

Rules for Reprocessable Construction/Demolition Material Facilities Operated within the City of Chicago - COMMENTS

Amiee Divane <amieed@grp7.com>

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To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Email Sent on Behalf of John F. Harris

Honorable Commissioner Arwady,

Attached, please find a letter from Mr. John F. Harris.

The original letter has been sent to you via FedEx delivery and you will receive this envelope on 11/01/2021.

Thank you.

Amiee Divane

Amiee Divane

Executive Administrative Assistant

SOUTHWIND INDUSTRIES, INC.

2250 Southwind Boulevard

Bartlett, Illinois 60103

P. 630.497.8700 x 156 | C. 630.853.4989

Email: amieed@grp7.com

Asphalt Corporation

October 28, 2021

Commissioner Allison Arwady, M.D.
Department of Public Health
City of Chicago
333 South State Street, Room 200
Chicago, IL 60604

Honorable Commissioner Arwady,

Thank you for the opportunity to provide comments concerning the September 17, 2021 City of Chicago - Department of Public Health Proposed Rules for Reprocessable Construction/Demolition Material Facilities ("Proposed Rules").

We respectfully submit the attached suggested amendments shown in "red-line" format to the specific provisions of the Proposed Rules along with certain general comments where shown. The City's 2021 Proposed Rules did not include a "red-line" to the previously proposed rules from 2019, which made it more difficult for stakeholders to track the changes the City had made to their previous proposal and the comment response letter provided by the City on June 5, 2020.

In the time that has passed since the City's 2019 Proposed Rules draft, the City and stakeholders have had the benefit of time to analyze a pilot project to survey the potential impacts of a Facility within the City limits. The data collection efforts underway at the "new" facility on 106th Street indicate that the Operator was not responsible for an overwhelming majority of the RAL exceedances and that off-site factors (such as restaurants) were causing the majority of those RAL exceedances. We are not aware of any regulatory action by CDPH regarding the actual source(s) of those RAL exceedances.

The City of Chicago has proffered no evidence to justify implementation of these Proposed Rules and standards on operators of Class V and Reprocessable Construction and Demolition Material recycling facilities:

- a) The Air Quality Monitoring network, Purple Air, which makes data accessible to the public, does not show that the levels of particulate matter (PM 2.5 and 10) in the City of Chicago are non-compliant with the requirements of the Clean Air Act or State regulations.
(<https://map.purpleair.com/1/mAQI/a10/p604800/cC0#11/41.7149/-87.5906>)
- b) The Southeast Chicago Ambient Air Quality Analysis prepared by the U.S. EPA, Region 5 Air and Radiation Division and published October 2021, page 8, affirms that rock crushing and recycling of construction and demolition materials are not major contributors to particulate matter in the air.

"Most particles form in the atmosphere as a result of complex reactions of chemicals such as sulfur dioxide and nitrogen oxides, which are pollutants emitted from power plants, other industry, and automobiles." (<https://www.epa.gov/system/files/documents/2021-10/southeast-chicago-air-quality-report-202110-26p.pdf>)

- c) Based on the National Ambient Air Quality Standards (NAAQS), Chicago is in attainment status for particulate matter. Chicago has not achieved attainment status for ozone (2015 8-hour standard), but Class V and Reprocessable Construction and Demolition Material recycling facilities do not emit statistically significant amounts of ozone.

Recycling of materials generated during construction is a net benefit to the residents of Chicago by reducing the carbon footprint of construction activity and contributes positively to human health and the environment. We all should strive to maximize the volume of recycled materials returned to the economic mainstream and relieve the Facilities of burdensome and unproductive air monitoring.

As you may know, the vast majority of the construction and demolition materials our company recycles is generated by City of Chicago Departments. The City has been a pioneer and national leader in recycling its construction and demolition debris and we at Reliable are proud to have been a part of the City's success in promoting and achieving sustainable construction practices.

We stand ready to work with the City of Chicago to develop necessary rules and regulations in response to demonstrable threats to public health.

Respectfully,



John F. Harris
President
Reliable Asphalt Corporation

JFH/
(Attachments)

RULES FOR REPROCESSABLE CONSTRUCTION/DEMOLITION MATERIAL 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 Reprocessable Construction or Demolition Material within the City of Chicago, and the protection of public health and safety; and

Whereas, pursuant to the authority granted by Section 2-112-160(b)(6) of the Code, the Commissioner of Health (the "Commissioner") is authorized to issue rules necessary or proper for the implementation of environmental ordinances and to accomplish the purposes of Chapter 11-4 of the Code, and is further authorized to make rules interpreting or clarifying the requirements which are specifically prescribed in Chapter 11-4 of the Code; and

Whereas, this general rule-making authority also includes any rules necessary to implement Article II of Chapter 11-4 of the Code, Sections 11-4-600 through 11-4-810; and

Whereas, this general rule-making authority also includes any rules necessary to implement Article VIII of Chapter 11-4 of the Code, Sections 11-4-1410 through 11-4-1460; and

Whereas, this general rule-making authority includes any rules necessary to implement the provisions of Article XIV of Chapter 11-4 of the Code, Sections 11-4-1905 through 11-4-2060, the "Reprocessible Construction/Demolition Material Ordinance"; and

Whereas, in addition, Section 11-4-1980 of the Code states that the Commissioner may promulgate rules for the testing of material delivered to a Reprocessible Construction or Demolition Material Facility; and

Whereas, in addition, Section 11-4-2000(H)(6) of the Code provides that the maximum amounts of reprocessible construction/demolition material and incidental debris that an owner and/or operator may maintain or store at a facility may be prescribed by the Commissioner in rules; and

Whereas, Section 11-4-760(e) of the Code authorizes the Commissioner to promulgate additional rules for the proper management of any substance or material that may become airborne or be scattered by the wind; and

Whereas, pursuant to Section 8-32-090(d) of the Code, the Commissioner is authorized to promulgate rules to enforce the noise provisions under Section 8-32-090, Part B of Chapter 8-32 of the Code; and

Whereas, the reprocessing, reuse, or recycling of construction/demolition material debris conserves natural resources, reduces energy consumption, saves landfill space, and generally decreases pollution; and

Whereas, such facilities should be located in areas where the surrounding uses are consistent with the industrial nature of Reprocessable Construction/Demolition Material Facilities and should be operated so that the environmental impacts can be minimized; and

~~Whereas, these facilities can be significant sources of dust and contaminated storm and process water discharges with the potential to harm human health and the environment, and cause a public nuisance or adversely impact the surrounding area or surrounding users; and~~

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

Justification: Facilities regulated by the City of Chicago and covered under the Ordinance do not have the potential for the noted impacts to human health and the environment. The Facilities are located within Planned Manufacturing Districts with regulated limits on noise from operations and subject to the laws of the State of Illinois.

Whereas, the annual operating permits and permit applications required of these Reprocessable Construction or Demolition Material 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 Reprocessable Construction/Demolition Material Facilities; now therefore,

BY AUTHORITY VESTED IN THE COMMISSIONER OF THE DEPARTMENT OF PUBLIC HEALTH PURSUANT TO 2-112-160(b)(6), 8-32-090(d), 11-4-760(e), 11-4-1980, and 11-4-2000(H)(6), THE FOLLOWING RULES REGARDING REPROCESSABLE CONSTRUCTION/DEMOLITION MATERIAL FACILITIES ARE ADOPTED HEREIN.

By Order of the Commissioner:

Signed: _____

Date: _____

Commissioner Allison Arwady, M.D.

Published: [ENTER DATE]

Effective: [ENTER DATE]

September 16, 2021

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1.0 Scope and Purpose

The purpose of these rules is to provide explanatory details, guidelines, and requirements regarding the location, design, operations, and permitting of Reprocessable Construction/Demolition Material Facilities. These rules address Existing, Expanding, Modifying, and New Facilities that are required to receive operating permits from the Department.

An application to the Department for a permit to operate a Reprocessable Construction or Demolition Material Facility must provide sufficient information to Demonstrate that the Facility will be designed and operated in a manner that protects the public health, safety, and the environment. The Documentation required to provide such demonstration, and the standards that must be met, are set forth in The Chicago Environmental Protection and Control Ordinance (Chapter 11-4 of the Code) 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 public health, safety, and the environment are protected. The information requested in Section 3.0 of these rules is a reiteration and clarification of information required pursuant to Section 11-4-1930 of the Code. Information that is required only for Modifying, New, or Expanding Facilities is indicated as such.

In addition to the permit application standards, these rules contain standards for the location, design, and operation of all New, Modifying, Expanding, and Existing Facilities unless specifically exempted.

2.0 Definitions

“Airborne Dust Prevention” means control measures taken to prevent dust from becoming airborne.

“Airborne Dust Suppression” means control measures taken to suppress dust after it has become airborne.

“Applicant” means the Person submitting an application for a permit to the Department of Public Health to accept, handle, Process, or otherwise manage Reprocessable Construction or Demolition Material.

“Closure” means those actions taken by the Owner and/or Operator to cease operations and to ensure that a Facility is closed in conformance with Chapter 11-4 of the Code and all applicable federal, state, and local laws in effect at the time of such Closure.

“Closure Plan” means a written plan describing the technical measures to be undertaken to terminate operation of a Site or Facility.

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

“Commissioner” means the Commissioner of Public Health.

“Contaminated Reprocessable Construction or Demolition Materials” means Reprocessable Construction or Demolition Materials that contain lead, asbestos, or any other hazardous material in such a way as to render the reprocessing, recycling, or reuse of such material illegal or impossible.

“Criteria Pollutants” means the 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 dioxide, 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 City of Chicago Department of Public Health.

“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, design drawings, stocks, bonds, and financial records.

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

“EPA” means the United States Environmental Protection Agency.

“Existing Facility” means a 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.

“Expand” or “Expansion” means an increase in the horizontal or vertical boundary of a Facility or an increase of more than 10% of the permitted capacity of a Facility beyond the limits established in its current permit.

“Facility” means a Site and all structures, equipment, and ancillary fixtures on a Site used to Process, store, or transfer Reprocessable Construction or Demolition Material. All structures used in connection with or to facilitate the operations of the Facility shall be considered a part of the Facility. A Facility may include, but is not limited to, structures, buildings, scales, roadways, parking areas, queuing areas, fences, Tipping Floors, processing equipment, Processing Areas, stockpiling areas, and monitoring stations.

“Fugitive Dust” means any solid particulate matter that becomes airborne by natural or human-made activities, excluding engine combustion exhaust and particulate matter emitted from a properly permitted exhaust stack equipped with a pollution control device.

“Fugitive Source” means 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 Air Pollutant” or “HAP” means any hazardous air pollutant listed under Section 112 of the Clean Air Act, as amended.

“Hazardous Waste” means any waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in 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 3001 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 *et seq.*, 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 established by the Illinois Environmental Protection Act.

“Landscape Waste” means grass or shrubbery cuttings, leaves, tree limbs and other materials accumulated as a result of the care of lawns, shrubbery, vines, and trees, and includes any discarded fruits, vegetables, and other vegetative material or crop residue generated in the care of a garden. The term “Landscape Waste” does not include soil other than incidental soil (e.g., soil attached to sod or

attached to other materials accumulated as a result of the care of lawns, shrubbery, vines, trees, or a garden).

“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).

“Modify” or “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, an increase ~~or change~~ in the handling or Processing capacity of the Facility of 10% or less (calculated using the Facility’s permitted capacity on the effective date of these rules or the permitted capacity issued under a New or Expanded permit issued after the effective date of these rules), changes in the nature of the Facility’s operations, ~~changes in Facility configuration,~~ changes in the nature of any Process, the addition ~~or removal~~ of stationary equipment or machinery, ~~and all capital improvements.~~

Justification: Alterations to configuration or processes that will not result in increased particulate emissions should not require notice to the City or an amended permit. Facilities may change configurations seasonally; such adjustments should not require an amendment to the permit. Facilities may improve mechanisms and the City should not discourage these improvements by requiring an Operator to assume the cost of an application to modify the permit.

“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 C.F.R. § 122.2.

“MWRDGC” Metropolitan Water Reclamation District of Greater Chicago.

