part of the Operating Record and shall be reviewed at a minimum annually by the Operator. If the current permit application and the current permit conflict, the permit shall govern.

### 4.2. Hours of Operation

The Facility operating hours shall be in accordance with the current permit or shall be limited ~~to between the hours of 7:00 a.m. and 9:00 p.m. as described below.~~, unless a written waiver is issued by the Commissioner. A request for a written waiver shall include a noise impact assessment as described in 3.9.20 of these rules.

- If the Facility is located in a Planned Manufacturing District (PMD) the standard operating hours should be 5:00am to 9:00pm.
- If the Facility is not located in a PMD and is within 660 feet of a residence, the standard operating hours should be 7:00am to 9:00pm.

Justification for Comment:-: The hours of operation for a Type D recycling facility are driven by the needs of the construction and materials industry. Under typical market conditions, construction work begins as early as 5:00AM.

Reduced hours of operations for large recycling operations have a particularly deleterious effect because large operations are likely to be placed in locations where extended hours of operation will allow more materials to be processed at locations that use multi-modal means of transportation and have best management practices in place to ensure clean and efficient operations. Most importantly, disallowing overnight work requires trucks to

conduct pickup and drop off operations in the morning during peak traffic conditions. Overnight or otherwise extended hours will enable delivery trucks to conduct pick up and drop off work during off-peak hours to the extent possible.

The proposed rules should eliminate limits on hours of operation or include exceptions that can be utilized without a waiver from the Commissioner.

### 4.3. Material Volume Limitations

With the exception of New, Existing, Modifying, Expanding or Consequential Facilities handling only Type D or Class V C&D materials, The Facility may not exceed the volume limits specified in the permit. If, in response to an emergency involving impacts to health, safety, or environmental conditions, the Facility is required to receive a volume that exceeds the permitted limit, a written record of the date, time, additional volume, and reason shall be made part of the Facility's Operating Record, and the Operator shall notify the Department by email at [envwastepermits@cityofchicago.org](mailto:envwastepermits@cityofchicago.org) by no later than 10:00 am of the next business following the emergency.

Justification for Comment:-:

Benefits of Removing Volume Caps

We urge the Department to adjust its approach to new and renewing permits to remove or substantially adjust volume caps that otherwise limit the amount of reprocessible construction and demolition materials that can be processed at any one facility. The reasons for lifting or increasing volume caps are similar to the reasons that stockpile heights should not be limited.

1) Since only a few locations within the City are suitable for recycling operations, the City should avoid creating policies that require or encourage establishment of additional recycling operations. A facility that is well situated to take advantage of multi-modal transportation

and is located far from residential uses should be encouraged to handle as much waste as possible. If the City must impose volume limits on facilities, then the Department should allow waivers from such limitations for facilities that are served by fail lines and waterways.

2) As noted above, there are few locations within the City that are suitable for Class V Type D recycling operations. Policies that reduce the amount of recycling allowed at such facilities will have the effect of creating a need for additional operations. If those operations cannot be located near to the construction job (downtown or near job sites), then trucks full of debris will need to travel greater distances to recycle materials, thereby increasing the cost of recycling and creating the negative consequences discussed above in the section relating to pile height limitations.

3) Only large facilities will be able to sufficiently amortize the cost of the regulations included in the Proposal. Air monitors, weather monitors, and electronic equipment are expensive. When these requirements are added to the costs of on-site sprinkler systems, wheel wash systems, street sweeping, and constant monitoring, the expense can be overwhelming. Only large operations that process a large volume of materials can afford to remain in compliance with the regulations. The City should encourage development and use of the kinds of facilities that can achieve compliance by allowing such facilities to process an unlimited volume of materials, so long as such processing is otherwise in compliance with regulations.

## 4.4. Stockpile Heights and Barriers

### 4.4.1. Storage Stockpiles.

- 4.4.1.1. Except as provided below or currently permitted for an Existing Facility, the height of any outdoor stockpile within the Facility shall not exceed 20 feet. The Facility shall maintain height markers up to 30 feet, with gradations marked at one-foot intervals, at all outdoor stockpile locations to indicate the current height of material

stockpiles.

Justification for Comment:

Unintended Consequences of Limiting Stockpile Height

The proposed new restrictions on stockpile heights will produce net-negative impacts for the public, will unnecessarily increase the cost of recycling, and establishes unnecessary regulatory redundancies.

1) Limits on stockpile heights will require larger footprints for stockpiling. Placement of a large number of small stockpiles will require more land that is scarce in the City of Chicago. At this time, there are few properties within the City that are suitable for recycling operations due to their location within a planned manufacturing district and their distance from residential and commercial uses and building setbacks. By requiring that stockpiles be spread out over a large area, the City is further limiting the properties that are appropriate for recycling operations.

2) If few recycling operations are available, trucks must travel further distances to transport debris to a recycling plants. Additional travel time will increase carbon emissions, increase traffic and roadway congestion, and cause wear and tear on public streets. Inconvenient transportation also increases the cost of undertaking recycling activities, thereby creating an economic disincentive to engage in recycling. Unethical contractors may endeavor to avoid incurring transportation costs by engaging in fly dumping. To avoid these consequences, the Department should adjust the Proposal to decrease likely transportation costs associated with recycling.

