**Section 240.311 Application for Freshwater Aquifer Exemption**

a) If it is determined by the Department a freshwater aquifer exemption is required in order to permit and/or operate a Class II well, the applicant shall submit to the Department a written request to exempt the freshwater aquifer along with evidence showing the freshwater aquifer satisfies the criteria for an exemption.

b) A freshwater aquifer or a portion thereof may be determined under 40 CFR 146.4 to be exempted if evidence is submitted showing the following criteria are met:

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

2) Either:

A) The aquifer cannot now and will not in the future serve as a source of drinking water because:

i) the aquifer is mineral, hydrocarbon or geothermal energy producing, or can be demonstrated by a permit applicant as part of a permit application for a Class II or III operation to contain minerals or hydrocarbons that considering their quantity and location are expected to be commercially producible; or

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

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

iv) the aquifer is located over a Class III well mining area subject to subsidence or catastrophic collapse; or

B) The total dissolved solids content of the ground water is more than 3,000 and less than 10,000 mg/1 and it is not reasonably expected to supply a public water system.

c) After review and approval of the submitted evidence, the Department will forward the information, along with a recommendation, to the U.S. Environmental Protection Agency Region V Office for approval.

(Source: Added at 22 Ill. Reg. 22314, effective December 14, 1998)