

(7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202)690-2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

#### Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

#### **PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS**

1. The authority citation for part 94 continues to read as follows:

**Authority:** 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

#### **§ 94.1 [Amended]**

2. Section 94.1 is amended as follows:

a. In paragraph (a)(2), by adding the words "Republic of South Africa except the foot-and-mouth disease controlled area (which extends from the Republic of South Africa's border with Mozambique approximately 30 to 90 kilometers into the Republic of South Africa to include Kruger National Park and surveillance and control zones around the park, and elsewhere extends, from east to west, approximately 10 to 20 kilometers into the Republic of South Africa along its borders with Mozambique, Swaziland, Zimbabwe, Botswana, and the southeast part of the border with Namibia)," immediately after "Republic of Korea,".

b. In paragraph (a)(3), by adding the words "and the Republic of South Africa" immediately after "Greece".

c. In paragraph (b)(1), by removing the reference to "part 92" and adding in its place a reference to "part 93".

#### **§ 94.11 [Amended]**

3. In § 94.11, paragraph (a) is amended by adding, in the first sentence, the words "Republic of South Africa except the foot-and-mouth disease controlled area (which extends from the Republic of South Africa's border with Mozambique approximately 30 to 90 kilometers into the Republic of South Africa to include Kruger National Park and surveillance and control zones around the park, and elsewhere extends, from east to west, approximately 10 to 20 kilometers into the Republic of South Africa along its borders with Mozambique, Swaziland, Zimbabwe, Botswana, and the southeast part of the border with Namibia)," immediately after "Republic of Korea,".

Done in Washington, DC, this 11th day of April 2000.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00-9491 Filed 4-14-00; 8:45 am]

BILLING CODE 3410-34-P

## **NUCLEAR REGULATORY COMMISSION**

### **10 CFR Part 39**

#### **RIN 3150-AG14**

#### **Energy Compensation Sources for Well Logging and Other Regulatory Clarifications**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations governing licenses and radiation safety requirements for well logging. The final rule modifies NRC regulations dealing with: low activity energy compensation sources; tritium neutron generator target sources; specific abandonment procedures in the event of an immediate threat; changes to requirements for inadvertent intrusion on an abandoned source; the codification of an existing generic exemption; the removal of an obsolete date; and updating regulations to be consistent with the Commission's metrication policy. The amendments to NRC's regulations are necessary to improve, clarify, update, and reflect

current practices in the well logging industry.

**EFFECTIVE DATE:** May 17, 2000.

#### **FOR FURTHER INFORMATION CONTACT:**

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#### **SUPPLEMENTARY INFORMATION:**

The Nuclear Regulatory Commission is amending its regulations to acknowledge and accommodate the use of well logging technology that was not incorporated when the NRC issued the existing well logging regulations (March 17, 1987; 52 FR 8225). This technology allows licensees to lower a logging tool down a well at the same time that the hole for the well is being drilled instead of requiring drilling to stop, removing drilling pieces, and lowering a logging tool down the well. This technology is commonly referred to as "logging while drilling." This process uses a relatively small radioactive source within the logging tool in addition to the larger radioactive sources currently used in logging a well. The 1987 regulations were based on the use of the larger radioactive sources and include provisions that are unnecessary and potentially burdensome for the additional small sources. These changes will have no significant impact on public health and safety and the environment while reducing potential burdens to licensees. Licensees will no longer need to comply with unnecessary regulatory requirements for these small sources or to request licensing exemptions from the NRC for actions dealing with these small sources. Other changes are also being implemented to improve, clarify, and update NRC's well logging regulations to reduce confusion. These changes may also reduce the need for licensees to request exemptions from unnecessary requirements.

#### **Introduction**

Oil and gas come from accumulations in the pore spaces of reservoir rocks (usually sandstone, limestone, or dolomites) and are removed via a well. Because the amount of oil and gas in these pore spaces is dependent upon the rock's characteristics, the oil and gas industry often needs to determine the characteristics of underground formations to predict the commercial viability of a new or existing well. Licensed radioactive materials are used to obtain information on certain properties of an underground formation, such as type of rock, porosity, hydrocarbon content, and density.

These properties are important in the evaluation of oil and gas reservoirs.

One method to obtain information about oil and gas reservoirs is by using well logging tools. Licensed radioactive materials (sealed radioactive sources with associated radiation detectors) are contained in well logging tools. Americium-241 and cesium-137 are the radioactive materials most frequently used for this purpose. Traditionally, these tools are lowered into a well on a wireline. The depth of the well could range from several hundred feet to greater than 30,000 feet. Information collected by the detectors is sent to the surface through the wireline and plotted on a chart as the logging tool is slowly raised from the bottom of the well. Licensed radioactive materials are also used for similar purposes in coal and mineral exploration.

The licensing and radiation safety requirements for well logging are provided in 10 CFR Part 39. When the existing regulations for well logging were promulgated in 1987, the well logging process required drilling to stop while parts of the drilling pieces were removed before lowering a logging tool down a well. More recent technology, referred to as logging-while-drilling (LWD), allows well logging to be accomplished during drilling. This technology employs an additional low-activity radioactive source within the well logging tool known as an energy compensation source, or ECS. The ECS is used to calibrate the well logging tool while the well is being drilled.

LWD provides real time data during drilling operations and improves the evaluation of geologic formations while reducing drilling costs. The real-time information can aid in decision making because evaluating a formation can be planned as soon as the drill bit reaches a formation.

### Background

Based on the changing technology in the well logging industry, the NRC developed a Rulemaking Plan to consider the need to update 10 CFR Part 39. On May 28, 1997, the NRC provided Agreement States a draft Rulemaking Plan for comment entitled, "Energy Compensation Sources for Well Logging and Clarifications—Changes to 10 CFR Part 39." The draft Rulemaking Plan was contained in SECY-97-111, also dated May 28, 1997. Comments were received from the States of Utah, Illinois, and Washington. These States generally supported the proposal and provided specific information and comments. Where appropriate, these comments were incorporated into the final Rulemaking Plan contained in

SECY-98-105, dated May 12, 1998, and approved by the Commission in a Staff Requirements Memorandum dated June 25, 1998.