3) Spreading out stockpiles creates a larger operational perimeter. Taller stockpiles will require a smaller perimeter, and accordingly result in increased efficiency. Improved efficiencies will reduce operating costs and will help to keep recycled goods economically

attractive to encourage further use, while improving the economic outcomes for the City of Chicago.

4) If air monitors are required, then current limitations on the heights of stockpiles are not necessary.

5) O’Hare Airport construction and maintenance projects currently use processing and stockpiling recycling operations as described in the Proposed Rules and Regulations. Most stockpiles at the Airport have remained on site for years at a time, and such stockpiles are taller than 40 feet. Stockpile maintenance, fugitive dust, and other impacts are in close proximity to air terminals, taxiways, and runways. The Airport and surrounding properties have not suffered negative consequences from the heights of these stockpiles; instead, the stockpiles have facilitated productive re-use of material generated on-site that benefits the Airport; much like the City benefits from having Recycling Facilities in the City of Chicago and not in the far-reaching suburbs.

6) Limitations on stockpile heights for Class V Type D are not necessary to protect air quality. Class V Type D facilities will accept only clean materials. The Illinois Department of Transportation Best Management Practices and Aggregate Gradation Control System (AGCS) requires producers of approved material to check incoming materials, keep onsite materials free from contamination; to prevent comingling of new and processed materials; and to perform routine and regular self-inspection of both feed stockpiles and end product stockpiles. As a result, materials produced at Class V Type D facilities are homogeneous to virgin products. Accordingly, particulate matter from these facilities is not inherently hazardous, and the City’s rules should not treat it as such.

4.4.1.2. All outdoor stockpiles located within 5 feet of property lines, except windrow compost piles, shall be bounded surrounded on three sides by concrete blocks, walls, or jersey barriers at least four feet in height. Auto shredder residue shall be stored...

Justification for Comment: “Adjacent” is not defined;

specificity is required to give operators and regulators certainty.

Outdoor stockpile operation of Class V facilities requires access to more than one side of the pile. A pile that is enclosed on three sides will limit the operational capabilities of the Facility, thereby reducing efficiency, increasing costs, and risking less overall recycling in the City.

...inside a covered, concrete bunker that effectively protects the stored material from precipitation and potential ignition sources.

#### 4.4.2. Staging Areas

The height of stockpiles inside an authorized Staging Area shall not exceed 30 feet, provided the Operator complies with the following conditions:

- 4.4.2.1. Stockpiled materials shall consist exclusively of unprocessed or partially processed materials awaiting further processing at the Facility;
- 4.4.2.2. ~~The stockpile volume is limited to the volume of material that the Facility can process within two working days;~~
- 4.4.2.3. ~~Stockpiled material in the Staging Area must be Processed within 48 hours of arrival at the Facility; and~~
- 4.4.2.4. With the exception of New, Existing, Expanding, Modifying or Consequential Type D or Class V C&D Facilities, ~~the~~ Facility submits daily stockpile mass-balance calculations to CDPH on forms provided by CDPH.

#### Justification for Comment:

The storage stockpile height limit of 20 feet should not apply to Type D Recyclable Materials as the proposed limit does not serve any environmental benefit or purpose. Type D Recyclable Materials, such as crushed stone, concrete, and asphalt do not emit dust while remaining in a storage pile. The moisture content of these materials is typically three to 4 times higher than the limit required to be maintained on site as specified in the Standard Conditions of Lifetime Air Operating General Permits issued by the Illinois EPA.

The proposed conditions that require processing of materials within 2 days and limit stockpile volume to material processed in 2 days are grossly inconsistent with industry standards. Handling and production of these recyclable materials must be balanced and made available throughout the construction season. Typical construction projects are performed in phases; in many cases, it is a significant period of time between the demolition phase and the construction phase where finished recycled product is needed. Requiring a facility to process material within 2 days while limiting what they can stockpile to what is produced in 2 days limits the economies of scale for the operator. These operations can only be conducted through cost effective means.

To address concerns with speculative accumulation or total volume to be received and handled at a site, the City should adopt language that mimics the Illinois EPA requirement where recycled concrete and asphalt cannot be stored on a site for a period longer than 4 years provided at least 25% of the total volume on-site is processed and sold during the following calendar year. Further, the industry practice normally involves demolition work followed by new construction work. The demolition activity can often occur, weeks, months or even years before the new construction activity starts. The demolition material becomes the raw material stockpile which is available when needed to produce the recycled aggregates needed for the new construction. The recycled aggregates should not be produced unless and until needed to minimize the degradation in quality that will result if the material is exposed to the elements any longer than necessary.

Also see comments provided at Section 4.4.1.

Failure to meet any of these requirements will make the Staging Area stockpile subject to the 20-foot height limit.

A variance may be requested to increase the height of a stockpile located within an authorized Staging Area. Such requests are subject to the variance requirements

contained in Section 6 of these rules.

#### 4.5. Vehicles and Equipment

The Facility shall have sufficient vehicles and equipment available at all times to accept and Process the Facility's permitted volumes of material. Such vehicles and equipment shall be operated in a manner that minimizes emissions, including but not limited to the following:

##### 4.5.1. Vehicles

All loaded inbound and outbound vehicles shall be sealed or tarped. All leaking containers and torn tarps shall be decommissioned and replaced or repaired.

##### 4.5.2. Rails and Barges

Railcars and barges must be loaded in a manner that will control dust through the use of best management practices such as, but not limited to, the use of solid covers,



telescoping loading booms, dust chutes and the application of dust suppression agents and/or water.

