**Section 722.183 Exports of Hazardous Waste**

a) General Export Requirements. Except as provided in subsections (a)(5) and (a)(6), an exporter that receives an AOC from USEPA before December 31, 2016 is subject to that approval and the requirements listed in the AOC as they existed at the time of that approval until the approval period expires. All other exports of hazardous waste are prohibited unless the following conditions are fulfilled:

1) The exporter complies with the contract requirements in subsection (f);

2) The exporter complies with the notification requirements in subsection (b);

3) The exporter receives an AOC from USEPA documenting consent from the countries of import and transit (and original country of export if exporting previously imported hazardous waste);

4) The exporter ensures compliance with the movement documents requirements in subsection (d);

5) The exporter ensures compliance with the manifest instructions for export shipments in subsection (c); and

6) The exporter or a U.S. authorized agent must submit electronic export information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in compliance with 15 CFR 30.4(b), incorporated by reference in 35 Ill. Adm. Code 720.111, and includes the following items in the EEI, along with the other information required under 15 CFR 30.6, incorporated by reference in 35 Ill. Adm. Code 720.111:

A) The USEPA license code;

B) The commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12), incorporated by reference in 35 Ill. Adm. Code 720.111;

C) The USEPA consent number for each hazardous waste;

D) The country of ultimate destination code per 15 CFR 30.6(a)(5), incorporated by reference in 35 Ill. Adm. Code 720.111;

E) The date of export per 15 CFR 30.6(a)(2), incorporated by reference in 35 Ill. Adm. Code 720.111;

F) The RCRA hazardous waste manifest tracking number, if required;

G) The quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15), incorporated by reference in 35 Ill. Adm. Code 720.111; or

H) The USEPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

b) Notifications

1) General Notifications. At least 60 days before the first shipment of hazardous waste is expected to leave the United States, the exporter must provide notification in English to USEPA of the proposed transboundary movement. Notifications must be submitted electronically using USEPA's Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one year of shipments of one or more hazardous wastes being sent to the same recovery or disposal facility, and the notification must include all of the following information:

A) The exporter name and USEPA identification number, address, telephone, fax numbers, and email address;

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

C) The foreign importer name (if not the owner or operator of the foreign receiving facility), 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 export name, "USA01" as the relevant competent authority code, and the intended U.S. ports of exit;

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 entry for the country of import;

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 waste in either metric tons or cubic meters; 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 waste;

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

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

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 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) Exports to Pre-Consented Recovery Facilities in OECD Member Countries. If the recovery facility is located in an OECD member country and has been pre-consented by the competent authority of the OECD member country to recover the waste sent by exporters located in other OECD member countries, the notification may cover up to three years of shipments. A notification proposing export to a preconsented facility in an OECD member country must include all information listed in subsections (b)(1)(A) through (b)(1)(M) and additionally state that the facility is preconsented. The exporter must submit the notification to USEPA using the methods listed in subsection (b)(1) at least ten days before the first shipment is expected to leave the United States.

3) Notifications Listing Interim Recycling Operations or Interim Disposal Operations. If the foreign receiving facility listed in subsection (b)(1)(B) will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, the notification submitted according to subsection (b)(1) must also include the final foreign 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 and D1 through D12 the final foreign recovery or disposal facility will employ. For transboundary movements to Canada, in addition to the foreign receiving facilities listed in subsection (b)(1)(B), if the foreign receiving facility will engage in interim recovery operations or interim disposal operations, the notification submitted according to subsection (b)(1) must also include the final foreign 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 to RC2, D1 through D12, and DC1 to DC2 the final foreign recovery or disposal facility will employ. The recovery and disposal operations in this subsection are defined in Section 722.181.

4) Renotifications. When the exporter wishes to change any of the information 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 exporter 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 the countries of import and transit consent to the changes and the exporter receives an USEPA AOC letter documenting the countries' consents to the changes.

5) If the proposed country of import and recovery or disposal operations are not covered under an international agreement to which both the United States and the country of import are parties, USEPA will coordinate with the Department of State to provide the complete notification to the country of import and any countries of transit. In all other cases, USEPA will provide the notification directly to the country of import and any countries of transit. A notification is complete when USEPA receives a notification that USEPA determines satisfies the requirements of subsections (b)(1)(A) through (b)(1)(M).

6) If the countries of import and transit consent to the proposed transboundary movements of the hazardous wastes, USEPA will forward an USEPA AOC letter to the exporter documenting the countries' consents. Where any of the countries of import and transit objects to the proposed transboundary movements of the hazardous waste or withdraws a prior consent, USEPA stated that it will notify the exporter.

7) Export of hazardous wastes for recycling or disposal operations that were originally imported into the United States for recycling or disposal operations in a third country is prohibited unless an exporter in the United States complies with the export requirements in Section 722.183, including providing notification to USEPA in compliance with subsection (b)(1). In addition to listing all required information in subsections (b)(1)(A) through (b)(1)(M), the exporter must provide the original consent number issued for the initial import of the wastes in the notification, and receive an AOC from USEPA documenting the consent of the competent authorities in new country of import, the original country of export, and any transit countries prior to reexport.