In the final Rulemaking Plan, the NRC proposed to modify the existing regulations in 10 CFR Part 39 to account for the use of ECSs. The changes would reduce regulatory burden on NRC and Agreement State licensees with no significant impact to public health and safety. In addition, there are other sections within 10 CFR Part 39 that should be changed to improve, clarify, and update the existing regulations. The final Rulemaking Plan provides the rationale used in the development of this proposed rule. The NRC published the proposed rule in the **Federal Register** on April 19, 1999 (64 FR 19089). The NRC received five comments on the proposed rule. These comments and responses are discussed in the "Comments on the Proposed Rule" section.

### Regulatory Action

The NRC is making seven specific changes to improve, clarify, and update the requirements in 10 CFR Part 39.

1. The principal objective of this rulemaking is amending 10 CFR Part 39 to accommodate the radioactive ECSs that are used in some well logging applications. The ECS is a low activity source, typically less than 1.85 MBq (50 microcuries), compared to the normal 110 GBq to 740 GBq (3 to 20 curies) sources used in well logging. 10 CFR Part 39, originally promulgated in 1987, does not provide any specific provisions for these low activity sources. Many of the requirements in 10 CFR Part 39, when applied to an ECS, are not appropriate or necessary to protect public health and safety and the environment. Therefore, the NRC is changing the existing regulations.

Because the existing regulations do not allow for variations based on the activity of the source, licensees who use an ECS would need to meet all the requirements for larger sources. Examples of requirements which are overly burdensome for licensees using ECSs include those addressing well abandonment (§§ 39.15 and 39.77), leak testing (§ 39.35), design and performance criteria for sealed sources (§ 39.41), and monitoring of sources lodged in a well (§ 39.69). The NRC is requiring that only those sections dealing with leak testing (a revised § 39.35 specifically addresses ECSs), physical inventory (§ 39.37), and records of material use (§ 39.39) will apply to the use of an ECS.

Oil and gas wells use a surface casing to protect fresh water aquifers. However,

if a surface casing is not used, the NRC would retain the well abandonment requirements. Requirements established in other parts of NRC regulations (e.g., 10 CFR Parts 20, 30, 40, and 70) still apply to the possession and use of licensed material and are adequate to protect public health and safety and the environment.

Therefore, the NRC is amending 10 CFR Part 39 to recognize the use of an ECS in well logging and to provide requirements governing its use. These provisions include radioactivity limits on the ECS and leak testing requirements. The most significant change will exclude an ECS from the costly procedures for well abandonment in the event only an ECS is lost within the well. The requirements for well abandonment, in addition to specific reporting and approval requirements, require the source to be immobilized and sealed in place with a cement plug which must be protected from inadvertent intrusion, and the mounting of a permanent plaque at the surface of the well. In the Regulatory Analysis (RA) conducted for this rulemaking, a limited survey of ECS users indicated that about eight ECSs are abandoned per year. Although estimated abandonment costs varied significantly by survey respondent, the estimated savings to the industry to avoid eight abandonments per year is \$5 million.

The NRC is establishing 3.7 MBq (100 microcuries) as the limit for an ECS. Existing ECSs typically use up to 1.85 MBq (50 microcuries) of americium-241 (cesium-137 sources are smaller). One licensee noted that they have calibration sources that use more than 100 microcuries. The 3.7 MBq (100 microcuries) limit will allow licensees flexibility in designing new sources of this kind while maintaining their radioactivity within an environmentally safe level. These ECS sources will not be required to meet the requirements in § 39.41. However, the ECS sources for use in well logging applications will be required to be registered pursuant to 10 CFR 32.210. 10 CFR 32.210 requires an evaluation using radiation safety criteria from accepted industry standards. Applicable standards for calibration sources may be found in American National Standard Institute (ANSI) standards (e.g., ANSI/HPS N43.6-1997).

ECSs are used for logging oil and gas wells, which use casings to protect fresh water aquifers. Hence, the only potential exposure hazard these sources would present is to workers, and worker exposure could only occur if an ECS were ruptured. If ruptured, workers could be exposed to the radionuclide through ingestion or by absorption

through the skin. However, if the source were ruptured, it would be contained within hundreds to thousands of cubic feet of drilling mud which also contains hazardous chemicals and is controlled and monitored to protect workers as part of drilling operations.

The Environmental Assessment (EA) conducted for this rulemaking demonstrates that there would be no significant impact to public health and safety or the environment resulting from this amendment. The EA evaluated a worst case scenario of a 3.7 MBq (100 microcuries) source ruptured by a drill bit and brought to the surface in the drilling mud. The most significant exposure from this scenario would be from ingestion of the drilling mud. The most dangerous radionuclide considered for this worst case scenario was curium-250. This radionuclide was used because the rule does not restrict the radionuclide used for ECS sources. Also, the scenario involved a source twice as large as most typical ECSs in use. For this worst case scenario, the estimated dose would be about 56 millirem, which is below the Federal annual dose limit to an individual member of the public of 0.1 rem (100 millirem) or 1 millisievert (see 10 CFR 20.1301). For a 3.7 MBq (100 microcuries) source of americium or cesium (the actual radionuclides used) the estimated dose would be less than 3 millirem and 1 millirem respectively. Therefore, the NRC believes that eliminating potential costly requirements for these sources, in the event that such sources become unretrievable, will not significantly impact public health and safety or the environment.

Section 39.35 specifies leak testing requirements for sealed sources. Because of the small amount of radioactive material in an ECS (by definition less than 3.7 MBq (100 microcuries)) less stringent leak testing requirements are being established for ECSs. Also, the ECS is contained within a logging tool that is designed to withstand significant stress and pressure. The ECS is mounted inside a steel pressure housing in the interior of the logging tool, thereby providing additional encapsulation to protect the ECS from operational impacts. The NRC believes that it is unnecessary and overly burdensome to require that drilling operations stop because an ECS has exceeded the existing 6-month time interval requirement to be leak tested. The Regulatory Analysis conducted for this rulemaking surveyed a sample of the drilling industry to determine a normal maintenance period at which time a licensee would take a logging tool

out of service for routine maintenance or other servicing. The NRC believes this maintenance period would be an appropriate time to conduct any necessary leak testing on an ECS. Although the survey results varied, these tools generally receive some type of out-of-field servicing every 18 months.