For a New, Existing, Expanding, Modifying, or Consequential Facility, vehicle traffic, processing volumes, and storage volume of recycled materials through the Facility as reported on the triennial permit review will be reduced by the total volume reported of outbound barge or rail shipments that illustrate the benefit of the reduction in daily vehicle traffic due to the alternative shipping methods.

*Justification for Comment: The use of a barge to transport recyclable materials provides significant environmental benefits by reducing truck traffic and volumes. To the extent feasible, the use of a single barge to transport materials removes approximately 75-90 trucks from the roadways.*

*For reference, Reliable Asphalt Corporation has imported almost 4 million tons of materials over the last 3.5 years which has removed 191,447 trucks from the road. That reduction is equivalent to 1 MMTCO<sub>2</sub>e (million metric tons carbon dioxide equivalent) which is a major contributing factor to helping the City achieve the primary mitigation strategies outlined in the Chicago Climate Action Plan.*

#### 4.5.3. Stationary Equipment

All mechanical stationary equipment shall meet or exceed the emission control level required under the Facility's local, state, and federal air permits.

## 4.6. Noise Monitoring and Standards

The Facility shall not cause a Noise Disturbance and shall comply with the performance standards for noise and vibration specified in the Municipal Code.

#### 4.6.1. Noise Monitoring

A Large Recycling Facility that conducts vehicle shredding shall conduct noise monitoring as follows:

##### 4.6.1.1. Noise Monitors

Install, operate, and maintain noise monitors around the perimeter of the

Facility in accordance with the noise monitoring plan prepared under paragraph 3.1.8.20.3 of these rules. Such noise meters shall meet at least the Class 2 of BS EN 61672-1:2003 standard or at least Type 2 of BS EN 60804:2001 standard.

#### 4.6.1.2. Data-logging

A data logger shall be attached to all noise monitors to record sound pressure levels in one-band octaves and dB(a) using impulse time weighting mode.

#### 4.6.1.3. Noise Report

The raw data collected by the data logger and the results of any scheduled noise instrument calibration tests shall be submitted to CDPH on a weekly basis. Such reports shall be sent to [envwastepermits@cityofchicago.org](mailto:envwastepermits@cityofchicago.org) no later than 4:00 PM on the Tuesday following the reporting week.

### 4.7. Water Quality Standards and Monitoring

The Facility shall comply with Appendix A of MWRD's Sewage and Waste Control Ordinance for discharges into Waters under MWRD's jurisdiction and into any MS4. All discharges to Waters and MS4s must also obtain a NPDES permit issued by the IEPA.

The Facility shall comply with Appendix B of MWRD's Sewage and Waste Control Ordinance for all discharges into sewerage systems under MWRD's jurisdiction.

#### 4.7.1. Water Quality Monitoring and Sampling

Facilities that discharge to Waters or MS4s shall conduct stormwater monitoring and sampling as required below.

##### 4.7.1.1. ~~Water Quality Monitoring.~~

A. ~~Monitoring Instruments.~~ The Facility shall install, operate, and maintain continuous water quality monitors for pH and turbidity at a location upstream of any outfall discharging to Waters or MS4 system. Such monitoring shall meet the standards below or alternate standards approved by CDPH:

- ~~pH – EPA 150.2~~
- ~~Turbidity – ISO 7027-1:2016~~

B. ~~Data logging.~~ A data logger shall be attached to all water quality monitors to record continuous levels of pH, turbidity, and dissolved oxygen.

*Justification for Comment:-: Requiring any facility to install, operate, and maintain a water quality monitoring system is burdensome and unnecessary. The Illinois EPA requires an NPDES Stormwater permit for these facilities. The benchmarking, monitoring, and recordkeeping requirements under the new NPDES General Permit for Stormwater from Industrial Activities do not require a continuous water monitoring system. The NPDES requirements on their own are more than sufficient when applied properly at a recycling facility to maintain proper stormwater management and compliance with regulatory limits.*

*A water quality monitoring system that includes a turbidity requirement will result in false positives and overall inaccurate indications of actual conditions. Maintaining the required Storm Water Pollution Prevention Plan (SWPPP) in accordance with NPDES requirements and conducting the routine sampling and observations is more than enough to ensure compliance at these types of facilities.*

#### 4.7.1.2. Quarterly Sampling.

The Facility shall collect quarterly samples at outfalls discharging to Waters or MS4s. At least one sample of a Measurable Rain Event shall be taken each quarter. Water samples shall be analyzed for suspended solids, and for the constituents listed under Section 8, Appendix A of MWRD's Sewage and Waste Control Ordinance. All samples shall be analyzed using appropriate test methods contained in EPA's SW-846 publication.

#### 4.7.1.3. Quarterly Reporting.

The Facility shall provide a report of the data collected from the water quality monitoring and sampling to CDPH on a quarterly basis. The report shall be in a form and format specified in the CDPH permit. The reports shall be submitted to [envwastepermits@cityofchicago.org](mailto:envwastepermits@cityofchicago.org) by no later than the sixth Tuesday following the end of the reporting quarter.

