40 CFR 146.4: Criteria for Exempted Aquifers

An aquifer or a portion thereof which meets the criteria for an "underground source of drinking water" in § 146.3 may be determined under § 144.7 of this chapter to be an "exempted aquifer" for Class I-V wells if it meets the criteria in paragraphs (a) through (c) of this section. Class VI wells must meet the criteria under paragraph (d) of this section:

(a) It does not currently serve as a source of drinking water; and

(b) It cannot now and will not in the future serve as a source of drinking water because:

(1) It 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.

(2) It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical;

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

(4) It is located over a Class III well mining area subject to subsidence or catastrophic collapse; or

(c) The total dissolved solids content of the ground water is more than 3,000 and less than 10,000 mg/l and it 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 may be expanded for the exclusive purpose of Class VI injection for geologic sequestration under § 144.7(d) of this chapter if it meets the following criteria:

(1) It does not currently serve as a source of drinking water; and

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

(3) It is not reasonably expected to supply a public water system.