Based on this information, and the NRC's belief that ECSs should normally only be leak tested during normal maintenance or when a logging tool is out of service for other repairs, the NRC is requiring that a leak test be performed at a minimum of every three years. This requirement should not be a burden for licensees if the logging tool is being properly maintained and, in fact, should provide licensees some flexibility. This is also consistent with an extended leak test frequency that has been established by license conditions for certain other sealed sources and devices.

Many ECSs are already exempt from all leak testing requirements. Section 39.35 exempts all beta or gamma emitting radioactive material with an activity of 3.7 MBq (100 microcuries) or less. Because cesium-137 is a beta/gamma emitter, all of these types of ECSs are already exempt from the existing leak testing requirements in § 39.35.

2. The NRC is revising existing 10 CFR Part 39 requirements for tritium neutron generator target sources. Tritium neutron generators help determine the porosity of the reservoir rock formation, which indicates the amount of liquid in the reservoir and the reservoir's permeability. Tritium neutron generator target sources are not used in logging while drilling tools. These sources are used in the more traditional well logging procedure where drilling is stopped and the tool is lowered downhole. Because tritium neutron generator target sources produce a significant neutron stream only when a voltage is applied, tritium neutron generator target sources are less hazardous than the typical americium or cesium sources currently being used in well logging applications.

For well logging applications, the NRC is requiring that tritium neutron generator target sources be subject to the requirements of 10 CFR Part 39 except for the sealed source design and performance criteria (§ 39.41), and the well abandonment procedures (§§ 39.15 and 39.77) when a surface casing is used to protect fresh water aquifers, a practice that is standard for oil and gas wells. The potential hazard of these sources when a surface casing is used does not warrant the existing requirements for well abandonment in

the event that the source becomes lost. The design and performance criteria associated with sealed sources for well logging were not intended for tritium neutron generator target sources and the revised regulations will provide clarity.

The NRC is establishing 1,110 GBq (30 curies) of tritium as the limit for a tritium neutron generator target source. Existing tritium neutron generator target sources typically contain less than 740 GBq (20 curies) of tritium. The 1,110 GBq (30 curie) limit would allow licensees flexibility in designing new sources of this type while maintaining their radioactivity within an environmentally safe level.

When these sources are used for logging oil and gas wells, a surface casing is used to protect fresh water aquifers. The only exposure hazard these sources present are to workers if these sources were ruptured and the tritium was ingested. If a tritium source was ruptured, it would be contained within hundreds to thousands of cubic feet of drilling mud. As mentioned, this drilling mud contains hazardous chemicals and is controlled and monitored as part of drilling operations.

The EA conducted for this rulemaking demonstrates that there would be no significant impact to public health and safety or the environment resulting from this change. The EA evaluated the worst case scenario of a 1,110 GBq (30 curie) tritium source ruptured by a drill bit and brought to the surface in the drilling mud. The most significant exposure would be through ingestion of this drilling mud. For this worst case scenario, the estimated dose would be 14 millirem, which is well below the Federal annual dose limit to an individual member of the public of 100 millirem or 1 millisievert (see 10 CFR 20.1301). Therefore, the NRC believes that eliminating potential costly requirements for these sources, in the event that such sources become unretrievable, will not impact public health and safety or the environment.

3. Section 39.77 provides the requirements for notification and procedures for abandoning irretrievable well logging sources. This section specifies that the NRC must approve implementation of abandonment procedures before abandonment. In some circumstances, such as high well pressures that could lead to fires or explosions, the delay required to notify NRC could cause an immediate threat to public health and safety. The NRC is revising this section to allow licensees to use their judgement to abandon a well immediately, without prior NRC approval, if the licensee believes a delay could cause such a non-radiological

threat. This modification will allow licensees greater procedural latitude. In the rule, the language has been modified to require licensees, in the event of immediate abandonment, to notify the NRC and justify the need for an immediate abandonment after the fact.

4. Section 39.15 provides requirements for abandoning irretrievable sealed sources. The NRC is revising this section to provide performance-based criteria for inadvertent intrusion on the source. This modification will allow licensees greater procedural latitude while continuing to ensure source integrity. The existing requirements may be more restrictive than is necessary to protect an abandoned source, depending upon the individual well abandonment. For example, if a significant amount of drilling equipment is abandoned with the well, the equipment itself may be effective in preventing inadvertent intrusion on the source. However, the abandoned equipment would not meet the existing requirements of § 39.15. The existing paragraph (a)(5)(ii) of § 39.15 had prescriptive requirements for irretrievable well logging sources, specifying the use of a mechanical device to prevent inadvertent intrusion on the source, at a specific location within the abandoned well.

The NRC is requiring that licensees “prevent inadvertent intrusion on the source.” This will require that the source be protected but allow licensees the flexibility to determine the best method. The revision will not affect the requirement in § 39.15(a)(5)(i) that a well logging source be immobilized with a cement plug, the requirement in § 39.15(a)(5)(iii) that a permanent identification plaque be mounted at the surface of the well, or the requirement in § 39.77 that the licensee must obtain NRC approval prior to implementing abandonment procedures (except as provided by the change in § 39.77 for immediate abandonment, as discussed in item 3).

5. Two revisions are being made to § 39.41, “Design and performance criteria for sealed sources.” The first will incorporate within NRC regulations an existing generic exemption for sealed sources that were manufactured before 1989 and met older standards. The second will add an optional acceptable standard by referencing oil-well logging requirements in ANSI/HPS N43.6–1997. The existing requirements will also remain as an option within this section.

The NRC issued a generic exemption from the existing design and performance criteria for sealed sources in 1989. This exemption allows the use of older sealed sources which were not

tested against the existing criteria, but which were tested in accordance with an earlier standard used for well logging sources. This exemption is currently in practice, but was not included in the existing 10 CFR Part 39. The NRC is modifying the regulations to include this existing generic exemption within 10 CFR Part 39.