### 4.8. Air Quality Standards and Monitoring

The Facility shall comply with all of the following requirements to minimize air quality impacts:

#### 4.8.1. Certificate of Operation

The Facility shall possess a certificate of operation issued in accordance with Section 11-4-660 of the Ordinance. The Department reserves the right to impose dust control requirements, in addition to the requirements set forth in these rules, as conditions of the Facility's certificate of operation or air pollution control permit.

#### 4.8.2. Fugitive Dust

The Owner nor Operator shall not cause or allow the emission of Fugitive Dust into the atmosphere subject to the following limitations.

##### 4.8.2.1. Visible Dust

Any Fugitive Dust that is visible and travels beyond the boundaries of the Facility shall be documented by the Owner or Operator, who shall immediately implement corrective action such that no visible Fugitive Dust leaves the Facility boundaries.

##### 4.8.2.2. Opacity Limit

The Owner or Operator shall not cause or allow the emission of any Fugitive Dust within the Facility at any storage pile, transfer point, roadway or parking area that exceeds an opacity of 10% based on: 1) a six-minute average of 24 consecutive observations recorded at 15 second intervals; and 2) visual reading conducted by a person trained and certified to evaluate visible emissions. ~~for a period or periods aggregating more than three minutes in any one hour, exceeds an opacity of 10% based on a visual reading in accordance with the measurement method specified in 35 Ill. Adm. Code 212.109.~~

##### Justification for Comment:-:

The determination of compliance with the opacity should be done at intervals consistent with state and federal requirements. These requirements are outlined in Method 9 (as referenced above) and specifically state that opacity shall be determined as an average of 24 consecutive observations recorded at 15-second intervals, which is equivalent to an average of the readings conducted in a 6-minute period. Given that there is a specific method outlined in the federal standards and incorporated into the state permit requirements, the City's requirements should not be more stringent, especially when testing

methodologies and selective enforcement could be arbitrary and capricious.

Persons conducting inspections of permitted facilities for the purposes of compliance enforcement and making determinations of opacity readings need to be certified to conduct Method 9 testing for visible emissions or opacity in accordance with the methods and requirements established in 40 CFR Part 60, Appendix A. Without proper training or adequate experience and certification, opacity determinations are not verifiable.

#### 4.8.3. Consequential Facility Air Monitoring Requirements

A Consequential Facility shall conduct dust and wind monitoring as follows:

- 4.8.3.1. Continuous PM10 Monitoring. Install, operate, and maintain Continuous Federal Equivalent Method (FEM) real-time PM10 monitors around the perimeter of the Facility in accordance with the Dust Monitoring Plan prepared under paragraph 3.9.22.3 and 3.9.22.4 of these rules. For Facilities that require more than four air monitors, the Facility may use other PM10 monitors that meet the requirements of the Tier III Supplemental Network Monitoring contained in guidelines contained in EPA's Air Sensor Guidebook, and has a precision and bias of twenty-percent (20%) or better.

- 4.8.3.2. Additional monitoring. The Department may require the Consequential Facility to install, operate, and maintain other monitoring methods, including, but not limited to, video recording and one or more filter-based monitoring sites, when PM10 monitoring does not provide sufficient information regarding Fugitive Dust for the Commissioner to adequately assess the health impacts of such emissions. Any additional monitoring methods shall meet the specifications set forth in an approved Fugitive Dust Plan. In the event that additional monitoring is required, the Department will provide a reasonable time period for equipment installation.
- 4.8.3.3. Continuous Weather Monitoring. Install, operate and maintain, according to manufacturer's specifications, a weather station or other permanent device to monitor and record wind speed and wind direction, along with the corresponding temperature, precipitation, barometric pressure, and relative humidity at the Facility. Such readings shall be taken at an unobstructed, unsheltered area, centrally positioned in relation to the storage piles and dust-causing activities, and at a minimum height of 10 meters above ground level, unless another height is appropriate pursuant to applicable U.S. Environmental Protection Agency protocols and guidance.
- 4.8.3.4. Data-logging. A data logger shall be attached to all air monitors and weather stations to record readings from the monitors. All data collected shall be consistent with units in the National Ambient Air Quality Standards for PM10, and ambient monitoring practices must comply with current U.S. Environmental Protection Agency protocols and guidance for ambient air quality monitoring, including but not limited to those for data completeness, calibration, inspection, maintenance, and site and instrument logs.
- 4.8.3.5. Reportable Action Level (RAL). ~~The RAL is the concentration of PM10 measured at any monitoring location at the Facility that will trigger response activities under a contingency plan. The RAL shall be quantified as the average PM10 concentration taken over a fifteen-minute period. The RAL shall be the positive differential between any downwind monitor and any upwind monitor that is above 50 micrograms per cubic meter. In the absence of an upwind monitor,~~ the RAL shall be 100 micrograms per cubic meter. CDPH may impose

a different RAL based on the potential emissions of metals and pollutants from the Facility, ambient background concentrations of PM10, the Facility's compliance history and level of housekeeping, and/or other pertinent factors.

