**Section 722.184 Imports of Hazardous Waste**

a) General Import Requirements

1) Except for subsection (a)(5), the importer of a shipment covered under a consent from USEPA to the country of export issued before December 31, 2016 is subject to that approval and the requirements that existed at the time of that approval until the approval period expires. Otherwise, any person that imports hazardous waste from a foreign country into the United States must comply with the requirements of this Part and the special requirements of this Subpart H.

2) Where the country of export does not require the foreign exporter to submit a notification and obtain consent to the export prior to shipment, the importer must submit a notification to USEPA in compliance with subsection (b).

3) The importer must comply with the contract requirements in subsection (f).

4) The importer must ensure compliance with the movement documents requirements in subsection (d); and

5) The importer must ensure compliance with the manifest instructions for import shipments in subsection (c).

b) Notifications. Where the competent authority of the country of export does not regulate the waste as hazardous waste and does not require the foreign exporter to submit a notification proposing export and obtain consent from USEPA and the competent authorities for the countries of transit, but USEPA does regulate the waste as hazardous waste, the following requirements apply:

1) The importer is required to provide notification in English to USEPA of the proposed transboundary movement of hazardous waste at least sixty days before the first shipment is expected to depart the country of export. A notification submitted prior to the electronic import-export reporting compliance date must be mailed or hand delivered to USEPA at the addresses specified in Section 722.182(e). Notifications submitted on or after the electronic import-export reporting compliance date must be submitted electronically using USEPA's WIETS. The notification may cover up to one year of shipments of one or more hazardous wastes being sent from the same foreign exporter, and must include all the following information:

A) The foreign exporter name, address, telephone, fax numbers, and email address;

B) The receiving facility name, USEPA identification number, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations, as defined in Section 722.181;

C) The importer name (if not the owner or operator of the receiving facility), USEPA identification number, address, telephone, fax numbers, and email address;

D) The intended transporters or their agents; address, telephone, fax, and email address;

E) "U.S." as the country of import, "USA01" as the relevant competent authority code, and the intended U.S. ports of entry;

F) The International Standard ISO 3166-1:2013, incorporated by reference in 35 Ill. Adm. Code 720.111, country name alpha-2 code, any code for the OECD/Basel competent authority, and the ports of entry and exit for each country of transit;

G) The International Standard ISO 3166-1:2013, incorporated by reference in 35 Ill. Adm. Code 720.111, country name alpha-2 code, any code for the OECD/Basel competent authority, and port of exit for the country of export;

H) A statement of whether the notification covers a single shipment or multiple shipments;

I) The start and end dates requested for transboundary movements;

J) The planned means of transport;

K) A description of each hazardous waste, including whether each hazardous waste is regulated universal waste under 35 Ill. Adm. Code 733, spent lead-acid batteries being exported for recovery of lead under Subpart G of 35 Ill. Adm. Code 726, or industrial ethyl alcohol being exported for reclamation under 35 Ill. Adm. Code 721.106(a)(3)(A); the estimated total quantity of each hazardous waste; the applicable USEPA hazardous waste numbers for each hazardous waste; the applicable waste code from the lists in the OECD Guidance Manual, incorporated by reference in 35 Ill. Adm. Code 720.111; and the United Nations/USDOT identification number from the Hazardous Materials Table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111, for each hazardous waste;

L) Specification of the recovery or disposal operations, as defined in Section 722.181; and

M) A declaration and certification signed by the exporter that states the following:

I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement.

Name:

Signature:

Date:

BOARD NOTE: The United States does not currently require financial assurance for these waste shipments.

BOARD NOTE: The United Nations Environment Programme, Basel Convention maintains an on-line list of competent authorities by country (www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx). The European Commission maintains a list of competent authorities for European Union members (ec.europa.eu/environment/waste/shipments/pdf/list\_competent\_authorities.pdf).

2) Notifications Listing Interim Recycling Operations or Interim Disposal Operations. If the receiving facility listed in subsection (b)(1)(B) will engage in any of the interim recovery operations R12, R13, or RC3 or interim disposal operations D13 through D15, the notification submitted according to subsection (b)(1) must also include the final recovery or disposal facility name, address, telephone, fax numbers, email address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11, RC1, and D1 through D12, will be employed at the final recovery or disposal facility. The recovery and disposal operations in this subsection are defined in Section 722.181.

3) Renotifications. If the foreign exporter wishes to change any of the conditions specified on the original notification (including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters), the importer must submit a renotification of the changes to USEPA using the methods in subsection (b)(1). Any shipment using the requested changes cannot take place until USEPA and the countries of transit consent to the changes and the importer receives an USEPA AOC letter documenting the consents to the changes.

4) A notification is complete when USEPA determines the notification satisfies the requirements of subsections (b)(1)(A) through (b)(1)(M).

