**Section 730.104 Criteria for Exempted Aquifers**

An aquifer or a portion of an aquifer that meets the criteria for an "underground source of drinking water" in Section 730.103 is an "exempted aquifer" for a Class I, Class III, or Class V injection well if the Board determines pursuant to 35 Ill. Adm. Code 704.123 that the aquifer meets the criteria of either subsections (a) and (b) or (a) and (c). For a Class VI injection well, the Board must determine that the well meets the criteria of subsection (d).

a) The aquifer does not currently serve as a source of drinking water.

b) The aquifer cannot now and will not in the future serve as a source of drinking water because one or more of the following is true of the aquifer:

1) The aquifer is mineral, hydrocarbon, or geothermal energy producing, or a permit applicant can demonstrate, as part of a permit application for a Class II or III injection well, that the aquifer contains minerals or hydrocarbons that are expected to be commercially producible considering their quantity and location;

2) The aquifer is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical;

3) The aquifer is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or

4) The aquifer is located over a Class III injection well mining area subject to subsidence or catastrophic collapse.

c) The total dissolved solids content of the groundwater in the aquifer is more than 3,000 and less than 10,000 mg/ℓ, and the aquifer is not reasonably expected to supply a public water system.

d) The areal extent of an aquifer exemption for a Class II enhanced oil recovery or enhanced gas recovery well is expanded for the exclusive purpose of Class VI injection for geologic sequestration pursuant to 35 Ill. Adm. Code 704.123(d) if the Agency determines that the aquifer meets the following criteria:

1) The aquifer does not currently serve as a source of drinking water;

2) The total dissolved solids content of the ground water in the aquifer is greater than 3,000 mg/ℓ and less than 10,000 mg/ℓ; and

3) The aquifer is not reasonably expected to supply a public water system.

BOARD NOTE: Derived from 40 CFR 146.4 (2017).

(Source: Amended at 42 Ill. Reg. 24145, effective November 19, 2018)