“Municipal Waste” means garbage, household waste, commercial/retail waste, institutional waste, industrial lunchroom and office waste, landscape waste, and construction or demolition debris.

“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(f) of the Environmental Protection Act (415 ILCS 5/12(f)), and 35 Ill. Admin. Code 309, Subpart A and

35 Ill. Admin. Code 310.

“Near Reference PM10 Monitor” means a device that measures the level of PM10 in ambient air and meets or exceeds the specifications contained in Appendix B of these rules, or as otherwise approved by the Commissioner.

“New Facility” means a Reprocessable Construction or Demolition Material Facility that does not hold a current or valid operating permit issued by the Department pursuant to Section 11-4-1930 of the Code.

“NPDES permit” means a permit issued under the NPDES 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.

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

“Operating Program” shall have the same meaning as ascribed in 35 Ill. Admin. Code § 212.309.

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

"Operating Record" means a collection of documents maintained at the Facility that includes the permit issued by CDPH; the most recent copy of the application submitted pursuant to Section 3.0 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 permit.

“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 any chemical, industrial, commercial, or manufacturing operation or activity that causes, or has the potential to cause, the emission of airborne particles including, but not limited to, blending, mixing, crushing, screening, breaking, wet or dry cleaning, thermal drying, and chemically treating.

“Processing Area” means any area contained within a Facility where the handling or Processing of any Reprocessable Construction/Demolition Material takes place.

“Professional Engineer” means a person who holds a current and valid certificate of registration and a seal pursuant to the “Professional Engineering Practice Act of 1989” (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 Surveyor Act of 1989” (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.

“Qualified Existing Facility” means an Existing Facility that has submitted a full permit application pursuant to Section 3.0.0 of these rules within the previous (3) three years, that is not proposing an Expansion, Modification, or any changes from its current permit, and that is operating in full compliance with the most recent, approved permit.

“Reprocessable Construction or Demolition Material” or “Reprocessable Construction/Demolition Material” means broken concrete, bricks, rock, stone, or paving asphalt generated from construction or demolition activities.

“Reprocessable Construction or Demolition Material Facility” or “Reprocessable Construction/Demolition Material Facility” means a Site used for purposes of receiving, storing, reprocessing, and transporting of Reprocessable Construction or Demolition Material.

“Reprocessed” or “Reprocessing” or “Reprocessing Activity” means crushed or broken into smaller constituent parts by a Reprocessing Device.

“Reprocessing Device” means a device designed to crush or break reprocessable material into smaller constituent parts for the purpose of reprocessing such material and for which a permit has been issued by the Department pursuant to the Chapter 11-4 of the Code.

“Run-off” means water resulting from precipitation that flows overland before it enters a defined stormwater receptor (e.g., a ditch, pond, sewer, or 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” shall mean any residentially zoned or mixed-used property with residential use, park, hospital, clinic, church, day care, or school.

“Short Application Form” or “Short Form” means a streamlined version of the full permit application that may only be used by a Qualified Existing Facility.

“Site” means all areas of Property that are available for use or are used in the operations of the Facility.

“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.

“SWPPP” or “Storm Water Pollution Prevention Plan” means a document that outlines how a Facility will minimize stormwater pollution through best management practices (BMPs) that 1) minimize pollutants such as oil, chemicals, sediment, debris, trash, and other floating, suspended, or settleable solids; 2) provide for inspections and BMP maintenance; and 3) include monitoring, laboratory sampling, and analysis.

“Tipping ~~Area~~ Floor” means the area within a Facility where Reprocessable Construction or Demolition Material handling activities, including unloading, loading, and limited sorting are permitted to occur.

Justification: See below comments on 3.8.11.

“Trade secret” means any scientific or technical information, design, process, procedure, formula or improvement, or business plan which is secret in that it has not been published or disseminated or otherwise become a matter of general public knowledge, and which has competitive value.

“Unauthorized Materials” means materials not specifically authorized to be accepted and handled at the Facility under its CDPH Reprocessable Construction or Demolition Material Facility permit.

“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 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 State of Illinois. 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 C.F.R. § 232.2

PROPOSED RULES FOR REPROCESSABLE CONSTRUCTION/DEMOLITION MATERIAL FACILITIES

Pursuant to Section 11-4-1930 of the Municipal Code, all Reprocessable Construction or Demolition Material Facilities within the City of Chicago are required to apply for and receive a permit from the Department as follows:

- New Facilities must apply for and receive a permit prior to beginning operations at the Facility;
- Existing Facilities which seek to Expand must apply for and receive a permit for the Expansion prior to implementing the Expansion;
- Existing Facilities which seek to Modify their operations must apply for and receive a Modification to their current permit prior to implementing the Modification; and
- Existing Facilities must apply to renew their permit on an annual basis prior to the expiration of their current permit.

Clarification: See comments on definition of Modification.

Permit applications for Existing, Expanding, or New Facilities must include the information set forth in Section 11-4-1930 of the Municipal Code. The requirements presented below describe this information in further detail.

The permit application requirements for all Reprocessable Construction or Demolition Material Facilities are described in Section 3.0 of these rules. Existing facilities are required to submit all the information required by Section 11-4-1930 of the Code and outlined in Section 3.0 of these rules. However, for the first three years, a Qualified Existing Facility may submit a Short Application Form as described in Section 4.0 of these rules.

Justification: Per Section 4.0, the stated intent of the CDPH is to perform a Section 3.0 (“full”) review of all Existing Facilities every three years. If maintained, this paragraph requires editing for clarity.

Please see Reliable’s comment in Section 4.0 regarding the proposed applicability of the Short Application Form, which should be sufficient for CDPH review of Existing and Modifying Facilities.

Applications shall contain sufficient evidence to Demonstrate that the Facility is designed and will be operated in such a manner that the public health, safety, and the environment are protected. To the extent applicable, Documentation submitted to other regulatory agencies may be used. This Documentation must be included in the application as an attachment and referenced in the application.

Pursuant to 11-4-310 of the Code, the Applicant may request the Department to treat with confidentiality any information the Applicant deems a Trade Secret.

3.0 Permit Application

The application requirements for all Facilities, other than a Qualified Existing Facility, are described below.

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 (“PE”). A PE stamp is not required on subsequent renewal applications if no Modification or Expansion is being proposed by the Applicant.

3.2. Submittal Formats

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

3.3. Applicant Summary

The Application shall contain an Applicant summary that clearly identifies the Person that is applying for the permit. In the case of a sole proprietorship, the Application shall include the name, address, email 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.

3.4. Facility and Property Summary

The application shall include a Facility and Property summary containing the following:

- a. The Facility’s Street address and telephone number;
- b. The Facility’s and the Property’s Property Index Numbers (PINs);
- c. A description of other operations by the Operator occurring at the Property outside the scope of the permit, if any; and
- d. A list of businesses, other than the Applicant, that are operating on the Property, if any.

3.5. Property Owner’s Authorization

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

3.6. 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.

3.7. Nature of a Special Use

If applicable, the Design Report shall contain evidence of zoning approval ~~a copy of the variance in the nature of a special use (Special Use Variance) from the Zoning Board of Appeals (ZBA)~~, and any plans and drawings referenced therein.

Justification: A site may be permitted or may be allowed pursuant to an alternate approval, such as a Planned Development.

3.8. Design Report

The application shall contain a design report for the Facility ("Design Report") that shall include the following components, in order:

3.8.1. Site Survey

3.8.1.1.1. For New or Expanding Facilities, the Design Report shall contain a site survey prepared by a Professional Surveyor, at a legible scale, no smaller than one-inch equals 100 feet, that includes the following components, at a minimum:

3.8.1.1.2. The Facility boundaries and the location of all buildings, access roads, parking areas, and any ancillary structures or features within the Facility;

3.8.1.1.3. Topographic contours, at a minimum (2) two-foot contour interval, of existing conditions and any proposed regrading of the Site; and

3.8.1.1.4. Legal descriptions that describe the Facility boundaries.

3.8.2. United States Geological Survey Site Location Map

For New or Expanding Facilities, the Design Report shall contain a USGS 7.5 Minute Quadrangle Map that includes:

- 3.8.2.1.1. 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 features depicted in a USGS Quadrangle Map.

3.8.3. Aerial Photograph Drawing(s)

For New or Expanding Facilities, the Design Report shall contain aerial photography taken within one year before the date of the permit application that shows the following:

- 3.8.3.1.1. The delineated boundaries of the Facility;
- 3.8.3.1.2. Clearly marked radiuses of 150 feet and 660 feet around the entire Facility boundary to identify features including, but not limited to, residential properties, roads, highways, schools, parks, non-manufacturing land uses, and any other Sensitive Area within these radiuses;
- 3.8.3.1.3. Zoning districts clearly delineated. The district boundaries and their respective designation shall be clearly marked; and
- 3.8.3.1.4. Any additional characteristic or feature that has a location standard established in 3.8.4 or any other applicable standard. The drawing(s) shall identify the characteristic or feature and indicate the setback distance from the Facility boundary.

Comment: USGS maps must be used for all property within 1 mile.

3.8.4. Location Standards

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

- 3.8.4.1.1. Residential Setbacks. A Facility must meet the setback requirements for *waste-related uses* set forth in Section 17-9-0117-A of the Municipal Code.

Comment: RCDM Facilities process benign, natural materials, not hazardous materials. RCDM Facilities should not be subject to the same residential separation requirement as waste-related uses.

- 3.8.4.1.2. 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).

- 3.8.4.1.3. One hundred (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 Chapter 16-6 of the Municipal Code and all other applicable state and federal requirements.

- 3.8.4.1.4. 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 the application is made, and a permit received from the U.S. Army Corps of Engineers, and the Commissioner approves such impact as part of the Facility's permit.
- 3.8.4.1.5. 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.*).
- 3.8.4.1.6. Historical 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 Historic Preservation Act (20 ILCS 3405/1, *et seq.*) and/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.*).

Justification: The CDPH should further define what constitutes a “threat” to Historical and Natural Areas. The existing language is subjective and could apply to any impact of any activity associated with the handling of material through Reprocessable Facilities.

3.8.5. 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:

- 3.8.5.1.1. 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;
- 3.8.5.1.2. The internal and external layout including dimensions of all buildings and structures;
- 3.8.5.1.3. The layout and location including dimensions for all fixed equipment including, but not limited to, all Processing equipment and conveyors;

Comment: Note comment on definition of “Modification” above.

- 3.8.5.1.4. The footprints of all Processing, handling, and storage (authorized and Unauthorized Materials) areas;
- 3.8.5.1.5. Traffic flow for vehicles used to transport materials through the Facility. For New or Expanding Facilities, this drawing shall also depict the minimum turning

radiuses required by vehicles and equipment transporting or handling materials at the Site;

- 3.8.5.1.6. If present, all pertinent features of the stormwater management system (e.g., onsite stormwater flow, inlets, stormwater pipelines, catch basins, and detention/retention ponds). For New or Expanding Facilities, the extent of the high-water level during a One hundred (100) year, 24-hour precipitation event shall also be depicted.
- 3.8.5.1.7. If present, all pertinent features of the wastewater management system (e.g., floor drains, sumps, oil filters/separators, sewer lines, and treatment facilities);
- 3.8.5.1.8. The locations of the primary water sources and water distribution system components for Employee Facilities, fire suppression, Facility cleaning, and dust control;
- 3.8.5.1.9. The locations of all fire suppression equipment (e.g., sprinklers, hoses, and extinguishers), ~~areas where torch-cutting, plasma-cutting, or welding occurs, and all flammable material storage areas;~~

Justification: None of these activities are regularly occurring at RCDM Reprocessing Facilities.
- 3.8.5.1.10. The locations of all Facility or Site security control features and all screening and access-control devices such as fences, gates, and signage;
- 3.8.5.1.11. The locations and layout of all onsite and nearby offsite parking and 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;
- 3.8.5.1.12. The locations and layout of all Employee Facilities; and
- 3.8.5.1.13. The location of all first-aid equipment and other emergency supplies and equipment.