Sealed sources that were manufactured before July 14, 1989, may use design and performance criteria from the United States of America Standards Institute (USASI) N5.10-1968, “Classification of Sealed Radioactive Sources” or the criteria in § 39.41. The use of the USASI standard is based on an NRC Notice of Generic Exemption published on July 25, 1989 (54 FR 30883). Existing NRC regulations had not incorporated the USASI N5.10–1968 requirements for older sealed sources. The primary difference between the USASI standard and the existing requirements is that the existing requirements includes a vibration test that is consistent with current national standards. The USASI standard considered a vibration test and concluded that, to pass the other requirements, the source would be so rugged there was no reason to include a vibration test.

The exemption allowing the use of the USASI standard was intended to avoid a situation in which well logging licensees might be unnecessarily forced out of business and have to dispose of their sources. This situation could arise because the original source manufacturers tested against the USASI standard, but did not retest these sources against the standards that became effective in 1989. The NRC determined that those sealed source models meeting the USASI standard would not adversely affect public health and safety. These sources had been used for years in operational situations and had demonstrated through actual use that vibration from drilling operations had not caused failure. The survey of licensees conducted for the RA and EA for this rulemaking confirmed that these older sources have not presented a problem during actual use. Therefore, the NRC is codifying within this section the existing practice to use, as an option, the USASI standards for sealed sources that were manufactured before July 14, 1989. Because many of these older sealed sources contain radioactive material with half-lives that allow their continued use (*i.e.*, americium-241 and cesium-137 have half-lives of 458 and 30 years respectively), this modification to the existing regulations is appropriate.

However, a vibration test has been included in ANSI standards since 1977, and by NRC regulations which were promulgated in 1987. Based on survey information done for this rulemaking, it is estimated that the cost to test a source to see if it meets the vibration requirement in § 39.41 is \$2,400. Only the prototype for each design requires testing. The number of prototype designs each year is small. The only survey respondent on this topic indicated that they produce, at most, one new prototype per year and they did not indicate that vibration testing is burdensome. The NRC believes that the cost for vibration testing is not overly burdensome and is consistent with (1) ANSI N542–1977, “Sealed Radioactive Sources, Classification,” published by the National Bureau of Standards [(NBS) currently the National Institute of Standards and Technology] in the 1978 NBS Handbook 126 and (2) ANSI/HPS N43.6–1997, “Sealed Radioactive Sources—Classification” approved in November 1997. ANSI/HPS N43.6–1997 is the revised update to ANSI N542–1977. The NRC has decided to retain the requirements for vibration testing.

The second revision to this section is to meet Public Law 104–113, “National Technology and Transfer Act of 1995” and Office of Management and Budget Circular A–119, “Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities.” This law encourages agencies to use “voluntary consensus standards” (*i.e.*, standards developed by a voluntary consensus body and made available to all interested parties). The existing NRC requirements are based on the older ANSI N542–1977 standard, and allow licensees flexibility in determining how to conduct testing and ensuring integrity of the source. The NRC is adding an optional method of meeting the design requirements by referencing the newer, current ANSI standard (ANSI/HPS N43.6–1997) within 10 CFR part 39. Although the existing NRC requirements and ANSI/HPS N43.6–1997 are quite similar, the NRC does not want to eliminate the ability to meet the existing NRC regulatory requirements—that could result in a problem similar to that experienced in 1989. That is, existing approved sealed sources might not have been tested or evaluated exactly as specified in ANSI/HPS N43.6–1997, which could result in well logging licensees having to dispose of acceptable sealed sources. This action does not constitute the establishment of a standard that contains generally applicable requirements. There were no

public comments regarding NRC's approach in the use of these standards.

6. For clarity and to avoid confusion, the NRC is updating § 39.49 because it contains a date that has passed and is no longer appropriate. This section is being amended to remove the obsolete date.

7. The NRC is updating §§ 39.15, 39.35, and 39.41 to conform with the agency's metrication policy published on June 19, 1996 (61 FR 31169), by stating parameter values in dual units with International System of Units (SI) first and with English units in brackets.

### Comments on the Proposed Rule

This section presents a summary of the principal comments received on the proposed rule, the NRC's response to the comments, and changes made to the final rule as a result of these comments. It includes a section-by-section description of the proposed changes, comments received, NRC's response, and any changes to the final rule. General comments are included after the specific section comments.

The NRC received five comment letters. Two were from Agreement States and three were from industry. All five commenters supported this rule and four provided specific comments to clarify or improve the proposed rule. Copies of these letters are available for public inspection and copying for a fee at the Commission's Public Document Room, located at 2120 L Street, NW (Lower Level), Washington, DC.

*Section 39.2, Definitions*, would be amended by adding definitions for an energy compensation source (ECS) and a tritium neutron generator target source.

*Comment:* No comments.

Paragraph 39.15(a)(5)(ii) would be amended to allow a more performance-based approach to prevent inadvertent intrusion on an abandoned source.

*Comment:* One commenter indicated that State regulatory agencies having jurisdiction over drilling and well operations may have well abandonment procedures that are more restrictive than those proposed by the NRC.

*Response:* The commenter indicates that because the State agencies that control drilling and well operations may require more restrictive abandonment procedures, the State radiation control agency may have no choice but to also impose similar procedures. The NRC's intent is to make the rule more performance-based and would hope that States would do likewise, if allowed; however, the requirements in § 39.77(c) are Compatibility Category C which allows States to impose more restrictive

requirements as long as NRC's essential objectives are met.

Paragraphs 39.35(b), (d), (e)(4), (e)(5), and 39.41(d)(1)(v) (previously 39.41(a)(3)(v)) would be amended to meet the NRC's metrication policy.

*Comment:* No comments.

Paragraph 39.35(c)(1) and (c)(2) would allow a 3 year leak testing interval for ECSs.

*Comment:* No comments.

*Section 39.41* would be amended to describe the applicable requirements for a sealed source.

*Comments:* Three commenters provided comments regarding requirements for sealed sources. One commenter requested that an NRC memorandum dated November 1, 1991, be specifically referenced in our regulations because our changes to § 39.41 do not cover all the sources listed in this memorandum. This memorandum lists sources that have been given a generic exemption from the requirements in § 39.41.

