**Section 727.170 Recordkeeping, Reporting, and Notifying**

a) Applicability of This Section. This Section applies to the owner and operator of a facility that stores or non-thermally treats a hazardous waste under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2). In addition, the owner or operator must comply with the manifest requirements of 35 Ill. Adm. Code 722 whenever a shipment of hazardous waste is initiated from the facility.

BOARD NOTE: Subsection (a) is derived from 40 CFR 267.70 (2017).

b) Use of the Manifest System

1) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or its agent, must do each of the following:

A) It must sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;

B) It must note any significant discrepancies in the manifest (as defined in Section 727.170(c)(1)) on each copy of the manifest;

C) It must immediately give the transporter at least one copy of the signed manifest;

D) Within 30 days after the delivery, it must send a copy of the manifest to the generator;

E) It must retain at the facility a copy of each manifest for at least three years from the date of delivery; and

F) If a facility receives hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 from a foreign source, the receiving facility must do both of the following:

i) Additionally list the relevant consent number from consent documentation supplied by USEPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b of the hazardous waste manifest (USEPA Form 8700-22). If additional space is needed, the receiving facility should use Continuation Sheets (USEPA Form 8700-22A); and

ii) Mail a copy of the hazardous waste manifest to USEPA using the addresses listed in 35 Ill. Adm. Code 722.182(e) within 30 days of delivery until the facility can submit such a copy to the e-Manifest system per 35 Ill. Adm. Code 724.171(a)(2)(E) or 725.171(a)(2)(E).

2) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or its agent, must do each of the following:

A) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

B) It must note any significant discrepancies (as defined in Section 727.170(c)(1)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: USEPA does not intend that the owner or operator of a facility whose procedures pursuant to Section 727.110(d)(3) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 727.170(c)(2), however, requires reporting an unreconciled discrepancy discovered during later analysis.

C) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);

D) Within 30 days after the delivery, it must send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or its agent, must send a copy of the shipping paper signed and dated to the generator; and

BOARD NOTE: Section 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

E) It must retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

3) Whenever a shipment of hazardous waste is initiated from a facility, the facility owner or operator must comply with the requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.116 or 722.117 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of 35 Ill. Adm. Code 722.116 or 722.117 apply only to an owner or operator that is shipping hazardous waste that it generated at that facility.

4) As required by 35 Ill. Adm. Code 722.184(d)(2)(O), within three working days after the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of the facility must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export or transit of hazardous waste. On or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's Waste Import Export Tracking System (WIETS). The original copy of the movement document must be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility’s account on USEPA's WIETS, provided that copies are readily available for viewing and production if requested by any USEPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with USEPA's WIETS for which the owner or operator of a facility bears no responsibility.

BOARD NOTE: Subsection (b) is derived from 40 CFR 267.71 (2017).

c) Manifest Discrepancies

1) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are either of the following:

A) For bulk waste, variations greater than 10 percent in weight; or

B) For batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

2) Upon discovering a significant discrepancy, the facility owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

BOARD NOTE: Subsection (c) is derived from 40 CFR 267.72 (2017).

d) Retention of Information

1) The facility owner or operator must keep a written operating record at its facility.

2) The facility owner or operator must record the following information, as it becomes available, and maintain the operating record until it closes the facility:

A) A description and the quantity of each type of hazardous waste generated, and the methods and dates of its storage or treatment at the facility as required by Appendix A of 35 Ill. Adm. Code 724;

B) The location of each hazardous waste within the facility and the quantity at each location;

C) Records and results of waste analyses and waste determinations performed as specified in Section 727.110(d) and (h) and 35 Ill. Adm. Code 724.934, 724.963, 724.983, and 728.107;

D) Summary reports and details of all incidents that require the owner or operator to implement the contingency plan as specified in Section 727.150(i)(2));

E) Records and results of inspections as required by Section 727.110(f)(4) (except that the facility owner or operator needs to keep these data for only three years);

F) Monitoring, testing or analytical data, and corrective action when required by Section 727.190, Section 727. 290(b), (d), and (f) and 35 Ill. Adm. Code 724.934(c) through (f), 724.935, 724.963(d) through (i), 724.964, 724.988, 724.989, and 724.990;

G) All closure cost estimates pursuant to Section 727.240(c);

H) The facility owner or operator certification, executed at least annually, that the owner or operator has a program in place to reduce the volume and toxicity of hazardous waste that it generates to the degree that the owner or operator determines to be economically practicable; and that the proposed method of treatment or storage is that practicable method currently available to the owner or operator that minimizes the present and future threat to human health and the environment;

I) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required by the facility owner or operator pursuant to 35 Ill. Adm. Code 728.107;

J) For an on-site storage facility, the information in the notice (except the manifest number), and the certification and demonstration, if applicable, required by the facility owner or operator pursuant to 35 Ill. Adm. Code 728.107;

K) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the facility owner or operator pursuant to 35 Ill. Adm. Code 728.107 or 728.108; and

L) For an off-site storage facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator pursuant to 35 Ill. Adm. Code 728.107 or 728.108.

BOARD NOTE: Subsection (d) is derived from 40 CFR 267.73 (2017).

e) Availability of Records

1) The facility owner or operator must furnish all records, including plans, required pursuant to this Part upon the request of any officer, employee, or representative of the Agency or USEPA and make them available at all reasonable times for inspection.

2) The retention period for all records required pursuant to this Part is extended automatically during the course of any unresolved enforcement action involving the facility or as requested in writing by the Agency.

BOARD NOTE: Any Agency request for extended records retention under this subsection (e)(2) is subject to Board review pursuant to Section 40 of the Act.

BOARD NOTE: Subsection (e) is derived from 40 CFR 267.74 (2017).

f) Submission of Reports. The facility owner or operator must prepare an annual facility activities report and other reports listed in subsection (f)(2).

1) Annual Facility Activities Report. The facility owner or operator must prepare and submit a single copy of an annual facility activities report to the Agency by March 1 of each year. The annual facility activities report must be submitted on USEPA Form 8700-13B. The report must cover facility activities during the previous calendar year and must include the following information:

BOARD NOTE: Corresponding 40 CFR 267.75(a) (2006) requires biennial reporting. The Board has required annual reporting, since Section 20.1 of the Act requires the Agency to assemble annual reports, and only annual facility activity reports will enable the Agency to fulfill this mandate.

A) The USEPA identification number, name, and address of the facility;

B) The calendar year covered by the report;

C) The method of treatment or storage for each hazardous waste;

D) The most recent closure cost estimate pursuant to Section 727.240(c);

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

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

G) The certification signed by the owner or operator.

2) Additional Reports. In addition to submitting the annual reports, the owner or operator must also report the following information to the Agency:

A) Releases, fires, and explosions as specified in Section 727.150(i)(2);

B) Facility closures specified in Section 727.210(h); and

C) Other information as otherwise required by Sections 727.270, 727.290, and 727.900 and Subparts AA, BB, and CC of 35 Ill. Adm. Code 724.

3) For off-site facilities, the USEPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator.

4) A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities, this information must be listed by USEPA identification number of each generator.

BOARD NOTE: Subsection (f) is derived from 40 CFR 267.75 (2017).

g) Required Notifications. Before transferring ownership or operation of a facility during its operating life, the facility owner or operator must notify the new owner or operator in writing of the requirements of this Part and Subpart J of 35 Ill. Adm. Code 703.

BOARD NOTE: Subsection (g) is derived from 40 CFR 267.76 (2017).

(Source: Amended at 42 Ill. Reg. 24055, effective November 19, 2018)