3.8.6. Pavements

All roads and parking areas within the Facility shall be paved with concrete or hot-mix-asphalt, or other materials such as gravel and asphalt grindings ~~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 vehicle flow

rates and type of traffic loading expected at the Facility and shall include, at a minimum:

Justification: The CDPH should define or detail under what circumstances “other materials” are appropriate for consideration by the Commissioner as acceptable substitutes to concrete or hot-mix asphalt. Without further clarification, the discretion of the Commissioner could appear arbitrary in nature and be applied inconsistently.

- 3.8.6.1.1. A plan scaled drawing depicting all pavements at the Facility by pavement type. This information may be shown in the general layout plan required in subsection 3.8.5;
- 3.8.6.1.2. 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;
- 3.8.6.1.3. For new pavements, a narrative description, or a cross-section drawing(s) describing or showing the thickness and material composition of the pavement system layers from subgrade to the surface slab or wearing course; and
- 3.8.6.1.4. For a New or Expanding Facility, all internal roadways, and surfaces subject to truck and heavy-equipment traffic within 100 feet of the Property line, shall be paved with concrete or hot-mix-asphalt paving, or an equivalent pavement system, as approved by the Commissioner, in order to minimize dust emissions and provide for ease of cleaning.

3.8.7. Utilities

For New or Expanding Facilities, 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:

- 3.8.7.1.1. A plan scaled drawing showing the location of all utilities within and adjacent to the Facility. This information may be shown in the general layout plan required in 3.8.5
- 3.8.7.1.2. 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; and
- 3.8.7.1.3. Documentation to Demonstrate that sufficient capacity for Utilities is available to the Facility to satisfy the demands calculated in 3.8.7.1.2. Such Documentation may be in the form of an approval letter or permit from the utility provider.

3.8.8. Water Sources

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

- 3.8.8.1.1. An estimate of water usage at the Facility for fire suppression, dust control, cooling, cleaning, irrigation, and Employee Facilities.
- 3.8.8.1.2. The total amount of water, foams, and other fire-extinguishing materials and oils or other chemical dust suppressants available from each source;
- 3.8.8.1.3. The rate at which water, foams, and other fire extinguishing materials and oils or other chemical dust suppressants can be obtained from each source; and
- 3.8.8.1.4. 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.

3.8.9. 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:

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

Justification: Facilities are able, to the greatest extent possible, to limit and control entry to areas, but cannot be responsible for unauthorized access to areas, especially for Facilities 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 proper access to common use areas is not restricted.

3.8.10. Structures and Fixed Equipment

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

Justification: Further clarity is required regarding which items of a facility are required to be included in the calculations and plan. An office building, security gate house, and toilet may all be “structures” under the current definition. “Material Processing / Handling Structures” more accurately describes the type of structures relevant to CDPH review.

- 3.8.10.1.1. Calculations of the handling capacity of all structures and fixed equipment;
- 3.8.10.1.2. An operating and maintenance plan for all structures and fixed equipment; and

3.8.10.1.3. Detailed design drawings and manufacturers' specification sheets for all ~~structures and fixed equipment~~ Material Processing / Handling Structures. Existing Facilities may submit the make and model of fixed equipment if the manufacturer's specification sheets are unavailable.

Justification: See 3.8.10 above.

3.8.11. Tipping ~~Floor~~ Area and Storage Capacity

The Design Report shall Demonstrate that sufficient Area ~~floor~~ and Staging Storage capacity exists to accommodate the inspection and unloading of peak volumes of inbound material and the storage of materials, and shall include, but not be limited to:

Justification: RCDM operations do not typically use "tipping floors" in their operations. A better description for these outdoor features is "Area."

3.8.11.1.1. Detailed calculations of the volume, in cubic yards, available for the unloading of inbound materials on the Tipping Area ~~Floor(s)~~;

3.8.11.1.2. A drawing showing the size and location of the area dedicated to the screening of inbound loads, including the unloading and inspection of atypical loads and the inspection of random loads. This information may be shown in the general layout plan required in 3.8.5

3.8.11.1.3. Detailed calculations of the volume in cubic yards available for the storage of raw materials, Processed materials, products, Unauthorized Materials and residual Waste on the Tipping Area ~~Floor(s)~~, loadout area, and in all storage areas; and

3.8.11.1.4. Drawings showing the location and lateral and vertical extents of all raw material, Processed material, Post Processed material, finished product, and residual Waste piles at the Facility. This information may be shown on the general layout plan required in subsection 3.8.5.

3.8.12. Water Drainage

For New or Expanding Facilities, the Design Report shall Demonstrate that adequate systems exist to handle stormwater and wastewater flows from the Facility, and shall include:

- 3.8.12.1.1. A stormwater management plan approved by the Chicago Department of Buildings pursuant to the Chicago Stormwater Management Ordinance under Chapter 11-18 of the Municipal Code, or written correspondence from the Chicago Department of Buildings stating that the Facility is exempted from the

Chicago Stormwater Management Ordinance requirement. The high-water elevation from a One hundred (100) year, 24-hour precipitation event must be depicted on the general layout requirements in subsection 3.8.5 or in a separate drawing, even if the Facility is exempted from Chapter 11-18;

3.8.12.1.2. 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;

~~3.8.12.1.3. 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 Department of Buildings and/or the Chicago Department of Water Management; and~~

Justification: Section 3.8.12.1.1 is sufficient documentation of the stormwater management required under the City code.

3.8.12.1.4. Drawings, specifications, and design calculations to Demonstrate effective management, treatment, or disposal of contaminated stormwater and process waters generated by the Facility.

For Expansions that result in no increase to the physical size of the Facility, the drainage review ~~may~~ shall be limited to the impact of the increase in storage, staging, or processing volume on existing conditions.

Justification: Drainage review is only necessary for Facility expansions that trigger a review by the Building Department stormwater regulations.

3.8.13. Traffic

For New and Expanding Facilities, ~~The~~ Design Report shall Demonstrate that the Facility is designed and located to minimize the impact on the existing traffic flow in the surrounding area and that the points of ingress and egress are designed according to Illinois Department of Transportation standards. This Demonstration shall include, but not be limited to:

Justification: Traffic is not reasonably related to CDPH's mission with respect to Reprocessable Facilities. Requiring Existing Facilities to monitor and model

existing traffic is costly and onerous for the Facility and does not benefit Human Health and the Environment.

City Zoning and CDOT already review traffic studies when analyzing whether a Facility may be sited at the property. This tri-annual review will create regulatory outcome uncertainty that will limit investment in the Facility.

- 3.8.13.1.1. Calculations of the average and the maximum number of vehicles generated by the Facility, as well as an hourly breakdown of Facility vehicle traffic. For Existing Facilities, this information may be determined using truck-scale records going back at least one year prior to the application date;
- 3.8.13.1.2. A stacking plan showing the number of vehicles and the onsite and offsite locations of these vehicles during the maximum peak Facility traffic hours;

3.8.13.1.3. 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; and

~~3.8.13.1.4. A listing of roads and highways designated for use by traffic generated by the Facility.~~

For New or Expanding Facilities:

~~3.8.13.1.5. 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;~~

Justification: Existing Facilities utilize existing public streets and rights of way that may be underperforming because of conditions outside of the Facility's control, and which may change after the Facility begins operations.

~~3.8.13.1.6. Traffic counts taken in hourly intervals at all ingress/egress points to identify the peak hours of traffic occurring in the morning and afternoon. The traffic counts shall include a classification of vehicles;~~

3.8.13.1.7. A description of the measures taken to reduce the impact of the Facility generated traffic on the existing traffic flows; and

3.8.13.1.8. 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.

Justification: This imposes undue burdens on a Facility and creates a redundant review of traffic conditions.

3.8.14. Expected Waste Generation

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

3.8.14.1.1. An estimate of Waste in tons to be generated at the Facility each month, broken down by activity, and categorized by Waste type (e.g., Municipal Waste, Special Waste, Hazardous Waste, Universal Waste, and Liquid Waste). Waste may include residue generated from the Processing of materials, cleaning and

housekeeping activities, and Waste from filter media and pollution control devices.

~~3.8.15. Parking~~

~~For New or Expanding Facilities, the Design Report shall Demonstrate that the Facility meets the minimum automobile parking ratio and the minimum bike parking requirements mandated by the Chicago Zoning Ordinance, and shall include:~~

~~3.8.15.1.1. The number of employees at the Facility and the corresponding number of parking spaces;~~

~~3.8.15.1.2. Backup calculations showing that the parking spaces in 3.8.15.1.1 meet the parking requirements mandated by the Chicago Zoning Ordinance; and~~

~~3.8.15.1.3. 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 plan required in subsection 3.8.5.~~

Justification: As noted above, a Facility must demonstrate zoning approval. An Operator should not be required to submit to re-review of zoning by CDPH. This is redundant and therefore unnecessary.

3.8.16. Employee Facilities

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

3.8.17. Perimeter Barrier

For New and Expanding Facilities within 660' of a Sensitive Area, The Design Report shall Demonstrate that the barrier around the Facility will obscure Facility operations from the public way and adjacent non-PMD properties, and shall include:

Justification: If proper setbacks exist from Sensitive Areas, the use of a Perimeter Barrier lacks any practical benefit to surrounding PMD uses.

3.8.17.1.1. A description of the Facility's perimeter barrier, including, but not limited to:

- a. Height – the barrier must be at least 6 ~~8~~-feet high; and

Justification: Chicago Zoning Code allows fencing only six (6) feet tall.

~~b. Material Composition—the barrier must be solid so as to completely obscure all materials stored or kept within the Facility boundaries.~~

Justification: Chicago Zoning Code may require decorative landscape berming or other screening. The area required for this barrier is unwarranted and inconsistent with the zoning code.

3.8.17.1.2. For New and Expanding Facilities within 660' of a Sensitive Area, the barrier must be constructed of durable material such as concrete, cinder block, brick, metal (at least 18-gauge steel or 3.18-millimeter aluminum), or another material, including composites of the above, approved by the Commissioner in the permit conditions.

- 3.8.17.1.3. Applicants seeking approval to use other types of materials must Demonstrate that the proposed materials meet zoning requirements and are comparable in terms of durability, maintenance requirements, visual-screening, and noise-mitigating performance relative to above-listed materials.
- 3.8.17.1.4. For the purpose of this requirement, chain-link or wrought-iron fencing covered in slats or meshing is not considered a durable material.
- 3.8.17.1.5. Site Access Locations – When possible, all gates and access openings shall be located away from adjacent or nearby non-manufacturing land uses.
- 3.8.17.1.6. Elevation Drawing - For new barriers, the application shall include an elevation drawing(s) showing the vertical dimensions and construction of the barrier, gates, and other important features.

Barriers are not required on sides of ~~the~~ a New, Existing or Expanding Facility along a bridge, embankment or a waterway if the Facility is more than 660' from a Sensitive Area, or if the barrier conflicts with zoning requirements. ~~the barrier interferes with loading operations or conflicts with zoning requirements.~~ In addition, adjacent embankments or rail lines may be used towards meeting the above perimeter barrier requirement if such features otherwise meet the security, setback, and screening intent of this section, ~~subject to approval by the Commissioner.~~

Justification: Certain shared municipal and private access rights, existing topographical features and structures (bridges, tunnels), and other associated features do not allow for perimeter barrier installation.

Existing permitted Residential uses are pre-existing within PMD's. Sensitive Areas should be afforded the added protections of the required Perimeter Barrier only if the setback requirement cannot be met.

These setback, screening, and security requirements are unrelated to public health. While important, these are specifically zoning issues and should not be subject to the additional scrutiny of the Commissioner's approval.

3.8.18. Stormwater Pollution Prevention

For New Facilities Sites located along Waters or which discharge to an MS4, the Design

Report shall include a Stormwater Pollution Prevention Plan that includes, but may not necessarily be limited to:

- 3.8.18.1.1. The identification of offsite receiving Waters and sewerage systems. If the discharge is to a sewer, identify the sewer type (combined, MS4, sanitary);
- 3.8.18.1.2. 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; and
- 3.8.18.1.3. 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 in accordance with all applicable local, state, and federal rules.

