**Section 724.190 Applicability**

a) Types of Units

1) Except as provided in subsection (b), the regulations in this Subpart F apply to owners and operators of facilities that treat, store or dispose of hazardous waste. The owner or operator must satisfy the requirements identified in subsection (a)(2) for all wastes (or constituents thereof) contained in solid waste management units at the facility regardless of the time at which waste was placed in such units.

2) All solid waste management units must comply with the requirements in Section 724.201. A surface impoundment, waste pile, land treatment unit, or landfill that receives hazardous waste after July 26, 1982 (referred to in this Subpart F as a "regulated unit") must comply with Sections 724.191 through 724.200, in lieu of Section 724.201, for purposes of detecting, characterizing, and responding to releases to the uppermost aquifer. The financial responsibility requirements of Section 724.201 apply to regulated units.

b) The owner or operator's regulated unit or units are not subject to regulation for releases into the uppermost aquifer under this Subpart F if the following is true:

1) The owner or operator is exempted pursuant to Section 724.101; or

2) The owner or operator operates a unit that the Agency finds:

A) Is an engineered structure.

B) Does not receive or contain liquid waste or waste containing free liquids.

C) Is designed and operated to exclude liquid, precipitation, and other run-on and run-off.

D) Has both inner and outer layers of containment enclosing the waste.

E) Has a leak detection system built into each containment layer.

F) The owner or operator will provide continuing operation and maintenance of these leak detection systems during the active life of the unit and the closure and post-closure care periods.

G) To a reasonable degree of certainty, will not allow hazardous constituents to migrate beyond the outer containment layer prior to the end of the post-closure care period; or

3) The Agency finds, pursuant to Section 724.380(d), that the treatment zone of a land treatment unit that qualifies as a regulated unit does not contain levels of hazardous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of Section 724.378 has not shown a statistically significant increase in hazardous constituents below the treatment zone during the operating life of the unit. An exemption pursuant to this subsection (b) can only relieve an owner or operator of responsibility to meet the requirements of this Subpart F during the post-closure care period; or

4) The Agency finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the post-closure care period specified pursuant to Section 724.217. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made pursuant to this subsection (b) on assumptions that maximize the rate of liquid migration; or

5) The owner or operator designs and operates a pile in compliance with Section 724.350(c).

c) The regulations under this Subpart F apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the following is true of the applicability of the regulations in this Subpart F:

1) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure;

2) Apply during the post-closure care period pursuant to Section 724.217 if the owner or operator is conducting a detection monitoring program pursuant to Section 724.198; or

3) Apply during the compliance period pursuant to Section 724.196 if the owner or operator is conducting a compliance monitoring program pursuant to Section 724.199 or a corrective action program pursuant to Section 724.200.

d) This Subpart F applies to miscellaneous units if necessary to comply with Sections 724.701 through 724.703.

e) The regulations of this Subpart F apply to all owners and operators subject to 35 Ill. Adm. Code 703.161, when the Agency issues a post-closure care permit or other enforceable document that contains alternative requirements for the facility, as provided in 35 Ill. Adm. Code 703.161. When alternative requirements apply to a facility, a reference in this Subpart F to "in the permit" must mean "in the enforceable document".

f) A permit or enforceable document can contain alternative requirements for groundwater monitoring and corrective action for releases to groundwater applicable to a regulated unit that replace all or part of the requirements of 35 Ill. Adm. Code 724.191 through 724.200, as provided pursuant to 35 Ill. Adm. Code 703.161, where the Board or Agency determines the following:

1) The regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management units (or areas of concern) are likely to have contributed to the release; and

2) It is not necessary to apply the groundwater monitoring and corrective action requirements of 35 Ill. Adm. Code 724.191 through 724.200 because alternative requirements will adequately protect human health and the environment.

(Source: Amended at 43 Ill. Reg. 5999, effective May 2, 2019)