5) If USEPA and the countries of transit consent to the proposed transboundary movements of the hazardous wastes, USEPA will forward an USEPA AOC letter to the importer documenting the countries' consents and USEPA's consent. If any of the countries of transit or USEPA objects to the proposed transboundary movements of the hazardous waste or withdraws a prior consent, USEPA will notify the importer.

6) Export of Hazardous Wastes Originally Imported into the United States. Export of hazardous wastes that were originally imported into the United States for recycling or disposal operations is prohibited unless an exporter in the United States complies with the export requirements in Section 722.183(b)(7).

c) RCRA Manifest Instructions for Import Shipments

1) When importing hazardous waste, the importer must meet all the requirements of Section 722.120 for the manifest, with the following exceptions:

A) (Block 5): In place of the generator's name, address and USEPA identification number, the name and address of the foreign generator and the importer's name, address and USEPA identification number must be used.

B) (Block 15): In place of the generator's signature on the certification statement, the importer or its agent must sign and date the certification and obtain the signature of the initial transporter.

2) The importer may obtain the manifest form from any source that is registered with the USEPA as a supplier of manifests (e.g., a state, a waste handler, or a commercial forms printer).

BOARD NOTE: USEPA maintains a listing of registered sources at https://www.epa.gov/hwgenerators/approved-registered-printers-epas-manifest-registry.

3) In the International Shipments block (block 16), the importer must check the import box and enter the point of entry (city and state) into the United States.

4) The importer must provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to USEPA in compliance with 35 Ill. Adm. Code 724.171(a)(3) and 725.171(a)(3).

5) Instead of the requirements of Section 722.120(d), if a shipment cannot be delivered for any reason to the receiving facility, the importer must instruct the transporter in writing via fax, email, or mail to do the following:

A) Return the hazardous waste to the foreign exporter or designate another facility within the United States; and

B) Revise the manifest in accordance with the importer's instructions.

d) Movement Document Requirements for Import Shipments

1) The importer must make sure that a movement document meeting the conditions of subsection (d)(2) accompanies each transboundary movement of hazardous wastes from the initiation of the shipment in the country of export until it reaches the receiving facility, including cases in which the hazardous waste is stored or sorted by the importer before shipment to the receiving facility, except as provided in subsections (d)(1)(A) and (d)(1)(B).

A) For shipments of hazardous waste within the United States by water (bulk shipments only), the importer must forward the movement document to the last water (bulk shipment) transporter to handle the hazardous waste in the United States if imported by water.

B) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the importer must forward the movement document to the next non-rail transporter, if any, or the last rail transporter to handle the hazardous waste in the United States if imported by rail.

2) The movement document must include the following:

A) The corresponding USEPA AOC numbers and USEPA hazardous waste numbers for the listed waste;

B) The shipment number and the total number of shipments under the USEPA AOC number;

C) The foreign exporter name, address, telephone, fax numbers, and email address;

D) The receiving facility name, USEPA identification number, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations, as defined in Section 722.181;

E) The importer name (if not the owner or operator of the receiving facility), USEPA identification number, address, telephone, fax numbers, and email address;

F) A description of each hazardous waste, quantity of each hazardous waste in the shipment; the applicable hazardous waste numbers for each hazardous waste; the applicable waste code for each hazardous waste from the lists in the OECD Guidance Manual, incorporated by reference in 35 Ill. Adm. Code 720.111; and the United Nations/USDOT identification number from the Hazardous Materials Table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111, for each hazardous waste;

G) The date movement started;

H) The name (if not the foreign exporter), address, telephone, fax numbers, and email of the foreign company originating the shipment;

I) The company name, USEPA identification number, address, telephone, fax, and email address of all transporters;

J) Identification (license, registered name or registration number) of the means of transport, including types of packaging;

K) Any special precautions to be taken by transporters;

L) A declaration and certification signed and dated by the foreign exporter that the information in the movement document is complete and correct;

M) The appropriate signatures for each custody transfer (e.g., transporter, importer, and owner or operator of the receiving facility);

N) Each person that has physical custody of the waste from the time the movement starts until it arrives at the receiving facility must sign the movement document (e.g., transporter, importer, and owner or operator of the receiving facility); and

O) The receiving facility must send a copy of the signed movement document to the competent authorities of the countries of export and transit to confirm receipt within three working days after shipment delivery to the foreign exporter. For shipments received on or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's WIETS.

e) Duty to Return or Export Hazardous Wastes. If a transboundary movement of hazardous wastes cannot be completed in compliance with the terms of the contract or the consents, the provisions of subsection (f)(4) apply. If alternative arrangements cannot be made to recover the hazardous waste in an environmentally sound manner in the United States, the hazardous waste must be returned to the country of export or exported to a third country. The provisions of subsection (b)(6) apply to any hazardous waste shipments to be exported to a third country. If the return shipment will cross any transit country, the return shipment may only occur after USEPA provides notification to and obtains consent from the competent authority of the country of transit, and provides a copy of that consent to the importer.

f) Import Contract Requirements

1) Imports of hazardous waste must occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). A contract or equivalent arrangements must specify responsibilities for each of the foreign exporter, the importer, and the owner or operator of the receiving facility, and each must execute the contract or equivalent arrangements. A contract or equivalent arrangements is valid for hazardous waste import only if all persons assuming obligations under the contract or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.