Existing, Modifying, or Expanding Facilities shall be required to provide stormwater management in accordance with the City Building Code and State of Illinois stormwater regulations.

Justification: If an Existing Facility is in operation and is not making changes that trigger statutory stormwater management review by the Building Department (e.g. changes in permitted processing volume per year), there is no basis or need for the CDPH to evaluate stormwater management.

3.8.18.1.4. The Applicant may submit a copy of the SWPPP prepared in accordance with the Facility's NPDES permit to satisfy the requirements of this section. The CDPH may require additional information or measures to supplement the SWPPP based on site-specific conditions.

3.8.19. Noise Impact Assessment

For applications requesting a waiver to operate outside of the operating hours under Section 11-4-2000 (B) of the Code, the Design Report shall include a noise impact assessment that includes, but is not limited to:

3.8.19.1.1. A Demonstration that sound levels from the Facility will not exceed applicable standards set forth in Section 8-32-090 of the Code;

3.8.19.1.2. This Demonstration shall include a determination of the total sound level in dB(a). This total sound level may be computed based on a detailed inventory of sound levels generated by equipment and site activities, measured directly using a sound pressure level meter, or under a work plan prepared and performed by a noise-abatement engineer or qualified sound consultant; and

3.8.19.1.3. If any sound levels exceed applicable standards contained in Section 8-32-090 of the Code, the noise impact assessment shall include a noise abatement plan to bring sound levels down to within regulatory requirements.

A noise impact assessment shall not be required in temporary circumstances when the facility must remain open to receive materials from government infrastructure projects. The Facility shall notify the Department and receive written approval from the Commissioner prior to operating beyond the normal operating hours.

3.8.20. 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 C.F.R. § 112 shall provide a copy of the Facility's SPCC Plan.

3.8.21. Air Quality Impact Assessment

The Design Report shall be required for all New, Existing, and Expanding Facilities located within 660' of a Sensitive Area, and shall contain an air quality impact assessment that includes, but is not necessarily limited to:

Justification: The CDPH has not demonstrated a technical justification for writing rules for Reprocessable Facilities that are more stringent than the USEPA and ILEPA standards for monitoring or enforcement. Recently published USEPA Region 5 - October 2021 report on Chicago ambient air indicates that the items of concern are "ozone" related NOx and VOC constituents that are not emitted by Reprocessable Facilities.

At a minimum, Existing Facilities meeting or exceeding the 660' setback for Sensitive Areas should not be required to spend unnecessary resources for the Air Quality Impact Assessment or continuous air monitoring covered in Section XXXX (insert).

~~3.8.21.1.1. An emissions and air dispersion modeling study ("Study") of the Facility and its operations, using USEPA's AERMOD software or other software approved by the Commissioner. The Study shall evaluate airborne emissions from each Point Source and Fugitive Source. The Study shall evaluate PM10 emissions that may be generated at the Facility from sources such as, but not limited to, Processing equipment, diesel engines, and emissions from roadways, stockpiles, and material handling cutting activities. Diesel emissions from on-road mobile sources are not required to be included in the modeling study.~~

~~The Applicant shall submit all emission calculation and air modeling files. The AERMOD file shall be provided in .inp EPA format.~~

Justification: Modeling of emissions of the Reprocessable Facility emissions will yield no productive results for the CDPH that concern the air impacts outlined in the USEPA October 2021 report. These efforts are expensive and lack justification.

~~3.8.21.1.2. A dust monitoring plan that describes the placement, operation, and maintenance of the PM10 monitors and a weather station as required under~~

~~5.8.7 of these rules, and a schedule and plan for quarterly testing to ensure compliance with the prohibition of dust set forth in 5.8.3 and 5.8.4.~~

~~a. The dust monitoring plan shall provide for at least one monitor at the following locations along or near the Facility's fence line:~~

~~i. At each 45-degree direction relative to the center of the Facility where there is a Sensitive Area within 660 feet of the Facility boundary; and~~

~~ii. At each location of the Facility or Property determined in the air dispersion modeling study to potentially exceed EPA's 24-hour standard for PM10 or relevant acute or chronic health-screening limits or standards for the modeled HAPs.~~

~~b. However, in circumstances where the above requirements would result in monitors being placed on the same side of the facility within 100 feet of one another, a single monitor may be used. In such cases, the single monitor must be placed in a central location as approved by CDPH in~~

the permit. When appropriate, the PM10 monitors in 3.8.21.1.2 may be located along the Property boundary as directed in the permit conditions.

c. In the event no location meets the criteria in 3.8.21.1.2(a)(i) and 3.8.21.1.2(a)(ii) above, at least one monitor shall be placed downwind of the prevailing wind direction. This air monitor may be relocated as necessary to account for seasonal variation in wind direction. The situations under which the relocations should occur shall be specified in the dust monitoring plan.

3.8.21.1.3. A calibration plan that ensures all PM10 monitors, and weather stations will be calibrated prior to being placed in service, and annually or at a frequency recommended by the manufacturer thereafter. For Facilities using light-scattering nephelometers to monitor PM10, the calibration plan shall include periodic determination of a site-specific correlation factor that calibrates the instruments' readings against concentrations determined by gravimetric sampling using EPA IO 3.1, NIOSH 0500, or other methods approved by CDPH. The site-specific correlation factor shall be calculated using mathematical formulas provided by the equipment manufacturer.

3.8.21.1.4. As part of the calibration plan in 3.8.21.1.3, the Operator shall determine the fraction of harmful contaminants that may be in the PM10. Specifically, air samples shall be collected at all monitored locations for analysis of the following pollutants:

- a. Lead using NIOSH Method 7300, 7302, or 7303;
- b. Asbestos fibers using NIOSH Method(s) 7400 and/or 7402;
- c. Silica using NIOSH Method 7500 or 7602;
- d. Respirable particulates using NIOSH Method 0600; and
- e. Total dust using NIOSH Method 0500.

The Commissioner may approve alternate test methods or require the use of EPA methods, depending on site-specific factors. The Commissioner may also

~~require the air sampling of other contaminants that may be emitted from the Facility.~~

Justification: For three years the CDPH has been provided with continuous monitoring data by a “New” Facility on 106th Street that does not support the continuance of those air monitoring efforts (in data reported by Chicago Rail and Port to CDPH), or the addition of monitoring costs to Existing or Expanding Facilities.

CDPH should require Facilities adhere to the clear, enforceable standards recommended by the USEPA and in rules issued by the ILEPA.

General Comments on Air Quality Impact Assessment

- 3.8.21.1.1 - The requirement to conduct an AERMOD air dispersion modeling study is vague and ambiguous as it fails to specify any appropriate parameters for conducting the air dispersion modeling, and fails to identify the intended purpose of the modeling and its nexus to the goals of the proposed rule. As such, the proposed air dispersion modeling will serve only to derive unreliable and inconsistent data among modeled sources and is therefore arbitrary, capricious and unduly burdensome upon the regulated sources. More specifically:
 - Air dispersion modeling is intended to model emissions impacts in the ambient air; it is *not* intended to specifically “evaluate airborne emissions from *each* Point Source and Fugitive Source” at the regulated Facility as the proposed rule states. Thus, the use of AERMOD (or similar) air dispersion modeling necessarily evaluates the emission impacts from modeled sources on ambient concentrations in areas surrounding the modeled Facility. This is a complex model and must account for potential emission impacts from nearby sources unrelated to the modeled Point and Fugitive Sources, such as nearby traffic, other non-Facility industrial sources, etc. Accordingly, conducting air dispersion modeling of Point Source and Fugitive Sources in the abstract, without guidelines, and without considering nearby sources of pollution, serves no purpose and will not generate modeling data that is usable for a particular purpose.
 - As further described, below, air dispersion modeling is dependent on the model’s particular application. No application (i.e., purpose) is provided for conducting the modeling in the proposed rule; therefore, the proposal to conduct an “air dispersion modeling study” lacks the necessary specificity and modeling criteria to inform a regulated Facility *how* to conduct the required air dispersion modeling.

U.S. EPA relies on application-specific and pollutant-specific modeling guidance to supplement air modeling regulatory criteria established under Appendix W to 40 CFR Part 51, to direct how air dispersion

modeling is conducted. Thus, by way of example, to conduct air dispersion modeling for purposes of demonstrating compliance with the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide, U.S. EPA issued modeling guidance that established specific modeling criteria for: (i) the placement of modeled receptors for determining modeled impacts; (ii) the use of actual emissions versus maximum allowable emissions for the pollutants modeled; (iii) the amount (i.e., years) of emissions data and meteorological data as inputs to the model; and (iv) characterizing each source of emissions (point and fugitive). The latter, in particular, is critical for creating accurate and reliable air dispersion modeling that is representative of actual ambient air quality conditions as influenced by the emissions source. The absence of any specificity in the proposed rule with respect to the criteria for conducting air dispersion modeling in a “Study” (as that term is used in section 3.8.21.1.1) will generate unreliable, unusable and non-representative estimations of emissions impact. As such, the air dispersion modeling is inappropriate, unnecessary and should be removed.

- There is no reasonable basis for requiring, without exception, the evaluation of all emissions from all Point Sources and Fugitive Sources, particularly from potentially de minimis emission sources at a Facility. By way of example, U.S. EPA allows for several different types of so-called screening tools to reduce or eliminate air dispersion modeling under de minimis circumstances. U.S. EPA has established “significant impact levels” (SILs) for certain pollutants – including PM10 – that establish a threshold pollutant concentration that must be exceeded to trigger air dispersion modeling at a facility before modifying an emissions source. This is not dissimilar to the Reportable Action Level (RAL) already proposed in Section 5.8.7.1.6, which establishes a microgram per cubic meter PM10 emission level (albeit unreasonably stringent) to trigger response actions at a Facility.

The proposed rule should similarly establish a SIL for PM10 that must be exceeded to trigger the requirement that the Facility conduct air dispersion modeling under Section 3.8.21.1.1.

- Section 3.8.21.1.1 contains inconsistent language. It states that the “Study” shall evaluate airborne emissions from each Point Source and Fugitive Source.” The next sentence states that the “Study shall evaluate PM10 emissions that may be generated at the Facility....” The proposed rule should clarify that any Study is *limited* to air dispersion modeling of PM10 and not any other “airborne emissions.”
- Section 4.0 of the proposed rule requires that an “Existing facility” (defined as a “Facility that holds a current and valid operating permit issued by the Department”) submit an application at least once every 3 years that provides information required under Section 3.0. As drafted, this would require that each and every Facility – even if a Facility does not undertake an “expansion” (as defined under the proposed rule), increase emissions or otherwise modify in any manner its operations or emission sources at the Facility – conduct air dispersion modeling at least every 3 years. No federal or state statutory or regulatory program requires such frequent, costly and unnecessary air dispersion modeling without a triggering event. For example, U.S. EPA reevaluates each NAAQS every 5 years, which *may* require that states conduct air dispersion modeling. Similarly, U.S. EPA’s Prevention of Significant Deterioration (PSD) program only requires air dispersion modeling when a *new* emissions source is constructed or a modification

to an existing emission source occurs that results in a *significant* emissions increase. Absent new emissions or a significant increase in emissions, air dispersion modeling is not required for existing sources. This makes logical sense. There is simply no purpose for conducting source-specific air dispersion modeling if there are no changes to the source.

Accordingly, Section 4.0 and Section 3.8.21.1.1 should be revised (provided Section 3.8.21.1.1 is not removed in its entirety per the comments, above) to *exempt* “Existing facilities” from the requirement to conduct air dispersion modeling every 3 years unless a triggering event (such as construction of a new emissions source or increase in the actual capacity of the Facility) occurs.