*Proposed language:*

*The RAL shall be quantified as the average PM10 concentration taken over a fifteen- minute period. The RAL shall be the positive differential between any downwind monitor and any upwind monitor that is above 50 micrograms per cubic meter. In the absence of an upwind monitor, the RAL shall be 100 micrograms per cubic meter. CDPH may impose a different RAL based on the potential emissions of metals and pollutants from the Facility, ambient background concentrations of PM10, the Facility's compliance history and level of housekeeping, and/or other pertinent factors.*

*Reliable Asphalt responds that Proposed Rules for Large Recycling Facilities, Section 4.8.3.5, be revised as follows:*

*The RAL shall be quantified as the average PM10 concentration averaged over a 24-hour period, based on continuous emission monitoring taken every fifteen- minute period. The RAL shall be the greater of:*

*(a) the positive differential between any downwind monitor and any upwind monitor that is above 50 micrograms per cubic meter,*

*(b) in the absence of an upwind monitor, the RAL shall be 100 micrograms per cubic meter, or*

*(c) causing an exceedance of the NAAQS for PM10 at the locations for monitoring PM10 set forth in the Illinois Ambient Air Monitoring 2019 Network Plan. In determining whether*



the Facility is causing an exceedance of the NAAQS for PM10, the Facility shall:

(1) using a U.S.EPA air dispersion modeling method for its PM10 emissions (such as those found at <https://www.epa.gov/scram/air-quality-dispersion-modeling-preferred-and-recommended-models> ), establish that its annual emissions do not exceed the PM10 NAAQS at locations for monitoring PM10 set forth in the Illinois Ambient Air Monitoring 2019 Network,

(2) establish a level of PM10 emissions at its downwind property boundary that will not cause an exceedance in any 24-hour period of the PM10 NAAQS at the locations for monitoring PM10 set forth in the Illinois Ambient Air Monitoring 2019 Network Plan (Facility PM10 Limitation), and

(3) monitor PM10 emissions using continuous emission monitoring taken every fifteen- minute period averaged over a 24-hour period (NAAQS Compliance Monitoring) to assure compliance with the Facility PM10 Limitation.

In determining the Facility Emissions Limitation and whether the results from the NAAQS Compliance Monitoring Exceeds the Facility Emissions Limitation, the Facility may subtract the results of PM10 from off-site sources from the Facility's PM10 continuous emission monitoring results.

Justification for Comment:

We respectfully submit the following justification and comments about our suggested redraft of proposed rule Section 4.8.3.5. Our comments leave intact a large portion of the City's proposed Section 4.8.3.5, but add a third approach which allows a Facility to demonstrate that it is not violating U.S.EPA's National Ambient Air Quality Standards (NAAQS).

The Federal and State NAAQS for PM10 is 150 micrograms per cubic meter on a basis of a 24-hour average not to be exceeded more than once per year on average over three

years for an area designated by the State and approved by U.S.EPA. The proposed revision to Section 4.8.3.5(c) is more stringent than then the Federal regulation in that the Federal regulation allows the use of a three-year compliance period, whereas the proposed rule requires a 24-hour notification period.

The primary NAAQS PM<sub>10</sub> regulation is the appropriate standard because, as provided by the Federal regulation, “National primary ambient air quality standards define levels of air quality which the Administrator judges are necessary, with an adequate margin of safety, to protect the public health.” 40 C.F.R. 50.2 (b). Two sections of the Clean Air Act (CAA) govern the establishment and revision of the NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to issue air quality criteria for those that are listed. Air quality criteria are intended to “accurately reflect the latest scientific knowledge useful in indicating the kind and extent of identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in ambient air . . .” Section 109 (42 U.S.C. 7409) directs the Administrator to propose and promulgate “primary” NAAQS for pollutants listed under section 108. Section 109(b)(1) defines a primary standard as one “the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health.”

Operators should be allowed, pursuant to the Federal regulations, to determine the emissions over a 24-hour period rather than a 15-minute period. As described in the Federal NAAQS regulations:

§ 50.6 National primary and secondary ambient air quality standards for PM<sub>10</sub>.

(a) The level of the national primary and secondary 24-hour ambient air quality standards for particulate matter is

150 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), 24-hour average concentration. The standards are attained when the expected number of days per calendar year with a **24-hour average** concentration above  $150 \mu\text{g}/\text{m}^3$ , as determined in accordance with appendix K to this part, is equal to or less than one.

Appendix J to Part 50 - Reference Method for the Determination of Particulate Matter as PM<sub>10</sub> in the Atmosphere.

#### 1.0 Applicability.

1.1 This method provides for the measurement of the mass concentration of particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>) in ambient air over a **24-hour period** for purposes of determining attainment and maintenance of the primary and secondary national ambient air quality standards for particulate matter specified in § 50.6 of this chapter.

Appendix K to Part 50—Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

#### 1.0 General

(a) This appendix explains the computations necessary for analyzing particulate matter data to determine attainment of the **24-hour standards** specified in 40 CFR 50.6. For the primary and secondary standards, particulate matter is measured in the ambient air as PM<sub>10</sub> (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers) by a reference method based on appendix J of this part and designated in accordance with part 53 of this chapter, or by an equivalent method designated in accordance with part 53 of this chapter.

For determining when an RAL has been exceeded, the proposed revisions rely upon the Illinois Ambient Air Modeling 2019 Work Plan for PM<sub>10</sub>. The Illinois Ambient Air Modeling 2019 Work Plan was prepared by Illinois to comply with the Federal NAAQS regulations which provides that “For the purposes of making comparisons with the

particulate matter standards, all data produced by State and Local Air Monitoring Stations (SLAMS) and other sites submitted to EPA in accordance with the part 58 requirements must be used, and a minimum of 75 percent of the scheduled PM10 samples per quarter are required.” Appendix K to Part 50—Interpretation of the National Ambient Air Quality Standards for Particulate Matter, 2.3.