8) Upon request by USEPA, the exporter must furnish to USEPA any additional information which the country of import requests to respond to a notification.

c) RCRA Manifest Instructions for Export Shipments. The exporter must comply with the manifest requirements of Sections 722.120 through 722.123, with the following exceptions:

1) (Block 8): Instead of the name, site address and USEPA ID number of the designated facility, the exporter must enter the name and site address of the foreign receiving facility;

2) (Block 16): In the International Shipments block, the exporter must check the export box and enter the port of exit (city and state) from the United States.

3) The exporter must list the consent number from the AOC for each hazardous waste listed on the manifest, matched to the relevant list number for the hazardous waste from block 9b. If additional space is needed, the exporter should use Continuation Sheets (USEPA Form 8700–22A).

4) The exporter may obtain the manifest 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

d) Movement Document Requirements for Export Shipments

1) An exporter must ensure that a movement document meeting the conditions of subsection (d)(2) accompanies each transboundary movement of hazardous wastes from the initiation of the shipment until the wastes reach the foreign receiving facility, including cases where the hazardous waste is stored or sorted by the foreign importer before shipment to the foreign receiving facility, except as follows:

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

B) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the exporter 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 exported by rail.

2) The movement document must include the following:

A) The corresponding consent numbers and USEPA hazardous waste numbers for the listed hazardous waste from the relevant USEPA AOCs;

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

C) The exporter name and USEPA identification number, address, telephone, fax numbers, and email address;

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

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

F) A description of each hazardous waste; the quantity of each hazardous waste in the shipment; the applicable hazardous waste numbers for each hazardous waste; the applicable OECD 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 exporter), address, telephone, fax numbers, and email of company originating the shipment;

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

J) Identification (license, registered name, or registration number) of 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 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 foreign receiving facility);

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

O) As part of the contract requirements in subsection (f), the exporter must require that the foreign receiving facility send a copy of the signed movement document to the competent authorities of the countries of import and transit to confirm receipt within three working days of shipment delivery to the exporter. The exporter must additionally require that the foreign receiving facility send a copy to USEPA at the same time using the WIETS described in subsection (b)(1).

e) Duty to Return or Re-Export Hazardous Wastes. When a transboundary movement of hazardous wastes cannot be completed in compliance with the terms of the contract or the consents and alternative arrangements cannot be made to recover or dispose of the waste in an environmentally sound manner in the country of import, the exporter must ensure that the hazardous waste is returned to the United States or reexported to a third country. If the waste must be returned, the exporter must provide for the return of the hazardous waste shipment within ninety days from the time the country of import informs USEPA of the need to return the waste or other period of time as the concerned countries agree. In all cases, the exporter must submit an exception report to USEPA in compliance with subsection (h).

f) Export Contract Requirements

1) Exports of hazardous waste are prohibited unless they 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 for export of hazardous waste must be executed by the exporter, foreign importer (if different from the foreign receiving facility), and the owner or operator of the foreign receiving facility. The contract or equivalent arrangements must specify responsibilities for each of the exporter, the foreign importer, and the owner or operator of the foreign receiving facility. A contract or equivalent arrangements is valid for the purposes only if each person assuming obligations under the contracts or equivalent arrangements has appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.

2) A contract or equivalent arrangements must specify the name and USEPA identification number of the following:

A) The company from where each export shipment of hazardous waste is initiated;

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

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

D) The foreign receiving facility.

3) A contract or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the hazardous waste if its disposition cannot be carried out as described in the notification of intent to export. For this contingency, contracts must specify the following:

A) That the transporter or foreign receiving facility in possession of or physical control over the hazardous wastes will immediately inform the exporter, USEPA, and either the competent authority of the country of transit or the competent authority of the country of import of the need to make alternate management arrangements; 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 hazardous wastes, providing the notification for re-export to the competent authority in the country of import, including the equivalent of the information required in subsection (b)(1) and the original consent number issued for the initial export of the hazardous wastes in the notification, and obtaining consent from USEPA and the competent authorities in the new country of import and any transit countries, as necessary, prior to re-export.

4) A contract must require that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter and to the competent authorities of the countries of import and transit. The contract must additionally require that the foreign receiving facility send a copy to USEPA at the same time using the WIETS described in subsection (b)(1).

5) A contract must require that the foreign receiving facility send a copy of the signed and dated confirmation of recovery or disposal to the exporter and to the competent authority of the country of import, as soon as possible, within thirty days after completing recovery or disposal on the waste in the shipment and within one calendar year after receiving the waste. The contract must additionally require that the foreign receiving facility send a copy to USEPA at the same time using the WIETS described in subsection (b)(1).