- 3.8.21.1.2

- Section 3.8.21.1.2.a.ii requires installation of a PM10 monitor “at each location of the Facility or Property determined in the air-dispersion modeling study to potentially exceed EPA’s 24-hour standard for PM10 or relevant acute or chronic health screening limits or standards for the modeled HAPs.” This requirement is vague and ambiguous, and is inconsistent with the use of air dispersion modeling, and, for the following reasons, should be stricken from the proposed rule:

- First, in general, NAAQS air dispersion modeling utilizes a pre-selected grid of individual modeled receptors (U.S. EPA recognizes that the model receptor grid is unique to each particular site and is dependent on a myriad of factors including the size of the modeled area, the number of modeled sources and the complexity of the terrain). The model output identifies the modeled pollutant concentration at each receptor. U.S. EPA does allow for the use of air dispersion modeling to dictate the location of physical air monitors. However, U.S. EPA has never required the placement of monitors at “each location” that is modeled in excess of a NAAQS. Rather, monitors are generally placed at the location(s) of expected (i.e., where the model predicts a NAAQS exceedance) peak concentration that can sufficiently characterize the air quality impacted by an emissions source. See, e.g., U.S. EPA SO2 NAAQS Designations Source-Oriented Monitoring Technical Assistant Document, February 2016. In short, there is no scientific or regulatory basis that justifies the placement of PM10 monitors at each location modeled in excess of U.S. EPA’s 24-hour primary NAAQS for PM10 (note: while Section 3.8.21.1.2 does allow for the use of a single monitor if 2 or more monitors would be located within 100 feet of each other, there remains no benefit to siting multiple monitors if one is sufficient to adequately characterize emission impacts, as discussed above).
- Second, the phrase “potentially exceed” is vague and ambiguous as it provides no standard upon which to determine with specificity when a PM10 is required. If a modeled receptor is modeled at 80% of the NAAQS, does that “potentially exceed” the NAAQS? 90%? 95%? Consistent with the preceding comment, monitor placement should not be dependent upon a modeled exceedance of a NAAQS but rather on identifying the location or locations that can sufficiently characterize the PM10 impact from the Facility.

- Third, the “Study” required by Section 3.8.21.1.1 is not required to determine compliance with U.S. EPA’s 24-hour PM10 primary NAAQS standard. Indeed, as drafted under Section 3.8.21.1.1, the air dispersion modeling must merely “evaluate airborne emissions” from the Facility. Accordingly, the air dispersion modeling “Study” will not generate modeling data that can determine the placement of PM10 monitors based on the U.S. EPA 24-hour PM10 NAAQS standard proposed under Section 3.8.21.1.2.
- Based on the above, the siting of PM10 monitors should, at best, be based on reasonably available data to the Facility, including, but not limited to, any air dispersion modeling required under Section 3.8.21.1.1.

- **3.8.21.1.4**

- The proposed rule should not assign the Commissioner unspecified authority to “require the air sampling of other contaminants that may be emitted from the Facility.” Air sampling of pollutants other than PM10 can require wholly separate air dispersion modeling to appropriately site new and additional air monitors. The proposed rule must identify those sampling and modeling parameters.

3.9. 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:

3.9.1. Types of Material

The Operating Plan shall include a description of the types and quantities of materials accepted at the Facility. It shall also include the screening measures to be used by the Facility to ensure that Unauthorized Materials and loads containing incidental debris in excess of 20% by weight are not accepted into the Facility, or if inadvertently accepted, are properly disposed of, or lawfully reused offsite. The operating plan shall include, but not be limited to:

- 3.9.1.1.1. A list of the general types of Reprocessable Construction/Demolition Materials accepted and Processed at the Facility;
- 3.9.1.1.2. A description of the source types (industrial, commercial, residential, construction or demolition activity, Waste transfer stations, recycling service

pick-ups, etc.) from which the different types of materials will be accepted;

- 3.9.1.1.3. A screening protocol of the sources in 3.9.1.1.2 that ensure Unauthorized Materials will not be brought to the Facility. Such protocol shall include signed affidavits, along with analytical data as appropriate, from the source that the material does not contain lead-based paint, asbestos containing materials, and other contamination that would render the reprocessing or reuse of the material illegal or impossible;
- 3.9.1.1.4. A screening plan that provides for onsite screening of inbound loads that ensure Unauthorized Materials and loads containing greater than 20% incidental debris are not accepted into the Facility. The screening plan shall include thorough inspection of suspect loads and random loads. Loads emitting chemical or petroleum odors or containing painted debris or suspect asbestos containing material shall not be accepted into the Facility unless the

Facility can verify that the load can legally be accepted into the facility. Such verification or confirmation can consist of the documentation required in 3.9.1.1.3, or through the use of instruments such as an X-ray fluorescence meter to detect lead in paint or a photo-ionization detector to detect volatile organic compounds. The plan shall also describe in detail the inspection procedures for unloaded materials;

3.9.1.1.5. A plan for the segregation and removal of all Unauthorized Material from the Facility; and

3.9.1.1.6. An emergency response plan for the handling, storage, and disposal of hazardous or dangerous materials that require immediate attention or specialized handling and/or disposal.

3.9.2. Quantity of Materials

The Operating Plan shall include a description of the daily quantities of materials in tons accepted at the Facility during average and peak-volume seasons and shall include:

3.9.2.1.1. Detailed calculations estimating the peak daily quantities of material that can be accepted at the Facility taking into consideration the Process flow rates in 3.9.3, the storage volumes in 3.8.11, the truck stacking capacity in 3.8.13 and other pertinent factors. The estimated material quantities shall be provided on a tons per day basis and include all assumptions used in the calculation; and

3.9.2.1.2. Documentation to Demonstrate that the Facility has the ability to determine and record the amounts of material in tons entering, exiting, and being 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.

3.9.3. 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:

- 3.9.3.1.1. A flow diagram(s) indicating the material flow between each major Process line or Process step. The flow diagram(s) shall depict the flow of material between each structure, fixed equipment, storage piles, unloading areas, and loading areas on the diagram. The diagram(s) shall also indicate Processing rates for structures and fixed equipment, staffing requirements, storage capacities, average storage times, and inflow /outflow rates, including operating hours;
- 3.9.3.1.2. A health and safety plan that includes all job hazard assessments and a description 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; and
- 3.9.3.1.3. A description and results of any OSHA-required worker air and noise exposure sampling for Facility activities such as, but not necessarily limited to, crushing, and grinding. As applicable, these documents shall be provided in compliance with the Health Insurance Portability and Accountability Act (HIPAA) requirements.

3.9.4. Dust Prevention and Dust Suppression

The Operating Plan shall include a listing and technical specifications of all Airborne Dust Prevention and all Airborne Dust Suppression measures deployed at each reprocessing device, conveyor, material drop point, and stockpile location, during freezing and non-freezing conditions.

CDPH may require alternate forms of control if the Commissioner determines the above-proposed measures to be inadequate based on recurring violations. Alternate measures may include, but not be limited to, the use of dry methods during freezing conditions. Dry dust control measures contain, capture, exhaust, and clean dusty air.

~~3.9.5. 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:~~

Justification: This Fire Prevention is a legacy requirement adapted from metallurgical processing Facilities and is not justified as a requirement for Reprocessable Facilities. In addition, the requirement under this Section 5.8.12 is redundant with the Site Design Report requirements.

- 3.9.5.1.1. A description of the safety measures employed to prevent fires;
- 3.9.5.1.2. 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;
- 3.9.5.1.3. A description of the handling procedures for the flammable or explosive materials listed;
- 3.9.5.1.4. Details and specifications of a fire detection system for the Facility;
- 3.9.5.1.5. Specifications and locations of all fire suppression equipment including, but not limited to, extinguishers, automatic sprinklers, and hoses. This information may be shown in the general layout plan required in 3.8.5; and
- 3.9.5.1.6. A description of the responsibilities of all employees in the event of a fire.

3.9.6. Emergency Communications

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

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

3.9.7. First Aid Equipment

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

3.9.8. 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:

- 3.9.8.1.1. 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; and
- 3.9.8.1.2. A detailed description of all measures employed (e.g., bait stations and traps) to prevent infestation by rodents, mosquitos, and other Vectors, including good housekeeping practices used to control rodents, mosquitos, and other Vectors.

3.9.9. Vehicles

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

- 3.9.9.1.1. A list of all types of vehicles proposed to be maintained at the Facility and maintenance activities to be performed;
- 3.9.9.1.2. The quantity and the EPA New Source Performance Standard diesel engine Tier rating of each type of vehicle maintained at the Facility;
- 3.9.9.1.3. The intended use and operating plan for each vehicle;
- 3.9.9.1.4. The number of employees qualified to operate each vehicle; and
- 3.9.9.1.5. The quantity of material in tons each vehicle is expected to be able to Process or transport.

3.9.10. Disposal Facilities

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

- 3.9.10.1.1. The name and location of all disposal and other facilities where Waste, uncontaminated soil, and incidental debris will be disposed of or recycled.

3.9.11. 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:

- 3.9.11.1.1. A description of all daily cleaning activities, including the removal of spilled material around containers, equipment, and conveyers, and the cleaning of pavements complying with subsection 5.8.13 of these rules;
- 3.9.11.1.2. A schedule indicating the initiation and completion of daily cleaning activities;
- 3.9.11.1.3. The make, model, and specification of the street sweeper required in 5.8.13.1.2 of these rules and any sprayers, misters, and other dust suppression equipment employed at the Facility;
- 3.9.11.1.4. A description of materials, supplies, and quantities necessary to complete the daily cleaning activities and to clean up leaks and spills;
- 3.9.11.1.5. A description of the staffing that will be dedicated to conducting the required daily cleaning activities; and
- 3.9.11.1.6. A record-keeping plan to document daily cleaning activities.

3.9.12. 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 under Section 11-4-2000(B) of the Municipal Code unless a waiver is granted by the Commissioner.

3.9.13. Closure Plan

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

- 3.9.13.1.1. 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.
- 3.9.13.1.2. Material Removal. The Closure Plan shall include a plan for removing all Reprocessable Construction or Demolition Materials, incidental debris, and Waste material from the Facility.

- 3.9.13.1.3. Equipment Decommissioning. The Closure plan shall include a plan for decommissioning and cleaning all equipment and structures at the Facility.
- 3.9.13.1.4. 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.
- 3.9.13.1.5. Financing. The Closure Plan shall include Documentation to Demonstrate that sufficient financing is available to complete all Closure activities.

3.10. Environmental Assessment

For New or Expanding facilities, the design report shall include a complete copy of the environmental assessment prepared pursuant to the Chicago Zoning Ordinance. The application shall also include any correspondence and/or additional information related to any recommendations included in the environmental assessment or by the City of Chicago.

3.11. Aldermanic and Public Notification

The application shall include a copy of the certified letter to the alderman within whose ward the facility is proposed to be located, setting forth the intention and nature of use as a Reprocessable Construction/Demolition Material Facility, as required under Section 11-4-1930(B)(8) of the Code. An application shall not be considered complete without such copy of the certified letter and in no event shall a permit be issued until 30 days after the date of the certified letter or receipt by the Commissioner of notice from the alderman that such 30-day period is waived. The Applicant shall also Demonstrate compliance with the provisions for aldermanic and public notification and community meeting as required under Section 17-9-0117-G.4 of the Code.

3.12. Additional Requirements

The Commissioner may require additional information to be submitted if it is determined that the information in the application is insufficient or if the nature of the Facility warrants additional information to ensure the Facility can be operated as proposed.

In lieu of the full application described in Section 3.0 of these rules, Qualified Existing Facilities may provide a streamlined Short Form Application. The Short Form shall include all the information required under Section 4 of these rules.

4.0 Applicant Summary

The Short Form permit application shall clearly identify the person, partnership, or corporation that is applying for the permit. In the case of a sole proprietorship, the application for a permit shall include the name, address, and phone number of the owner of the proprietorship. In the case of a partnership or corporation, the application for a permit shall include the name, address, contact name, and phone number of the partnership or corporation.

4.1. Facility Summary

A facility summary shall be included with the Short Form permit application. This summary is intended to be brief in nature. This facility summary shall contain the following information:

- a. Name of the applicant, including address and phone number.
- b. Street address and phone number of the facility for which a permit is requested.
- c. A list of the types and sources of materials to be brought to the facility including a brief description of the composition of each material stream.
- d. The average and maximum daily quantities of each type of material anticipated to be brought to the facility during the term of the permit.
- e. The estimated daily volume of site-generated truck traffic including the numbers of inbound and outbound trucks by vehicle type and the anticipated peak hour site traffic.
- f. The total number of full-time and part-time employees at the facility.
- g. The current zoning district of the facility.
- h. A brief description of the operations at the facility.
- i. The facility operating hours.