Two commenters requested that the new § 39.41(f) be clarified because this section implies that all ECS's are to be registered pursuant to § 32.210. They believe that this is incorrect because this would imply that isotopes considered exempt quantities under § 30.18(a) would be required to be registered pursuant to § 32.210. Also, one commenter believes that based on an NRC position statement, registration is not required in all cases.

*Response:* The NRC memorandum dated November 1, 1991, does not need to be specifically referenced in the regulations because the changes to § 39.41 supersede the memorandum, and cover all the sources listed in this memorandum. However, NUREG-1556, Vol. 3, "Consolidated Guidance About Materials Licenses—Applications for Sealed Source and Device Evaluation and Registration" and Vol. 14, "Consolidated Guidance About Materials Licenses—Program-Specific Guidance About Well Logging, Tracer, and Field Flood Study License" each include an appendix which provides a list of the sources that fall within the generic exemption.

The NRC staff does intend to require that all ECS's be registered pursuant to § 32.210 or applicable Agreement State regulations. It is expected that ECS's will at least meet appropriate ANSI criteria for calibration sources that can only be assured if the sources are registered by the NRC or an Agreement State. This criteria will be applied regardless of source activity. Although it is true that there is NRC guidance (NUREG-1556, Vol. 3, "Consolidated Guidance About Materials Licenses—

Applications for Sealed Source and Device Evaluation and Registration") which indicates that sources with activities below certain limits do not need to be registered, that guidance will not be applied to ECS's. The NRC staff notes that the guidance also indicates that it is applied on a case-by-case basis in individual licensing situations and that the licensee may be expected to have authorization to possess and use unsealed material in similar quantities. This situation would not apply in this setting.

Section 39.41(f) does not need to be clarified concerning sources obtained per § 30.18(a). The NRC staff believes the commenter may have misinterpreted the regulations regarding exempt quantities. Pursuant to § 30.18, a person possessing very small quantities of radioactive material may be exempt from licensing under limited circumstances. The NRC staff believes, in general, that these limited circumstances would not apply to ECS sources used in a well logging tool, and therefore they would not be exempt. However, if a company does receive a source that NRC has authorized for distribution to persons exempt from licensing, the company could use that source, without modification, in a well logging tool. In this situation, the sources would not need to meet § 39.41 criteria. Note that § 30.18(c) does not allow the incorporation of exempt sources into devices for commercial distribution. Therefore, companies who incorporate these sources into their logging tools, would not be allowed to commercially distribute such tools.

*Section 39.49* would be amended to remove an obsolete date.

*Comment:* No comments.

*Section 39.53* would be added to provide requirements for ECSs.

*Comments:* Two commenters had comments on this section. One believes that there are additional requirements within 10 CFR Part 39 that should apply to ECSs. Specifically, § 39.43 (Inspection, maintenance, and opening of a source or source holder), § 39.61 (Training), § 39.63 (Operating and emergency procedures), and § 39.71 (Security).

The other commenter noted that this section limits ECSs to 100 microcuries based on the belief that there are no ECSs exceeding 50 microcuries. They have specifically licensed ECSs meeting the requirements of 10 CFR Part 39 which contain 200 microcuries of Am-241. Therefore, they request a reassessment of the environmental impact based on 200 microcuries of Am-241 to allow 200 microcuries to be the maximum activity within an ECS.

*Response:* The NRC staff does not agree that there is a need to impose additional 10 CFR Part 39 requirements for possession of these small sources, due to the low risk, and discussed these concerns with the commenter who, after further consideration, agreed. However, when authorizing ECS's, the NRC does intend to provide guidance for license conditions that would prohibit opening the source. This will be done in NUREG-1556, Vol. 14, "Consolidated Guidance About Materials Licenses—Program-Specific Guidance About Well Logging, Tracer, and Field Flood Study License."

The NRC staff does not agree with the commenter suggestion to increase the ECS limit to 200 microcuries. The Environmental Assessment did not support a 200 microcurie limit for all isotopes. Although the risk varies with individual isotopes, the NRC staff believes that a single limit should be applied to allow efficient implementation. The 100 microcurie limit is consistent with the long standing maximum limit NRC has established for exempting beta/gamma sources from leak testing requirements, which reflects the lower risk associated with lower activity sources of 100 microcuries or less.

*Section 39.55* would be added to provide requirements for tritium neutron generator target sources.

*Comments:* Two commenters had comments on this section. One commenter noted that neutron generator target sources require above-ground testing for operability and calibration. When energized, these devices can produce radiation levels that may constitute "High Radiation Areas." The commenter believes that the revised regulations should allow testing and operation provided arrangements are made via facility design or engineered safety equipment to reduce the radiation levels and ensure adequate written safety procedures have been developed and are in use by trained personnel.

The other commenter noted that these devices typically contain less radioactive material (tritium) than is used in commercially available "glow in the dark" emergency exit signs. The commenter noted that based on the construction of neutron generators, any exposure from a damaged neutron generator would be small compared to an exit sign, and therefore, believes that the proposed rule is appropriate for these devices.

*Response:* The NRC agrees with the first commenter's concept. Tritium sources are and will remain subject to § 39.63—Operating and emergency

procedures. The NRC also agrees with the points made by this commenter.

*Section 39.77(c)(1)(i), (ii), and (d)(9)* would be amended to allow an option to immediately abandon a well without prior NRC approval when the licensee believes there is an immediate threat to public health and safety. For this type of immediate abandonment, the licensee is required to justify to NRC in writing why it was necessary.

*Comment:* One commenter requests clarification how a licensed party will make the decision to abandon these sources (i.e., RSO or authorized user) and what criteria will be used to determine if there is an immediate public health concern from explosions of other hazards. The commenter requests that if these items are not included in the regulations, the NRC identify how they are to be resolved.