According to the Illinois Ambient Air Modeling 2019 Work Plan “Illinois has designed its ambient air monitoring network to provide timely air pollution data to the public, support compliance with ambient air quality standards and emissions strategy development, and support air pollution research studies. Data gathered from the Illinois EPA’s monitoring network is used to produce a daily Air Quality Index (AQI) report, compile daily air quality forecast reports, support short- and long-term health risk assessments, identify localized health concerns, and track long-term trends in air quality that could potentially threaten Illinois citizen’s quality of life. . . Monitor siting takes into consideration: peak (the highest concentration of pollution in a given area), population (presence of pollutants in areas with high population densities), source (pollution resulting from significant sources or source categories), background (general pollutant levels), and transport (extent of regional pollutant transport between populated areas).”

~~the RAL shall be 100 micrograms per cubic meter. CDPH may impose a different RAL based on the potential emissions of metals and pollutants from the Facility, ambient background concentrations of PM10, the Facility's compliance history and level of housekeeping, and/or other pertinent factors.~~

- 4.8.3.6. Additional RALs. The Department may set forth additional RALs in the permit for PM2.5, VOCs, and other pollutants based on the information contained in the application, the Facility's compliance history, and/or other factors.
- 4.8.3.7. ~~Alternate RAL. The applicant may propose an alternate RAL concentration to CDPH. Such proposal shall Demonstrate the following:~~
- A. ~~The current RAL is not reliable due to offsite ambient PM concentrations beyond the control of the Operator;~~
  - B. ~~The proposed RAL is protective of human health and the environment. This Demonstration shall include filter based sampling showing the PM10 concentration of various metals and pollutants handled at the Facility under representative and worse case conditions; and~~
  - C. ~~The proposed RAL does not violate any applicable local, state, or federal air quality standards or requirements.~~

~~The Department may reinstate the RAL in 4.8.3.7 should it find the alternate RAL insufficient in preventing nuisances and negative impacts to human health and the environment.~~

*Justification for Comment: See comment section 4.8.3.5*

- 4.8.3.8. Monthly Data Reporting. All data collected pursuant to 4.8.3.4 must be submitted to CDPH no later than the third Tuesday following each data-collection month. Such report shall be submitted to [envwastepermits@cityofchicago.org](mailto:envwastepermits@cityofchicago.org).
- 4.8.3.9. RAL Notification. When a reportable action level is exceeded, the Operator shall use telemetry or other means to notify CDPH by email at [envwastepermits@cityofchicago.org](mailto:envwastepermits@cityofchicago.org) within fifteen (15) minutes.

The subject line of such email shall contain the words “RAL Alert

Condition” followed by the Facility’s permit number. The notification shall include the following information recorded at the time the RAL occurred:

- A. The date and time of the RAL exceedance;
- B. The average windspeed and wind direction recorded over a 15-minute period;
- C. The concentrations of PM10 recorded by all monitors over the same 15-minute period; and
- D. The latitude and longitude coordinates in decimal degrees of all monitoring locations.

4.8.3.10. RAL Reporting. The Operator shall submit a report to CDPH following each day an RAL exceedance occurs at the Facility. The report shall be submitted to [envwastepermits@cityofchicago.org](mailto:envwastepermits@cityofchicago.org) with the words “RAL Report” followed by the Facility’s permit number in the subject line of the email. The RAL shall include the following information for every RAL notification made the previous day:

- A. The date and time of the exceedance;
- B. The onsite and/or offsite source(s) of the emission;
- C. A description of the mitigative action(s) taken;
- D. A description of any operational impact as a result of the RAL incident; and
- E. A description of any preventive measure(s) to reduce or eliminate future occurrence.

A copy of the RAL report shall be kept in the Operating Record.

4.8.3.11. Contingency Plan. The Owner or Operator shall prepare a contingency plan describing mitigative actions that will be taken when the monitors detect PM10 that exceeds the Facility’s RAL. The response activities should consist of a range of increasingly aggressive measures appropriate to different levels of exceedance and take into account whether the source is determined to be onsite or offsite.

- 4.8.3.12. Quarterly Opacity Measurements. Quarterly testing shall be conducted to ensure compliance with the prohibition on Fugitive Dust set forth 4.8.2.2. Such testing must be a) conducted by a professional trained and certified to read opacity in accordance with the measurement method specified in 35 Ill. Admin. Code 212.109, and b) conducted during a range of weather conditions to ensure that representative conditions at the Facility are covered.
- 4.8.3.13. Fugitive Dust Plan. Fully implement and maintain compliance with the Fugitive Dust plan prepared under paragraph 3.9.22.2 of these rules.

#### 4.9. Utilities.

All necessary Utilities shall be available with sufficient capacity to serve the Facility and its operations. In the event of a disruption of any Utility service, a contingency plan shall exist to provide back-up capacity, provide procedures for safe operation and emergency equipment, or diversion of materials to other facilities during the disruption.

#### 4.10. Equipment Maintenance

Equipment and vehicles used at the Facility shall undergo routine maintenance. The Facility shall develop a maintenance plan for all equipment and vehicles used in Facility operations. Such records shall be maintained in the Operating Record. The Owner and Operator shall prevent the usage of any vehicle or equipment that is in need of repair.