4.2. Facility Safety Overview

A facility safety overview shall be included with a Short Form permit application. The purpose of the facility safety overview is to provide Department personnel who may inspect the facility with a basic understanding of potential hazards and safety procedures. The facility safety overview shall include the following information:

- a. A description of the personal protective equipment to be worn by non-employees to the Facility.

- b. A description of the potential hazards present at the Facility.
- c. A summary of Facility check-in and escort procedures.
- d. A summary of Facility evacuation procedures.
- e. A summary of any other applicable Facility safety procedures.

4.3. Demonstration of Financial Security

The Short Form permit application shall be accompanied by a Demonstration of financial security in the amount required in Section 11-4-370 of the Municipal Code and shall be provided in a form acceptable to the City Comptroller and the Commissioner and as may be defined by rule.

4.4. Real Estate Taxes

The Short Form permit application shall be accompanied by proof of payment of real estate taxes, as required by Section 11-4-1520(A)(2) of the Municipal Code, in the form of copies of the most recent tax bill and canceled check; or the most recent tax bill stamped paid by the Cook County Assessor's Office or as published on said office's website.

4.5. Affidavit

The Short Form permit application shall be accompanied by a notarized affidavit from the applicant stating that the Facility operations for the coming permit year shall be consistent with those represented in the most recent, approved permit application prepared in accordance with Sections 3.0 of these rules. Further, this affidavit shall state that no changes shall be made to facility operations without prior written approval from the Department.

~~At least once every (3) three years, each Existing facility must submit an application which provides all of the information required under Section 3.0 of these rules. The Commissioner may, at the Commissioner's discretion, require an application which provides all of the information at any time.~~

Justification: Re-review of Existing and Modifying Facilities every three years creates an uncertainty in permitting that does not allow for the economic investments required to perform this critical function that promotes human health and the environment and reduces the carbon footprint of the City of Chicago.

The Short Form permit provides the necessary information to the CDPH while maintaining

the protected operational and land use rights of the Operator.

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5.0 Operating Standards

A Reprocessable Construction or Demolition Material Facility shall comply with the following operational standards. All plans required for the application must be consistent with the standards described below.

5.1. 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.

5.2. Hours of Operation

The Facility operating hours shall be limited to the hours specified in Section 11-4-2000(B) of the Municipal Code, unless a written waiver is issued by the Commissioner. A request for a written waiver shall include a noise impact assessment, as described in subsection 3.8.19 of these rules.

5.3. Material Volume and Weight Limitations

The Facility may not exceed the volume or weight limits specified in the permit. If in response to an emergency, the Facility is required to receive a volume or weight that exceeds the permitted limit, a written record of the date, time, additional volume or weight, and reason shall be made part of the Facility's Operating Record, and the Operator shall notify the Department in accordance with the permit.

5.4. Material Storage

At no point shall any portion of the Facility Site be excavated for the purpose of storing reprocessed material, reprocessible material, or incidental debris. Material storage at the Facility shall be conducted as follows:

5.4.1. Raw, Processed, and Finished Product Stockpiles

Except as provided below, the height of any outdoor storage stockpile within the Facility shall not exceed 30 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.

Reprocessible Construction/Demolition Material shall be separated from and kept separate from any other Waste.

5.4.2. Material Moisture Content

The surface moisture content of all Reprocessible Construction/Demolition Material stockpiles shall be 1.5% or more by weight. To demonstrate compliance, a representative sample shall be tested weekly using ASTM Procedures (C566-97) for total moisture content of the materials, or subject to Commissioner approval, the use of real-time bulk material moisture meters. The above moisture content testing is not required over weeks when the average daily temperature is below freezing.

5.4.3. Incidental Debris

Incidental debris received at the facility shall be separated from Reprocessible Construction /Demolition Material and shall be containerized or placed inside a (3) three-sided enclosure to minimize litter and fugitive dust. The height of the incidental debris pile shall not exceed the height of the enclosure wall. Incidental debris must be removed from the Facility as soon as possible, but not later than 14 days after such debris was delivered to the Facility and shall be disposed of in accordance with the applicable federal, state, and local laws and regulations.

5.4.4. Waste

No waste, garbage, or refuse, except Reprocessible Construction/Demolition Material and incidental debris, may be received or stored at the Facility at any time. Waste generated at the Facility shall be containerized and disposed of as soon as the container is full or every 14 days, whichever timeframe is sooner.

5.4.5. Indoor Piles

None of the height limitations in this section shall apply to material piles located wholly inside a building.

5.5. Material Volumes

The Facility may not exceed the volume limits specified in the permit. If the Facility is required to receive volumes which exceed the permitted volume to respond to an emergency, a written record of the date, time, and reason shall be made part of the Site's Operating Record. The Department shall be notified by email at envwastepermits@cityofchicago.org, within 24 hours of the emergency.

5.6. Testing of Materials

The Owner and/or Operator shall test reprocessed materials generated at the Facility. A composite sample of each aggregate product shall be collected and tested for extractable lead using SW846 Test Method 1311-Toxicity Characteristic Leaching Procedure (TCLP) and EPA Method 6010, 6020, or 7000.

The Commissioner may require the testing of additional constituents as a special condition of the permit. The frequency of the testing shall be once every ~~(2) two months or as specified in the permit and shall not exceed (6) six times~~ per calendar year, unless the Commissioner expresses sufficient cause in written form to the Owner and/or Operator.

Justification: Reprocessable Facilities are prohibited from handling materials that are likely to contain lead. Materials processed at Reprocessable Facilities specifically exclude demolition materials other than concrete, asphalt, and other building materials not associated with lead content.

The sample results shall be submitted to CDPH within 10 days from the Operator's receipt of the laboratory results. In the event a sample exceeds EPA's hazardous waste criteria, the submittal shall include a narrative explaining the circumstances of the exceedance, the amount of product impacted, the actions the Permittee has undertaken or will take to properly handle, store, and dispose of the impacted material, and protocols that will be adopted to ensure such exceedances do not occur in the future.

5.7. Vehicles and Equipment

The Facility shall have sufficient vehicles and equipment available at all times to accept and Process the Facility's permitted volumes or weights of material. Such vehicles and

equipment shall be operated in a manner that minimizes emissions, including but not limited to, the following:

5.7.1. Vehicles

All inbound and outbound trucks carrying dirt, aggregate (including minerals, sand, gravel, limestone, or any other ore or mineral which may be mined), or other similar material susceptible to becoming windborne, shall be sealed or tarped. All containers and tarps shall be properly maintained to prevent leaking or tears. The Operator shall immediately repair or replace any damaged or torn tarps.

5.7.2. Railcars 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.

5.7.3. Stationary Equipment

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

5.8. Air Quality Standards and Monitoring

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

5.8.1. Certificate of Operation

The Facility shall possess a certificate of operation issued in accordance with Section 11-4-660 of the Code. 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.

5.8.2. Fugitive Dust

Except as provided herein [and in 35 Ill. Code § 212](#), neither the Owner nor Operator shall cause or allow the emission of Fugitive Dust into the atmosphere and shall comply with the following requirements.

Justification: The USEPA and the ILEPA have provided clear standards for enforcement and operational compliance in the State of Illinois. If the CDPH-specific rules conflict with ILEPA standards, then the state-wide standard rules, adopted through scientific study and deliberation, should be applicable.

5.8.3. Visible Dust

No visible Fugitive Dust shall travel beyond the boundaries of the Facility. Using the method specified in 35 Ill. Admin. Code § 212.107, the Owner or Operator shall conduct once-daily observations of Fugitive Dust around all sides of the Facility when there have been less than 0.1 inches of precipitation within the previous 24 hours.

A copy of the daily Fugitive Dust observation results must be attached to the Operating Record.

5.8.4. 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, ~~for a period or periods aggregating more than (3) three minutes in any one hour,~~ exceeds an opacity of 10% based on: 1) a six-minute average of 24 consecutive observations recorded at 15-second intervals; and 2) a visual reading in accordance with the measurement method specified in 35 Ill.

~~Admin. Code § 212.109.~~ conducted by a person trained and certified to evaluate visible emissions (Method 9).

Justification: Compliance determinations should be made consistent with State and Federal guidelines and enforcement standards. Persons making determinations for the purpose of compliance need to be certified in the methods and requirements established in 40 CFR Part 60, Subpart OOO, Appendix A.

5.8.5. Quarterly Opacity Measurements

Quarterly testing shall be conducted to ensure compliance with the opacity limit set forth in 5.8.4. Such testing must be conducted by a professional trained and certified to read opacity in accordance with the measurement method specified in 35 Ill. Admin. Code § 212.109. Opacity readings should be taken under representative weather and operating conditions. A copy of the quarterly opacity measurement results must be attached to the Operating Record.

5.8.6. State Operating Program for Fugitive Dust

The Operator shall provide CDPH a copy of and implement its Operating Program as required under 35 Ill. Admin. Code § 212.309. In addition, the Operator shall submit to CDPH any subsequent amendments to the Operating Program as required in 35 Ill. Admin. Code § 212.312 within 30 days of sending such amendments to IEPA. The CDPH may require additional information or measures to supplement the State Operating Program based on site-specific conditions.

5.8.7. Air Monitoring Requirements

The Facility shall conduct dust and wind monitoring as follows:

- 5.8.7.1.1. Continuous PM10 Monitoring. Install, operate, and maintain continuous PM10 monitors around the perimeter of the Facility in accordance with the dust monitoring plan prepared under subsection 3.8.21 of these rules. These instruments must be designated as Federal Equivalent Method (FEM) by EPA or meet the requirements for a Near Reference PM10 Monitor as defined in these rules.
- 5.8.7.1.2. CDPH may require the installation of additional air monitors or the relocation of existing air monitors if the Facility causes a dust nuisance or if CDPH determines that the current number or placement of air monitors at the Facility is ineffective or inadequate.
- 5.8.7.1.3. Additional monitoring. The Department may require the 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 the dust monitoring plan prepared under subsection 3.8.21 of these rules. In the event that additional monitoring is required, the Department will provide a reasonable time period for equipment installation.
- 5.8.7.1.4. 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, 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) ten meters above ground level, unless another height is appropriate pursuant to applicable US Environmental Protection Agency protocols and guidance.

5.8.7.1.5. 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 EPA 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.

5.8.7.1.6. Reportable Action Level (RAL). The PM10 RAL is the concentration of PM10 measured at any monitoring location at the Facility that will trigger response activities under the contingency plan required under subsection 5.8.7.1.12. The PM10 RAL shall be 150 micrograms per cubic meter averaged over a 24-hour period ~~15-minute period~~, unless a different concentration or averaging time is specified by NAAQS standards ~~CDPH in the permit~~. In cases where there is an upwind PM10 monitor present, the upwind PM10 concentration may be subtracted from the downwind PM10 concentration in determining a PM10 RAL exceedance. CDPH may require a different or multiple site-specific RALs based on the potential emissions of pollutants from the Facility, ambient background concentrations of PM10, adjacent offsite sources of PM10, the Facility's compliance history and level of housekeeping, and/or other pertinent factors.

Justification: The primary NAAQS standard for PM-10 is based on a 24-hour averaging period. There is no evidence that PM-10 monitors can provide reliable measurements of particulate levels over the short time durations CDPH has specified. Adjustments to the NAAQS standards will likely result in erroneous triggers from off-site, non-Facility sources that require no action by the Operator.

5.8.7.1.7. Additional RALs. The Department may set forth different or additional RALs in the permit for wind speeds, PM2.5, VOCs, and other pollutants based on the information contained in the application, the Facility's compliance history, the occurrence of dust nuisance and health complaints, and/or other factors.