6) A contract must require that the foreign importer or the foreign receiving facility that performed interim recycling operations R12, R13, or RC3, or interim disposal operations D13 through D15, (recovery and disposal operations defined in 35 Ill. Adm. Code 722.181) do the appropriate of the following:

A) Provide the notification required in subsection (f)(3)(B) before any re-export of the hazardous wastes to a final foreign recovery or disposal facility in a third country; and

B) Promptly send copies of the confirmation of recovery or disposal that it receives from the final foreign recovery or disposal facility to the competent authority of the country of import within one year of shipment delivery to the final foreign recovery or disposal facility that performed one of recovery operations R1 through R11, or RC1 or one of disposal operations D1 through D12, DC1, or DC2. The contracts must additionally require that the foreign facility send copies to USEPA at the same time using the WIETS described in subsection (b)(1).

7) A contract or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of the country of import and any countries of transit, in compliance with 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. The United States does not require financial guarantees at this time; however, some OECD member countries and other foreign countries do. It is the responsibility of the exporter to ascertain and comply with any foreign requirements; in some cases, persons or facilities located in those OECD member countries or other foreign countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

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

9) Upon request by USEPA or the Agency, U.S. exporters, importers, or recovery facilities must submit to the requestor copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity).

g) Annual Reports. The exporter must file an annual report with USEPA by March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all hazardous waste exported during the previous calendar year. Before December 31, 2018, the exporter must mail or hand-deliver annual reports to USEPA for all shipments made the previous calendar year using one of the appropriate of the addresses specified in Section 722.182(e), or submit to USEPA using the WIETS described in subsection (b)(1) if the exporter has electronically filed USEPA information in AES under subsection (a)(6)(A)(i). Subsequently, the exporter must submit annual reports to USEPA using the WIETS described in subsection (b)(1). The annual report must include all the following information:

1) The USEPA identification number, name, and mailing and site address of the exporter filing the report;

2) The calendar year covered by the report;

3) The name and site address of each foreign receiving facility;

4) By foreign receiving facility, for each hazardous waste exported:

A) A description of the hazardous waste;

B) The applicable USEPA hazardous waste numbers (from Subpart C or D of 35 Ill. Adm. Code 721) for each waste;

C) The applicable waste code from the appropriate OECD waste list in the OECD Guidance Manual, incorporated by reference in 35 Ill. Adm. Code 720.111;

D) The applicable USDOT identification number from the Hazardous Materials Table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111;

E) The name and USEPA identification number (where applicable) for each transporter used over the calendar year covered by the report; and

F) The consent numbers under which the hazardous waste was shipped, and for each consent number, the total amount of the hazardous waste and the number of shipments exported during the calendar year covered by the report;

5) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100 kg but less than 1,000 kg in a calendar month, and except for hazardous waste for which information was already provided under Section 722.141:

A) A description of the efforts taken during the year to reduce the volume and toxicity of the waste generated; and

B) A description of the changes in volume and toxicity of the waste achieved during the year in comparison to previous years to the extent the information is available for years before 1984; and

6) A certification signed by the exporter that states:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

h) Exception Reports

1) The exporter must file an exception report instead of the requirements of Section 722.142 (if applicable) with USEPA if any of the following occurs:

A) The exporter has not received a copy of the RCRA hazardous waste manifest (if applicable) signed by the transporter identifying the point of departure of the hazardous waste from the United States within 45 days from the date hazardous waste was accepted by the initial transporter, in which case the exporter must file the exception report within the next 30 days;

B) The exporter has not received a written confirmation of receipt from the foreign receiving facility in compliance with subsection (d) within 90 days from the date the waste was accepted by the initial transporter in which case the exporter must file the exception report within the next 30 days; or

C) The foreign receiving facility notifies the exporter, or the country of import notifies USEPA, of the need to return the shipment to the U.S. or arrange alternate management, in which case the exporter must file the exception report within 30 days of notification, or one day before the date the return shipment starts, whichever is sooner.

2) Before December 31, 2018, exception reports must be mailed or hand delivered to USEPA using the addresses listed in Section 722.182(e). Subsequently, exception reports must be submitted to USEPA using the WIETS described in subsection (b)(1).

i) Recordkeeping

1) The exporter must keep the following records in subsections (i)(1)(A) through (i)(1)(E) and provide them to USEPA or Agency personnel upon request:

A) A copy of each notification of intent to export and each USEPA AOC at least three years from the date the hazardous waste was accepted by the initial transporter;

B) A copy of each annual report at least three years from the due date of the report;

C) A copy of any exception reports and a copy of each confirmation of receipt (i.e., movement document) sent by the foreign receiving facility to the exporter for at least three years from the date the hazardous waste was accepted by the initial transporter;

D) A copy of each confirmation of recovery or disposal sent by the foreign receiving facility to the exporter for at least three years from the date that the foreign receiving facility completed interim or final processing of the hazardous waste shipment; and

E) A copy of each contract or equivalent arrangement established under Section 722.185 for at least three years after the date the contract expired or equivalent arrangement.

2) The exporters may satisfy these recordkeeping requirements by keeping electronically submitted documents in the exporter'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 exporter may not be held liable for the inability to produce the documents for inspection under this section if the exporter can demonstrate that the inability to produce the document is due exclusively to technical difficulty with USEPA's WIETS for which the exporter has no responsibility.

3) The periods of retention referred to in this Section are extended automatically during the course of 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 subsection (i)(3) is subject to Board review under Section 40 of the Act.

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