*Response:* The purpose of this proposed change was to allow licensees flexibility in the use of their best judgement when there is the possibility of an immediate threat to public health and safety. To add specific requirements as to who makes the on-the-spot decision and what specific criteria they are to use would negate some of the flexibility that the NRC was seeking to add. For example, what should the licensee do if the specified person was not on-site or the situation was not foreseen in established criteria? The NRC expects that this provision will be rarely used. However, if used, the licensee is required to justify why the immediate abandonment was necessary. If, after implementation, the NRC believes that this provision is being misused or used inappropriately, the NRC will consider modifying this section at a later time.

#### *General Comments*

*Comment:* A State commenter noted that not all of their comments on the draft Rulemaking Plan were addressed in the proposed rule.

*Response:* The NRC responded to the comments that the States made on the draft Rulemaking Plan in the final Rulemaking Plan. Although these comments and responses were not repeated in the **Federal Register** notice, they were incorporated, where appropriate, in the proposed rule.

*Comment:* A commenter would like the rule to include requirements for tool design and loading of all sources. The commenter noted that during a recent investigation of loading procedures, they found that a few States and at least one NRC region are not consistently evaluating the design of tools or their loading procedures during the licensing process. If this is the case, the

commenter does not believe that NRC can assume that the well logging tool will afford significant protection for any source much less the ECS sources. The commenter noted that the proposed regulation states that part of the reason for many of the exemptions for the ECS sources is the additional protection provided by the logging tool.

*Response:* Historically, the NRC has not regulated source holders or the well logging devices in which the source holders or sources are placed. The sealed sources themselves must meet 10 CFR Part 39 requirements that are essentially equivalent to ANSI criteria for use in well logging and does not take into account any protection provided by the tool or source holder. NRC also notes that there has been no history of problems with the source-tool combinations.

*Comment:* A commenter noted that it was approached in 1993 by a well logging licensee to implement rule changes regarding ECSs used in logging while drilling (LWD) operations. The commenter noted that this was the only licensee in the State using ECSs and that they preferred to handle this technology through license conditions. As of June 1999, only one of Texas's licensees has requested changes to allow for LWD technology. The commenter asks whether the NRC has assessed how many well logging licensees are currently using LWD technology.

*Response:* The NRC conducted a limited survey of nine licensees (the NRC staff did not feel it was necessary to conduct a larger survey that would have required OMB approval) in the preparation of the proposed rule. Of these nine, six use ECSs and one is planning to use an ECS in the future. Based on this response, plus the fact that four of these licensees use neutron generator target sources, the NRC believes that proposing generic requirements is appropriate.

*Comment:* A commenter supports the proposed changes and noted that these changes offer the well logging industry simplified rules without decreasing public safety. The commenter also noted the significant differences in design between the stand-alone sources used in logging tools, and the permanent aspect of ECSs and neutron generator target sources that are built into logging tools. The commenter noted that because the ECSs and neutron generator target sources are protected from the well conditions and have much smaller inherent risks, the current requirements in 10 CFR Part 39 are too restrictive.

*Response:* The NRC agrees with the points made by this commenter.

*Comment:* A commenter noted that the Supplementary Information and Introduction sections of the proposed rule implied that only LWD tools utilize ECSs. The commenter noted that this is not the case and that ECSs have been in use for many years within many standard wireline logging tools.

*Response:* The NRC will clarify this information in the preamble by changing the implication that ECS's are only used in logging while drilling tools. This will not impact the regulatory text to the final rule.

*Final rule:* As noted above, the preamble will be clarified. There are no changes being made to the regulatory text of the final rule.

### Specific Changes in Regulatory Text

The following section is provided to assist the reader in understanding the specific changes made to each section or paragraph in 10 CFR Part 39. For clarity of content in reading a section, much of that particular section may be repeated, although only a minor change would be made. Using this section should allow the reader to effectively review the specific changes without reviewing existing material that has been included for content, but has not been significantly changed.

*Section 39.2:* This is being revised to add two new definitions for ECS and tritium neutron generator target source.

Paragraph 39.15(a)(5)(ii): This is being revised to allow a more performance-based approach to prevent inadvertent intrusion on an abandoned source.

Paragraph 39.15(a)(5)(iii): This is being revised to meet the NRC's metrification policy.

Paragraph 39.35(b): This is being revised to meet the NRC's metrification policy.

Paragraph 39.35(c)(1): This essentially repeats the existing paragraph on leak testing frequency, but notes that ECSs are not included in this paragraph.

Paragraph 39.35(c)(2): This is a new paragraph allowing a 3 year leak testing interval for ECSs.

Paragraph 39.35(d): This is being revised to meet the NRC's metrification policy.

Paragraph 39.35(e)(1): This is an editorial change to indicate that hydrogen-3 and tritium are the same.

Paragraphs 39.35(e)(4) and (5): This is being revised to meet the NRC's metrification policy.

Section 39.41 has been significantly revised as described below:

Paragraph 39.41(a): This is a new paragraph describing the applicable requirements for a sealed source which includes requirements from the existing § 39.41(a)(1) and (2).

Paragraph 39.41(b): This is a new paragraph to allow pre-1989 sources to meet USASI standards.

Paragraph 39.41(c): This is a new paragraph providing for the use of current ANSI standards.

Paragraph 39.41(d): This replaces the existing § 39.41(a)(3).

Paragraph 39.41(d)(1)(v): This is being revised to meet the NRC's metrification policy (the existing § 39.41(a)(3)(v)).

Paragraph 39.41(e): This replaces the existing § 39.41(b) and is edited to be consistent with the above changes.

Paragraph 39.41(f): This is a new paragraph clarifying that this section does not apply to ECSs.

*Section 39.49:* This is being revised to eliminate an obsolete date.

*Section 39.53:* This is a new section providing requirements for ECSs.

*Section 39.55:* This is a new section providing requirements for tritium neutron generator target sources.

Paragraphs 39.77(c)(1)(i) and (ii): This is being revised to allow an option to immediately abandoning a well without receiving prior NRC approval when the licensee believes there is an immediate threat to public health and safety.

Paragraph 39.77(d)(9): This is a new paragraph requiring the licensee to justify in writing why it was necessary to immediately abandon a well without prior NRC approval.