5.8.7.1.8. Alternate RAL. The Applicant may propose an alternate PM10 RAL concentration or PM10 RAL averaging time to CDPH. Such proposal shall Demonstrate the following:

a. _____ The current PM10 RAL is not reliable due to offsite ambient PM _____

concentrations beyond the control of the Operator;

- b. The proposed PM10 RAL is protective of human health and the environment. This Demonstration shall include filter-based sampling showing the air concentration of lead, asbestos, silica, and pollutants handled at the Facility; 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 subsection 5.8.7.1.6 should it find the alternate RAL insufficient in preventing nuisances and negative impacts on human health and the environment.

- 5.8.7.1.9. Monthly Data Reporting. All data collected pursuant to subsection 5.8.7.1.5 must be submitted to CDPH within 14 days of the end of the month in which the data was collected via email to envwastepermits@cityofchicago.org, in a format specified by the Department.
- 5.8.7.1.10. RAL Notification. When a reportable action level is exceeded, the Operator shall use telemetry instruments or other means to notify CDPH by email at envwastepermits@cityofchicago.org within fifteen minutes or within the timeframe specified in the permit. 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 wind speed 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.
- 5.8.7.1.11. RAL Recording. Within 24 hours of a RAL exceedance, the Operator shall record the following information in the Operating Record:
 - a. The date and time of the exceedance;
 - b. The recorded wind speed and PM10 concentration(s) at the time of the RAL;
 - c. The onsite and/or offsite source(s) of the emission;

- d. A description of the mitigative action(s) taken;
- e. A description of any operational impact as a result of the RAL incident; and
- f. A description of any preventive measure(s) to reduce or eliminate future occurrence.

5.8.7.1.12. Contingency Plan. The Owner or Operator shall prepare a contingency plan describing mitigative actions that will be taken when the monitors detect PM10 or other parameters that exceed the RAL under these rules or in the permit. 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.

5.8.7.1.13. Dust Monitoring Plan. Fully implement and maintain compliance with the dust monitoring plan prepared under subsection 3.8.21.1.2 of these rules.

5.8.7.1.14. Exemption. The Applicant may request an exemption from any or all of the requirements under subsection 5.8.7, provided it can demonstrate compliance with all one or more of the following criteria to the satisfaction of the Commissioner:

Justification: Facilities that have no unpaved parking lots or internal roadways within 660 of a Sensitive Area may not have all operations inside a building and will still not interrupt the quiet enjoyment of the community in the surrounding areas.

- a. The Facility conducts all loading, unloading, Processing, and material storage inside a building with adequate emission controls;
- b. The Facility has no unpaved parking lots or internal roadways within 660 feet of a Sensitive Area. For the purpose of this exemption, unpaved means not paved with concrete or hot-mix-asphalt; and
- c. The Facility has not been found in violation of any air-quality laws relating to Fugitive Dust emissions in the previous (3) three years, beginning with the effective date of this Ordinance.

Justification: Previous ordinance language may have been unclear in form and substance. Existing Facilities who have implemented mitigation measures through consultation with the City should not be penalized for

engaging in productive discussions.

Comments on 5.8.7 Air Monitoring Requirements

• 5.8.7.1.1 and Appendix B

- The proposed rule should permit the use of PM10 monitors designated either as “reference methods” or “equivalent methods” (i.e., both FRM and FEM) in accordance with U.S. EPA regulations at 40 CFR Parts 53 and 58, and U.S. EPA’s “List of Designated Reference and Equivalent Methods” (June 15, 2021), available at https://www.epa.gov/sites/default/files/2021-06/documents/designated_reference_and_equivalent_methods_-_07152021.pdf. The minimum specifications for PM10 monitors in Appendix B should be based on – and should not diverge from – the above-referenced and approved federal methodologies. The limitations in Section 5.8.7.1.1 to monitors designated as FEM or meeting the requirements of Appendix B are inappropriately restrictive and unnecessary.

• 5.8.7.1.2

- The siting and installation of PM10 monitors should be based upon U.S. EPA-approved siting methods and any air dispersion modeling conducted by the Facility, respectively. The proposed rule inappropriately assigns CDPH authority to require additional or differently located monitors without any requirements upon CDPH to substantiate the required change.

• 5.8.7.1.3

- Requiring the potential use of “video recording” is not justified and the proposed rule lacks adequate direction for the installation and use of such equipment. The provision should be stricken from the proposed rule. No U.S. EPA or state reference method requires or prescribes to use of video recording. And there is no regulatory or scientific basis for establishing that video recording will provide data relevant for evaluating health impacts or particulate emission levels generated by a Facility. Further, the authority granted to require such video recording provides no criteria or bases for the Commissioner to actually determine when PM10 monitoring does not “adequately assess the health impacts of such emissions.”

• 5.8.7.1.4

- The siting of any metrological tower should conform to applicable U.S. EPA regulations and guidance. The proposed rule improperly limits the use of such U.S. EPA regulations and guidance to solely determining the appropriate probe height.

• 5.8.7.1.6

- The proposed Reportable Action Level (RAL) of 150 ug/m3 appears to be based on the current primary NAAQS standard for PM10. This is inappropriate for two reasons. First, the primary

NAAQS standard for PM10 is based upon a 24-hour, not a 15-minute averaging period (more specifically, 150 ug/m3 on a 24-hour averaging period, not to be exceeded more than once per year on average over 3 years). The primary standard for NAAQS is established – by law – to be protective of human health. U.S. EPA has routinely reviewed the averaging period for the primary standard for PM10 and has consistently determined that no scientific or other basis exists warranting a sub-daily averaging period for PM10 (or, for that matter, fine particulate matter PM2.5). Most recently, on December 18, 2020, U.S. EPA confirmed its intent to preserve the 24-hour averaging period for PM10 primary NAAQS. Establishing a RAL based on a more stringent averaging period for PM10 has not been demonstrated or determined to be more protective of human health or the environment. As a result, the RAL standard is arbitrary and capricious and, at best, should be revised to a 24-hour averaging period consistent with U.S. EPA’s PM10 primary NAAQS standard.

Second, notwithstanding the above, there is no apparent technical or scientific basis to base the RAL on a NAAQS standard where neither the air dispersion modeling required under Section 3.8.21.1.1 nor the PM10 monitors required under Section 5.8.7.1.1 are required to (or will) demonstrate compliance with the NAAQS. Illinois already operates a U.S. EPA- approved ambient monitoring network, which includes PM10 monitors, to demonstrate compliance with the PM10 NAAQS. See Illinois Ambient Air Monitoring 2022 Network Plan <https://www2.illinois.gov/epa/topics/air-quality/outdoor-air/air-monitoring/Documents/Draft%20Network%20Plan.pdf>. The monitors required under the proposed rule are not intended to monitor compliance with the PM10 NAAQS and, therefore, the RAL should not be based upon a NAAQS design value.

- Further, there is no evidence that PM10 monitors can provide reliable measurements of particulate levels over such a short duration averaging period. Absent such evidence, it is inappropriate to base response actions on potentially inaccurate or unreliable measurements. The RAL should be revised to, at best, require action following an exceedance over a 24-hour averaging period. Indeed, U.S. EPA has questioned the reliability and accuracy of PM monitor data over sub-daily periods. See, e.g., U.S. EPA Final Rule NAAQS for Particulate Matter, 78 Fed. Reg. 3086, 3195 (Jan. 15, 2013) (noting that there “mixed results of data quality assessments on a 24-hour basis for these monitors, as well as the near absence of performance data for sub-daily averaging periods. Thus, while it is possible to utilize data from PM2.5 continuous FEMs on a 1-hour or multi- hour (e.g., 4-hour) basis, these factors increase the uncertainty of utilizing continuous methods to support 1-hour or 4-hour PM2.5 mass measurements...”).
- The 15-minute averaging period greatly increases the likelihood that PM10 monitors will be influenced/affected by brief, localized, non-Facility (i.e., offsite) sources of particulate matter. The RAL should be established with a longer (minimum 24-hour) averaging period to increase the likelihood that monitored exceedances reflect particulate emissions emanating from the regulated Facility. Moreover, response actions (i.e., mitigative actions under Section 5.8.7.1.12) – and the obligation for Facilities to *determine* through their “Contingency Plan” under Section 5.8.7.1.12 whether mitigative actions are required – should be based on a longer averaging time (i.e., 24-hours or longer) in order to lessen the likelihood of RAL triggers from offsite (non-Facility) sources that cannot be mitigated by the Facility. A brief, episodic, detection in excess

of 150 ug/m³ may occur, for example, due to passing vehicles or other offsite sources. Requiring that Facilities evaluate whether mitigative actions are required for *each and every* potential RAL occurring every 15 minutes from any PM₁₀ monitor is infeasible, unduly burdensome, and will not provide a Facility with sufficient time to properly respond to or mitigate actual onsite sources of elevated particulate emissions.

- The proposed rule is unclear and ambiguous as to whether the air dispersion modeling “Study” required by Section 3.8.21.1.1 will be used to demonstrate compliance with the RAL. That is, will modeled receptors exceeding 150 ug/m³ trigger the requirement for a RAL and actions by the Facility in response thereto? If not, this provides an additional rationale for why the requirement to conduct air dispersion modeling in the abstract creates an unreasonably and arbitrary obligation upon regulated sources.

- **5.8.7.1.7**

- The proposed rule contains no requirements for monitoring or modeling other potential sources of pollution from the regulated Facilities and does not establish a RAL for those other pollutants. There is no legal authority granting the Department authority to set RALs or other emission limits on a case-specific and unilaterally basis outside of notice-and-comment rulemaking. Accordingly, there is no rational basis for authorizing the imposition of Department-created RALs for wind speeds, PM_{2.5}, VOCs or “other pollutants” and this provision should be stricken from the proposed rule.

- **5.8.7.1.8**

- The proposed rule should clarify that the “Applicant” may, at any time, request an alternative PM₁₀ RAL from the Department.
- Section 5.8.7.1.8.b lacks sufficient clarity and specificity with respect to the standard by which an Applicant may “Demonstrate” that an alternative PM₁₀ RAL is protective of human health and the environment. Specific criteria should be identified (*e.g.*, how many months of monitoring data must be submitted). For example, the current federal PM₁₀ primary NAAQS is set at 150 ug/m³ over a 24-hour averaging period, meaning that U.S. EPA has determined that PM₁₀ levels below 150 ug/m³ over that averaging period *is* protective of human health and the environment. If an Applicant submits monitoring data for a period of a month demonstrating that no exceedance of the 150 ug/m³ particulate level has occurred over a 24-hour averaging period, is that sufficient data to justify an alternative RAL?

- **5.8.7.1.10**

- It is unduly burdensome and unreasonable to require a RAL notification to the Department within 15 minutes of *each and every* exceedance of a RAL. The proposed rule should allow notification within 24-hours, consistent with the RAL Recording requirement under Section 5.8.7.1.11.

- **5.8.7.1.11**

- Under Section 5.8.7.1.12 of the proposed rule, the Contingency Plan prescribes the timing and extent of any mitigative actions in response to exceedance of a RAL. Mitigation actions could, foreseeably, take days or weeks to implement depending on the source and/or cause. Section 5.8.7.1.11 is inconsistent with the Contingency Plan insofar as it requires under subsection d the recording of the mitigative action taken by the Facility within 24-hours of a RAL exceedance. The provision should be revised to clarify that mitigative action is *not* required within 24-hours of a RAL exceedance.

5.8.8. 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 backup capacity, provide procedures for safe operation and emergency equipment, or diversion of materials to other facilities during the disruption.

5.8.9. 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 and would pose a safety issue, result in structural or mechanical damage, or pose a risk to the environment if used.

5.8.10. Source and Load Screening

The Facility shall accept and Process only those materials authorized in the permit. The Operator shall conduct screening of materials in accordance with the screening plan required in subsections 3.9.1.1.3 and 3.9.1.1.4 of these rules. 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.

5.8.11. Material Handling, Paved Surface

All material handling activities, including unloading, screening, Processing, and loading, shall be conducted on a surface paved with concrete, hot-mix asphalt, compacted CA-6 aggregate, or gravel with a fines content of less than 15%, subject to Commissioner approval. Fines are the fraction of material passing the #200 sieve per ASTM C136 or C136M – 19.

5.8.12. 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 Chicago Construction Code, and applicable fire prevention regulations of the Municipal Code.