#### 4.11. Source and Load Screening

The Facility shall accept and process only those Recyclable Materials authorized in the permit. Any Unauthorized Materials inadvertently accepted shall be removed from the Facility as soon as possible, in accordance with the conditions of the permit and all local, state and federal requirements.

#### 4.12. Material Handling, Paved Surface

All material handling activities including unloading, screening, Processing and loading shall be conducted on a paved surface.

Recyclable Materials that may leak fluids or leave oily residue shall be delivered and stored indoors, or on a dedicated, impermeable concrete pad. The impermeable concrete pad shall be sloped, bermed, or otherwise constructed to prevent storm water run-on and run-off, and



facilitate the capture and collection of fluids. The Operator must properly dispose of all liquid waste collected at the Facility.

#### 4.13. Shredder and Shredder Enclosure

For New and Expanding Facilities, shredders that process vehicles or have potentially explosive feedstock must be enclosed. Such enclosures shall be designed to withstand internal explosions and safely deflect objects that may be ejected from the shredder box by mechanical force or explosions.

#### 4.14. Fire Prevention and Accident Safety Plan

The Facility shall have a fire prevention and accident safety plan; shall operate in compliance with applicable National Fire Protection Association (NFPA) performance standards for fire and explosive hazards; and shall install and maintain fire suppression equipment as specified in the Chicago Zoning Ordinance, the building regulations and applicable fire prevention regulations of the Municipal Code.

#### 4.15. Pavement Maintenance and Cleaning

All driveways, access roads, parking areas and other areas used for vehicle traffic shall be properly maintained to prevent or minimize any dust emissions, standing water, and the tracking of mud off-site. Broken pavements and potholes shall immediately be backfilled, patched, or repaired.

##### 4.15.1. Sweeping

All Site pavements and those within a quarter-mile of the Facility shall be cleaned using a street sweeper to minimize dust and remove mud and any spilled materials.

##### 4.15.1.1. Street Sweeper

The street sweeper shall be equipped with a water spray, for use during nonfreezing weather, and a vacuum system to prevent Fugitive Dust during street sweeping.

##### 4.15.1.2. Sweeping Frequency

The street sweeping shall be sufficient so that not more than 4 hours elapses between each street sweeper cleaning or after every 100 vehicle material receipts or dispatches, but not less than one time daily when the Facility is in

operation, unless the roads are free and clear of any material transported to or from the Facility.

#### 4.15.1.3. Sweeping Log

The date and time when street sweepings were performed, and the total vehicle count shall be recorded each operating day.

### 4.16. Traffic.

The Facility shall not cause the back up of vehicles onto public roads or rights-of-way at any time. No vehicles used in the operations of the Facility shall be parked, idle, or wait along public streets or rights-of-way. The Facility shall have sufficient parking available for all personnel, visitors, and vehicles used for the operations of the Facility.

### 4.17. Record Keeping

All records required to be kept under these rules shall be maintained at the Facility a minimum of three years unless otherwise specified in the permit and shall be made available to CDPH upon request.

### 4.18. Quarterly Reporting

Using forms provided by CDPH, the Facility shall submit a quarterly report containing the following information:

- 4.18.1.1. The monthly tonnage of Unauthorized Materials inadvertently accepted at the Facility broken down by type;
- 4.18.1.2. The monthly tonnage of Recyclable Materials received and shipped at the Facility broken down by type;
- 4.18.1.3. A list of the disposal facilities used to dispose of the Unauthorized Materials and the types and quantities of materials taken to each disposal facility;
- 4.18.1.4. The disposition and amount in gallons of liquid waste disposed offsite;
- 4.18.1.5. The disposition and amount of refrigerants recovered at the Facility;

- 4.18.1.6. The amount of metal welded, cut, torched, or shredded broken down by metal type; and
- 4.18.1.7. Any other information requested by CDPH.

The quarterly report shall be submitted to CDPH within 45 days following the end of each quarter.

## 5. Implementation Schedule

These Rules shall take effect as follows:

For a New or Expanding Facility, the requirements in Section 3 shall take effect immediately upon the date these rules are issued. For an Existing Facility, the requirements in Section 3 shall take effect on all renewal permit applications submitted on or after the 365<sup>th</sup> day following the date these rules are issued.

The requirements in Section 4 shall take effect no later than the timeline specified in the operating permit issued for an application submitted pursuant to Section 3.

~~Subsequent to the schedules above, an Existing Facility that becomes a Consequential Facility over the course of the permit term shall submit a revised application no later than 90 days after receiving a written notification from CDPH that the Facility has been deemed a Consequential Facility by the Department. Such application shall comply with all the requirements for a Consequential Facility application pursuant to these rules.~~

*Justification for Comment: Requiring additional steps during normal permitted operations would cause disruptions to operations and would cause Facilities to limit the volume processed. The City is better served by applying the Rules to all New or Expanding Facilities and using that review process to ensure the standards are met.*

The Commissioner may, at the Commissioner's sole discretion, grant extensions of the timeframes provided, upon request and only for good cause shown by the Applicant.

## 6. Applications for a Variance

The Applicant may apply to the Commissioner for a variance from any rule set forth in Sections 3 and 4 in accordance with the following provisions, except that requests for extensions of time for compliance with subsections 3.9.22.4, 4.18, 4.6.1.3, 4.7.1.3, 4.8.3.8, and 4.8.3.10 and Section 5 of these rules.