### Criminal Penalties

For the purposes of Section 223 of the Atomic Energy Act (AEA), the Commission is issuing the final rule under one or more of sections 161b, 161i, or 161o of the AEA. Willful violations of the rule will be subject to criminal enforcement.

### Compatibility of Agreement State Regulations

The compatibility of the provisions in 10 CFR Part 39 have been determined in accordance with the NRC's "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517)." The definitions for an "Energy compensation source" and a "Tritium neutron generator target source" are assigned Compatibility Category B. Agreement States will need to adopt essentially identical definitions. Since the sources are routinely transported across jurisdictional boundaries for use, this level of compatibility is needed to assure uniform regulation. The new § 39.53, *Energy compensation source*, and § 39.55, *Tritium neutron generator target source*, are assigned Compatibility

Category C. Agreement States are not required to adopt identical rules, however, they must adopt rules that address the essential safety objectives of, and are no less stringent than, the NRC sections. The NRC is not changing the compatibility of those sections of 10 CFR Part 39 that are being modified. The existing Compatibility Categories for the modified sections are: Section 39.41, Compatibility Category B; and §§ 39.15, 39.35, 39.49, 39.77(c) and (d), Compatibility Category C.

Specific information about the NRC's Compatibility Policy and the levels of compatibility assigned to the existing rule may be found at the OSP Procedures area of the Office of State Program's Web site, <http://www.hsr.d.gov/nrc/home.html>. [View Procedures SA-200 and SA-201]

### Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule will not be a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement is not required. The rule will modify NRC regulations dealing with: (1) Low activity energy compensation sources; (2) tritium neutron generator target sources; (3) specific abandonment procedures in the event of an immediate threat; (4) changes to requirements for inadvertent intrusion on an abandoned source; (5) the codification of an existing generic exemption; (6) the removal of an obsolete date; and (7) updating 10 CFR Part 39 to be consistent with the Commission's metrification policy. The environmental assessment evaluated the maximum annual public health risk to members of the public as a result of these changes and determined that there is no significant environmental impact as a result of the changes.

The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from Mark Haisfield, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6196.

**Paperwork Reduction Act Statement**

This final rule increases the burden on licensees to justify in writing the immediate threat to public health and safety that resulted in the implementation of abandonment procedures prior to NRC approval. The burden to include the justification in the existing report required in 10 CFR 39.77(d) is estimated to increase from 4 hours to 4.25 hours per impacted report. Because the burden for this information collection requirement is insignificant, Office of Management and Budget (OMB) clearance is not required. Existing requirements were approved by the OMB, approval number 3150-0130.

**Public Protection Notification**

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

**Regulatory Analysis**

The Commission has prepared a final regulatory analysis on this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Mark Haisfield, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6196.

**Regulatory Flexibility Certification**

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact upon a substantial number of small entities. All of the amendments are to 10 CFR Part 39 and are intended to either reduce regulatory burdens from unnecessary requirements or to clarify and update regulations to reduce confusion. Therefore, any economic impact to a small entity using 10 CFR Part 39 should be either neutral or positive.

**Small Business Regulatory Enforcement Fairness Act**

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

**Backfit Analysis**

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule, and therefore, a backfit analysis is not required because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

**List of Subjects in 10 CFR Part 39**

Byproduct material, Criminal penalties, Nuclear material, Oil and gas exploration—well logging, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 39.

**PART 39—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING**

1. The authority citation for Part 39 continues to read as follows:

**Authority:** Secs. 53, 57, 62, 63, 65, 69, 81, 82, 161, 182, 183, 186, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. Section 39.2 is amended by adding definitions, in their proper alphabetic order, of the terms *energy compensation source* and *tritium neutron generator target source* to read as follows:

**§ 39.2 Definitions.**

*Energy compensation source* (ECS) means a small sealed source, with an activity not exceeding 3.7 MBq [100 microcuries], used within a logging tool, or other tool components, to provide a reference standard to maintain the tool's calibration when in use.

\* \* \* \* \*  
*Tritium neutron generator target source* means a tritium source used within a neutron generator tube to produce neutrons for use in well logging applications.  
\* \* \* \* \*

3. Section 39.15 is amended by revising paragraph (a)(5)(ii) and the introductory text of paragraph (a)(5)(iii) to read as follows:

**§ 39.15 Agreement with well owner or operator.**

(a) \* \* \*

(5) \* \* \*

(ii) A means to prevent inadvertent intrusion on the source, unless the source is not accessible to any subsequent drilling operations; and

(iii) A permanent identification plaque, constructed of long lasting material such as stainless steel, brass, bronze, or monel, must be mounted at the surface of the well, unless the mounting of the plaque is not practical. The size of the plaque must be at least 17 cm [7 inches] square and 3 mm [1/8-inch] thick. The plaque must contain—  
\* \* \* \* \*

4. Section 39.35 is amended by revising paragraphs (b), (c), (d)(1), (e)(1), (e)(4) and (e)(5) to read as follows:

**§ 39.35 Leak testing of sealed sources.**

\* \* \* \* \*

(b) *Method of testing.* The wipe of a sealed source must be performed using a leak test kit or method approved by the Commission or an Agreement State. The wipe sample must be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample must be analyzed for radioactive contamination. The analysis must be capable of detecting the presence of 185 Bq [0.005 microcuries] of radioactive material on the test sample and must be performed by a person approved by the Commission or an Agreement State to perform the analysis.

(c) *Test frequency.* (1) Each sealed source (except an energy compensation source (ECS)) must be tested at intervals not to exceed 6 months. In the absence of a certificate from a transferor that a test has been made within the 6 months before the transfer, the sealed source may not be used until tested.

(2) Each ECS that is not exempt from testing in accordance with paragraph (e) of this section must be tested at intervals not to exceed 3 years. In the absence of a certificate from a transferor that a test has been made within the 3 years before the transfer, the ECS may not be used until tested.

(d) *Removal of leaking source from service.* (1) If the test conducted pursuant to paragraphs (a) and (b) of this section reveals the presence of 185 Bq [0.005 microcuries] or more of removable radioactive material, the licensee shall remove the sealed source from service immediately and have it decontaminated, repaired, or disposed of by an NRC or Agreement State licensee that is authorized to perform these functions. The licensee shall check the equipment associated with the leaking source for radioactive contamination and, if contaminated,

have it decontaminated or disposed of by an NRC or Agreement State licensee that is authorized to perform these functions.