5.8.13. Pavement Maintenance and Cleaning

In accordance with 35 Ill. Admin. Code § 212 and the Municipal Code, 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 offsite.

5.8.13.1.1. Sweeping

All Site pavements, adjacent pavements accessible by the Owner or Operator, and public rights-of-way within a quarter mile of the Facility, at a minimum, shall be cleaned using a street sweeper to minimize dust and remove mud and any spilled or emitted materials from the Facility's operation.

5.8.13.1.2. 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. A dry vacuum-assisted street sweeper may be used upon demonstration, to the satisfaction of the Commissioner, that such sweeper is effective at removing fine particulates.

5.8.13.1.3. Sweeping Frequency

The street sweeping shall be sufficient so that not more than (4) four 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 all pavements that require sweeping under this section are free and clear of any material transported to or from the Facility or emitted by Facility operations. If all pavements that require sweeping under this section are free and clear of any material transported to or from the Facilities or emitted by Facility operation or the Operator cannot sweep because of an emergency or inclement weather (e.g., pavements are inaccessible due to snowcover), the Operator shall note such reasons in the sweeping log required by subsection 5.8.13.1.4.

Justification: The Operator should be required to make note of any

occurences when the pavements that require sweeping are free and clear of debris and are not swept the minimum of once daily for that reason.

5.8.13.1.4. Sweeping Log

The date and time when street sweeping were ~~was~~ performed and the total vehiclecount shall be recorded each operating day.

Justification: Grammatical edit only.

5.8.13.1.5. Pavement Repair

Broken pavements and potholes shall be promptly backfilled with aggregate, patched, or repaired in accordance with the permit. CDPH may allow for additional time through the permit conditions, provided the Applicant can demonstrate the following to CDPH:

- a. The Facility has a Vector control plan that addresses mosquitos;
- b. The standing water is not occurring in areas subject to truck traffic. Ponded water on traveled areas should be promptly backfilled with aggregate and be repaired as soon as possible to minimize dust generation and track-out;
- c. The ponded water will dissipate or will be removed (using a sump pump, absorbent, or other means) within 72 hours of a rain event; and
- d. The Facility is judiciously applying water based on weather conditions (temperature, relative humidity, etc.) and in-situ material moisture content, as well as utilizing appropriate misters, sprinkler heads, water cannons, and/or other devices/systems specifically designed or appropriate for dust-control or dust-suppression applications.

5.8.14. 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, idled, or wait along public streets or rights-of-way. The Owner or Operator shall have or arrange for sufficient parking available for all personnel, visitors, and vehicles used for the operations of the Facility.

5.8.15. Record Keeping

All records required to be kept under these rules shall be maintained at the Facility a minimum of (3) three years unless otherwise specified in the permit and shall be made available to CDPH upon request.

5.8.16. Quarterly Reporting

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

- 5.8.16.1.1. The monthly tonnage of Unauthorized Materials inadvertently accepted at the Facility broken down by type;
- 5.8.16.1.2. The monthly tonnage of Reprocessable Construction/Demolition Material received and shipped at the Facility broken down by the type of material described in subsection 3.9.1;
- 5.8.16.1.3. The monthly tonnage of incidental debris shipped from the Facility and the maximum volume of incidental debris stored at the Facility over the reporting period;
- 5.8.16.1.4. For Facilities that are permitted to accept uncontaminated soil, the addresses of the sources that delivered uncontaminated soil to the Facility, the amount of soil from each source, and the type of IEPA documentation (e.g., Form 662 or Form 663) provided from each source demonstrating that the soil was uncontaminated;
- 5.8.16.1.5. The number of days the Facility was in operation broken down by month;
- 5.8.16.1.6. A list of the disposal facilities used to dispose of the Unauthorized Materials and Waste, and the types and quantities of materials taken to each disposal facility; and
- 5.8.16.1.7. A chronological summary of the following events at the Facility:
 - a. All environmental, health, fire, and building code violations, as well as all corrective actions implemented;
 - b. All emergencies that occurred at the Facility;
 - c. All nuisance complaints received by the Owner or Operator, and their outcomes; and
 - d. Any other information requested by CDPH to track compliance with the permit and these rules.

The quarterly report shall be submitted to CDPH within 45 days following the end of each quarter by email to envwastepermits@cityofchicago.org.

5.8.17. Affidavit of Reprocessing

By no later than February 1 of each year, the Operator shall provide to the Commissioner, on forms provided by the Department, an annual affidavit stating the amount of reprocessed material sold or reused in the previous year. Such affidavit shall include the name and address of the entities which purchased such materials. The Operator shall maintain adequate records to support the information stated in the affidavit.

6.0 Implementation Schedule

These rules shall go into effect upon signing by the Commissioner (“Effective Date”).

For a New or Expanding Facility, the requirements in Section 3.0 shall take effect immediately on the Effective Date. For an Existing Facility, the requirements in Section 4.0 take effect immediately on the Effective Date, ~~while the requirements in Section 3.0 shall take effect one year following the Effective Date of these rules.~~

The requirements in Section 5.0 shall take effect no later than the timeline specified in the operating permit issued for an application submitted pursuant to Section 3.0, but no later than six (6) months from the date the permit is issued.

The Commissioner may grant extensions of the timeframes provided above upon request and only for good cause shown by the Applicant. The Commissioner may find good cause for an extension only if the Applicant demonstrates in writing that it could not reasonably be expected to comply due to extraordinary circumstances beyond its control (such as a natural or other catastrophe, fire, or strike), and the Applicant’s written request for an extension is received by the Commissioner within a reasonable time (as determined by the Commissioner under the circumstances) prior to the effective date that is the subject of the request.

7.0 Applications for a Variance

The Applicant may apply to the Commissioner for a variance from any rule set forth in Sections 3.0 and 5.0 in accordance with the provisions set forth below.

7.1. Requirements of the Variance Application

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

7.1.1. Standard Requirements

- 7.1.1.1.1. A statement identifying the rule or requirement for which the variance is requested;
- 7.1.1.1.2. 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;
- 7.1.1.1.3. The quantity in tons and types of materials used in the process or activity in connection with which the variance is requested, as appropriate;
- 7.1.1.1.4. Documentation to Demonstrate that the variance will not create a public nuisance or adversely impact the surrounding area, surrounding environment, or surrounding property uses;
- 7.1.1.1.5. 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.
- 7.1.1.1.6. A description of the proposed methods to achieve compliance with the rules and a timeframe for achieving that compliance, if applicable;

- 7.1.1.1.7. A discussion of alternate methods of compliance and of the factors influencing the choice of applying for a variance; and
- 7.1.1.1.8. A statement regarding the Person's current status as related to the subject matter of the variance request;

7.2. Criteria for Reviewing Variance Applications

In determining whether to grant a variance, the Commissioner will consider public comments received pursuant to subsection 7.4 and will evaluate the information provided in the variance application.

7.2.1. 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.

7.2.2. 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.

7.2.3. 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.

7.2.4. 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.

7.3. 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 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.

7.4. 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 days from the date of the notice.

8.0 Other Laws

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

9.0 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.

APPENDIX A

Application Requirements

Section	Requirement	Existing	Modifying	New	Expanding	Qualified Existing Facility
3.1.	Professional Engineer	X ¹	X	X	X	
3.2.	Submittal Formats	X	X	X	X	
3.3.	Applicant Summary	X	X	X	X	
3.4.	Facility and Property Summary	X	X	X	X	
3.5.	Property Owner's Authorization	X	X	X	X	
3.6.	Property Taxes	X	X	X	X	
3.7.	Nature of a Special Use	X	X	X	X	
3.8.1.	Site Survey			X	X	
3.8.2.	United States Geological Survey Site Location Map			X	X	
3.8.3.	Aerial Photograph Drawing(s)			X	X	
3.8.4.	Location Standards			X	X	
3.8.5.	General Layout of the Facility	X	X	X	X	
3.8.6.	Pavements	X ⁴	X ⁴	X ^{3,4}	X ^{3,4}	
3.8.7.	Utilities			X	X	
3.8.8.	Water Sources			X	X	
3.8.9.	Site Security	X	X	X	X	
3.8.10.	Structures and Fixed Equipment	X	X	X ²	X ²	
3.8.11.	Tipping Floor and Storage Capacity	X	X	X	X	
3.8.12.	Water Drainage			X	X	
3.8.13.	Traffic	X	X	X ⁶	X ⁶	
3.8.14.	Expected Waste Generation			X	X	
3.8.15.	Parking			X	X	
3.8.16.	Employee Facilities			X	X	
3.8.17.	Perimeter Barrier	X	X	X ⁷	X ⁷	
3.8.18.	Stormwater Pollution Prevention	X ⁸	X ⁸	X ⁸	X ⁸	
3.8.19.	Noise Impact Assessment	X ⁹	X ⁹	X ⁹	X ⁹	
3.8.20.	Storage Tanks	X	X	X	X	
3.8.21.	Air Quality Impact Assessment	X	X	X	X	
3.9.1.	Types of Material	X	X	X	X	
3.9.2.	Quantity of Materials	X	X	X	X	
3.9.3.	Devices, Apparatus, and Processes	X	X	X	X	
3.9.4.	Dust Prevention and Dust Suppression	X	X	X	X	
3.9.5.	Fire Prevention	X	X	X	X	
3.9.6.	Emergency Communications	X	X	X	X	
3.9.7.	First Aid Equipment	X	X	X	X	
3.9.8.	Rodent/Vector Control	X	X	X	X	
3.9.9.	Vehicles	X	X	X	X	
3.9.10.	Disposal Facilities	X	X	X	X	
3.9.11.	Daily Housekeeping and Cleaning	X	X	X	X	
3.9.12.	Hours of Operation	X	X	X	X	
3.9.13.	Closure Plan	X	X	X	X	
3.10.	Environmental Assessment			X ²	X ²	
3.11.	Aldermanic and Public Notification			X ²	X ²	
3.12.	Additional Requirements	X ²	X ²	X ²	X ²	X ²
4	Applicant Summary					
4.1.	Facility Summary					X
4.2.	Facility Safety Overview					X
4.3.	Demonstration of Financial Security					X
4.4.	Real Estate Taxes					X
4.5.	Affidavit					X

- 1 A PE-stamp is not required for any subsequent renewal application of an Existing Facility that is not proposing any Modification or expansion.
- 2 As applicable.
- 3 All internal roadways and surfaces subject to truck within 100 feet of the properline shall be paved with hot-mix-asphalt or concrete.
- 4 New pavements must provide cross-section drawing or narrative description of pavement system.
- 5 Requires documentation that buildings used to store recyclables meet Code requirements.
- 6 Requires traffic study with traffic counts.
- 7 Requires fencing made out of durable materials.
- 8 Required for Facilities located along Waters or discharge to an MS4.
- 9 Required for Facilities that request a waiver to operate beyond the operating hours.

APPENDIX B

Minimum Specifications for Near-Reference PM 10 Monitors

The PM10 monitors required by the Rules shall meet or exceed the following requirements, subject to approval by the Commissioner:

1. PM10 monitors must be continuous direct-reading near-real time monitors and shall monitor particulate matter less than 10 microns.
2. PM10 monitors must be equipped with:
 - a. Omni-directional heated sampler inlet;
 - b. Sample pump;
 - c. Volumetric flow controller;
 - d. Enclosure; and
 - e. Data logger capable of logging each data point with average concentration, time/date, and data point number.
3. PM10 monitors must have the following minimum performance standards:
 - a. Range: 0 - 10,000 $\mu\text{g}/\text{m}^3$
 - b. Accuracy: $\pm 5\%$ of reading \pm precision
 - c. Resolution: 1.0 $\mu\text{g}/\text{m}^3$
 - d. Measurement Cycle: User selectable
4. In order to ensure the validity of the PM10 measurements performed, there must be appropriate Calibration Plan as set forth in 3.9.21.1 of these rules. It is the responsibility of the Owner or Operator to adequately supplement the Calibration Plan to include the following critical features: instrument calibration, instrument maintenance, operator training, and daily instrument performance (span) checks.