## 6.1. Requirements of the Variance Application

The request for a variance must be in writing and must set forth, in detail, all of the following:

### 6.1.1. Standard Requirements

- 6.1.1.1. A statement identifying the rule or requirement for which the variance is requested;
- 6.1.1.2. A description of the process or activity for which the variance is requested, including pertinent data on location, size, and the population and geographic area affected by, or potentially affected by, the process or activity;
- 6.1.1.3. The quantity and types of materials used in the process or activity in connection with which the variance is requested, as appropriate;
- 6.1.1.4. Documentation to Demonstrate that the variance will not create a public nuisance or adversely impact the surrounding area, surrounding environment, or surrounding property uses;
- 6.1.1.5. A statement explaining:
  - A. Why compliance with the rules imposes an arbitrary or unreasonable hardship;
  - B. Why compliance cannot be accomplished during the required timeframe due to events beyond the Facility Operator's control such as permitting delays or natural disasters; or
  - C. Why the proposed alternative measure is necessary.
- 6.1.1.6. A description of the proposed methods to achieve compliance with the rules and a timetable for achieving that compliance, if applicable;
- 6.1.1.7. A discussion of alternate methods of compliance and of the factors influencing the choice of applying for a variance; and
- 6.1.1.8. A statement regarding the person's current status as related to the subject matter of the variance request;

### 6.1.2. Staging Area Stockpile Height Variance

In addition to the information required in 6.1.1, an application for a Staging Area stockpile height variance shall include the following:

- 6.1.2.1. A Demonstration that the proposed Staging Area stockpile will have a minimum setback distance from the Facility boundary line equal to the height of the tallest point of the pile. Such setback distance shall be measured from the toe of the stockpile to the nearest Facility boundary line.
- 6.1.2.2. A Demonstration showing that the overall emission of criteria pollutants and hazardous air pollutants from the Facility will not have an adverse impact to human health and the environment. This demonstration shall include an emissions and air dispersion modeling study described in 3.9.22.1.
- 6.1.2.3. A Staging Area stockpile surveillance plan that includes the installation and operation of web-based cameras with recording storage capacities of 60-days or more. The CDPH shall be provided access to all live and recorded footage.

### 6.1.3. Water Sampling/Monitoring Variance

In addition to the information required in 6.1.1, an application for a variance from the water sampling or monitoring requirements in 4.7.1 shall Demonstrate the following:

- 6.1.3.1. The Facility's discharge is in compliance with applicable MWRD discharge standards;
- 6.1.3.2. The Facility has not been responsible for any water quality related violations or complaints during the preceding 12 months; and
- 6.1.3.3. The Facility will continue to comply with all the water quality standards in 4.7.

## 6.2. Criteria for Reviewing Variance Applications

In determining whether to grant a variance, the Commissioner will consider public comments received pursuant to 6.4 and will evaluate the information provided in the variance application.

### 6.2.1. Consideration

Particular consideration will be given to the following information:

- A. Inclusion of a definite compliance program;

- B. Evaluation of all reasonable alternatives for compliance; and
- C. Demonstration that any adverse impacts will be minimal.

#### 6.2.2. Denial

The Commissioner may deny the variance if the application for the variance is incomplete or if the application is outside the scope of relief provided by variances.

#### 6.2.3. Variance Scope and Conditions

The Commissioner may grant a variance in whole or in part, and may attach reasonable conditions to the variance, or require alternative measures, to ensure minimization of any adverse impacts and to accomplish the purposes of Chapter 11-4 of the Code.

#### 6.2.4. Issuance and Revocation

Issuance of a variance is at the sole discretion of the Commissioner. A variance may be revoked at any time if the Commissioner finds that operation of the Facility is creating a public nuisance or otherwise adversely impacting the surrounding area, surrounding environment, or surrounding property uses.

### 6.3. Change in Facility Operations

~~If any part of the Facility's operation that is the subject of the variance expands or changes, then, at least thirty (30) days prior to the expansion or change in operation, the Facility Operator shall notify the Commissioner and either a) apply for a new variance or b) notify the Commissioner of the Operator's intent to comply with the rule(s) that were the subject of the variance, in which case the variance will automatically terminate.~~

### 6.4. Notice of Variance Applications

~~The Commissioner will not grant any variance under this section until members of the public have had an opportunity to submit written comments on the variance application. Public notice of all variance applications will be provided by publication in a newspaper of general circulation published within the city and by publication on the city's website. The Commissioner will accept written comments for a period of not less than thirty (30) days from the date of the notice.~~

*Justification for Comment:--The Commissioner has the authority to grant variances to the Rules and Regulations to provide the City the environment that best serves the mission of the Department. This Section 6.4 delays implementation of possible needed changes to a permitted operation that can address*

processing volume requirements unknown at this time. Leaving Section 6.4 may impair the Commissioner's ability to carry out the duties of the Department.

## 7. Other Laws



These rules in no way affect the Facility's responsibility to comply with all other applicable federal, state, City laws, ordinances, and Rules, including but not limited to those regarding the construction, Operation, maintenance, and Closure of the Facility.

## 8. Severability

If any clause, sentence, paragraph, subsection, section, or part of these rules is adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair or invalidate the remainder of these rules, but shall be confined in its operation to the clause, sentence, paragraph, subsection, section or part to which the judgment is rendered.