\* \* \* \* \*

(e) \* \* \*

(1) Hydrogen-3 (tritium) sources;

\* \* \* \* \*

(4) Sources of beta- or gamma-emitting radioactive material with an activity of 3.7 MBq [100 microcuries] or less; and

(5) Sources of alpha- or neutron-emitting radioactive material with an activity of 0.37 MBq [10 microcuries] or less.

5. Section 39.41 is revised to read as follows:

**§ 39.41 Design and performance criteria for sources.**

(a) A licensee may use a sealed source for use in well logging applications if—

(1) The sealed source is doubly encapsulated;

(2) The sealed source contains licensed material whose chemical and physical forms are as insoluble and nondispersible as practical; and

(3) Meets the requirements of paragraph (b), (c), or (d) of this section.

(b) For a sealed source manufactured on or before July 14, 1989, a licensee may use the sealed source, for use in well logging applications if it meets the requirements of USASI N5.10-1968, "Classification of Sealed Radioactive Sources," or the requirements in paragraph (c) or (d) of this section.

(c) For a sealed source manufactured after July 14, 1989, a licensee may use the sealed source, for use in well logging applications if it meets the oil-well logging requirements of ANSI/HPS N43.6-1997, "Sealed Radioactive Sources—Classification."

(d) For a sealed source manufactured after July 14, 1989, a licensee may use the sealed source, for use in well logging applications, if—

(1) The sealed source's prototype has been tested and found to maintain its integrity after each of the following tests:

(i) *Temperature.* The test source must be held at  $-40^{\circ}\text{C}$  for 20 minutes,  $600^{\circ}\text{C}$  for 1 hour, and then be subject to a thermal shock test with a temperature drop from  $600^{\circ}\text{C}$  to  $20^{\circ}\text{C}$  within 15 seconds.

(ii) *Impact test.* A 5 kg steel hammer, 2.5 cm in diameter, must be dropped from a height of 1 m onto the test source.

(iii) *Vibration test.* The test source must be subject to a vibration from 25 Hz to 500 Hz at 5 g amplitude for 30 minutes.

(iv) *Puncture test.* A 1 gram hammer and pin, 0.3 cm pin diameter, must be

dropped from a height of 1 m onto the test source.

(v) *Pressure test.* The test source must be subject to an external pressure of  $1.695 \times 10^7$  pascals [24,600 pounds per square inch absolute].

(e) The requirements in paragraphs (a), (b), (c), and (d) of this section do not apply to sealed sources that contain licensed material in gaseous form.

(f) The requirements in paragraphs (a), (b), (c), and (d) of this section do not apply to energy compensation sources (ECS). ECSs must be registered with the Commission under § 32.210 of this chapter or with an Agreement State.

6. Section 39.49 is revised to read as follows:

**§ 39.49 Uranium sinker bars.**

The licensee may use a uranium sinker bar in well logging applications only if it is legibly impressed with the words "CAUTION—RADIOACTIVE—DEPLETED URANIUM" and "NOTIFY CIVIL AUTHORITIES (or COMPANY NAME) IF FOUND."

7. Section 39.53 is added to read as follows:

**§ 39.53 Energy compensation source.**

The licensee may use an energy compensation source (ECS) which is contained within a logging tool, or other tool components, only if the ECS contains quantities of licensed material not exceeding 3.7 MBq [100 microcuries].

(a) For well logging applications with a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of §§ 39.35, 39.37 and 39.39.

(b) For well logging applications without a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of §§ 39.15, 39.35, 39.37, 39.39, 39.51, and 39.77.

8. Section 39.55 is added to read as follows:

**§ 39.55 Tritium neutron generator target source.**

(a) Use of a tritium neutron generator target source, containing quantities not exceeding 1,110 MBq [30 curies] and in a well with a surface casing to protect fresh water aquifers, is subject to the requirements of this part except §§ 39.15, 39.41, and 39.77.

(b) Use of a tritium neutron generator target source, containing quantities exceeding 1,110 MBq [30 curies] or in a well without a surface casing to protect fresh water aquifers, is subject to the requirements of this part except § 39.41.

9. Section 39.77 is amended by revising paragraph (c)(1), redesignating

paragraphs (d)(9) and (d)(10) as paragraphs (d)(10) and (d)(11), and adding a new paragraph (d)(9) to read as follows:

**§ 39.77 Notification of incidents and lost sources; abandonment procedures for irretrievable sources.**

\* \* \* \* \*

(c) \* \* \*

(1) Notify the appropriate NRC Regional Office by telephone of the circumstances that resulted in the inability to retrieve the source and—

(i) Obtain NRC approval to implement abandonment procedures; or

(ii) That the licensee implemented abandonment before receiving NRC approval because the licensee believed there was an immediate threat to public health and safety; and

\* \* \* \* \*

(d) \* \* \*

(9) The immediate threat to public health and safety justification for implementing abandonment if prior NRC approval was not obtained in accordance with paragraph (c)(1)(ii) of this section;

\* \* \* \* \*

Dated at Rockville, Maryland, this 3rd day of April, 2000.

For the Nuclear Regulatory Commission.

**William D. Travers,**

*Executive Director for Operations.*

[FR Doc. 00-9468 Filed 4-14-00; 8:45 am]

BILLING CODE 7590-01-P

**FEDERAL HOUSING FINANCE BOARD**

**12 CFR Part 910**

[No. 2000-19]

RIN 3069-AB02

**Amendments to the Freedom of Information Act Regulation**

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Final rule.

**SUMMARY:** The Federal Housing Finance Board (Finance Board) is amending its Freedom of Information Act (FOIA) regulation to reflect an agency reorganization. Responsibility for administering the Finance Board's FOIA program has been transferred from the Executive Secretariat to the Office of General Counsel and the Deputy General Counsel of the Administrative Law Division has replaced the Secretary to the Board of Directors as the Finance Board's FOIA officer.