2) Contracts or equivalent arrangements must specify the name and USEPA identification number, where available, of the following persons:

A) The foreign company from which each import shipment of hazardous waste is initiated;

B) Each person that will have physical custody of the hazardous wastes;

C) Each person that will have legal control of the hazardous wastes; and

D) The receiving facility.

3) A contract or equivalent arrangements must specify the use of a movement document in compliance with Section 722.184(d).

4) A contract or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the hazardous waste if the wastes' disposition cannot be carried out as described in the notification of intent to export submitted by either the foreign exporter or the importer. In these cases, the contract must specify the following:

A) That the transporter or receiving facility in possession or physical control over the hazardous wastes will immediately inform the foreign exporter, the importer, and the competent authority where the shipment is located of the need to arrange alternate management or return; and

B) That the person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations, including arranging the return of the hazardous wastes, if necessary, providing the notification for re-export as required by Section 722.183(b)(7).

5) A contract must specify that the importer or the receiving facility performing interim recycling operations R12, R13, or RC3 or interim disposal operations D13 through D15, as appropriate, will provide the notification required by Section 722.183(b)(7) prior to the re-export of hazardous waste. The recovery and disposal operations in this subsection are defined in Section 722.181.

6) A contract or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any countries concerned, in compliance with applicable national or international law requirements.

BOARD NOTE: Financial guarantees required by competent authorities are intended to provide for alternate recycling, disposal, or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require financial guarantees at this time; however, some OECD Member countries or other foreign countries do. It is the responsibility of the importer to ascertain and comply with any financial requirements; in some cases, persons or facilities located in those countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

7) A contract or equivalent arrangements must contain provisions requiring each contracting party to comply with all requirements of Subpart H.

8) Upon request by USEPA, an importer or disposal or recovery facility must submit to USEPA copies of the contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity).

g) Confirmation of Recovery or Disposal. The receiving facility must do the following:

1) Send copies of the signed and dated confirmation of recovery or disposal to the foreign exporter and to the competent authority of the country of export, as soon as possible, within thirty days after completing recovery or disposal of the waste in the shipment and within one calendar year after receiving the waste. For shipments recycled or disposed of on or after the electronic import-export reporting compliance date, reporting to USEPA must occur electronically using USEPA's WIETS.

2) If the receiving facility performed any of recovery operations R12, R13, or RC3, or disposal operations D13 through D15, the receiving facility must promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC1 to RC3, or one of disposal operations D1 through D12, or DC1 to DC2, to the competent authority of the country of export within one year of shipment delivery. For confirmations received on or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's WIETS, or its successor system. The recovery and disposal operations in this subsection (g)(2) are defined in Section 722.181.

h) Recordkeeping

1) The importer must keep the following records and provide them to USEPA or the Agency upon request:

A) A copy of each notification that the importer sends to USEPA under subsection (b)(1) and each USEPA AOC the importer receives in response at least three years from the date the hazardous waste was accepted by the initial foreign transporter; and

B) A copy of each contract or equivalent arrangement established per subsection (f) for at least three years from the date the contract expires or equivalent arrangement.

2) The receiving facility must keep the following records:

A) A copy of each confirmation of receipt (i.e., movement document) that the receiving facility sends to the foreign exporter for at least three years from the date it received the hazardous waste;

B) A copy of each confirmation of recovery or disposal that the receiving facility sends to the foreign exporter for at least three years from the date that it completed processing the waste shipment;

C) For the receiving facility that performed any of recovery operations R12, R13, or RC3, or disposal operations D13 through D15 (recovery and disposal operations defined in Section 722.181), a copy of each confirmation of recovery or disposal that the final recovery or disposal facility sent to the receiving facility for at least three years from the date that the final recovery or disposal facility completed processing the waste shipment; and

D) A copy of each contract or equivalent arrangement established under subsection (f) for at least three years after the contract expires or equivalent arrangement.

3) An importer or receiving facility may satisfy these recordkeeping requirements by keeping electronically submitted documents in the importer's or receiving facility's account on USEPA's WIETS, if the copies are readily available for viewing and production if requested by any USEPA or Agency inspector. An importer or receiving facility may not be held liable for the inability to produce the documents for inspection under this Section if the importer or receiving facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with USEPA's WIETS for which the importer or receiving facility has no responsibility.

4) The periods of retention referred to in this Section are extended automatically during any unresolved enforcement action regarding the regulated activity or as requested in writing by USEPA or the Agency.

BOARD NOTE: Any Agency request for extended records retention under this subsection (h)(4) is subject to Board review under Section 40 of the Act.

(Source: Amended at 48 Ill. Reg. 9846, effective June 20, 2024)