

**CHAPTER 33-10-12.1**  
**LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING**  
See Adopted Sections

Section  
33-10-12.1-01      Adoption by Reference of Several Sections in 10 Code of Federal  
Regulations Part 39

**33-10-12.1-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 39.** 10 Code of Federal Regulations 39.1, 39.2, 39.11, 39.13, 39.15, 39.17, 39.31, 39.33, 39.35, 39.37, 39.39, 39.41, 39.43, 39.45, 39.47, 39.49, 39.51, 39.53, 39.55, 39.61, 39.63, 39.65, 39.67, 39.69, 39.71, 39.73, 39.75, 39.77, and 39.91 are adopted by reference as they exist on October 1, 2015, with the following exceptions:

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1. All of the requirements in chapter 33-10-12.1 apply to both licensees and registrants. A reference in 10 Code of Federal Regulations part 39 to “license” includes “registration”, a reference to “licensee” includes “registrant”, a reference to “licensed” includes “registered”, a reference to “licensed material” includes “registered source of radiation”, and a reference to “licensed radioactive materials” includes “registered source of radiation”. “Registrant” means any person who is registered with the department and is legally obligated to register with the department pursuant to article 33-10 and North Dakota Century Code chapter 23-20.1. “Registration” means the notification of the North Dakota state department of health of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with North Dakota Century Code chapter 23-20.
2. Where the words “NRC”, “commission”, or “NRC regional office” appear in 10 Code of Federal Regulations part 39, substitute the words “North Dakota state department of health”.
3. Requirements in 10 Code of Federal Regulations part 39 that apply to “byproduct material” also apply to naturally occurring or accelerator-produced radioactive material.
4. North Dakota state form number 8418, “application for radioactive material license”, must be used instead of NRC form 313 as specified in 10 Code of Federal Regulations part 39.
5. For references to 10 Code of Federal Regulations part 170, see chapter 33-10-11 for applicable fee schedules.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 23-20.1-04

**Law Implemented:** NDCC 23-20.1-03, 23-20.1-04

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**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); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

**Source:** 52 FR 8234, Mar. 17, 1987, unless otherwise noted.

## **Subpart A--General Provisions**

### **§ 39.1 Purpose and scope.**

(a) This part prescribes requirements for the issuance of a license authorizing the use of licensed materials including sealed sources, radioactive tracers, radioactive markers, and uranium sinker bars in well logging in a single well. This part also prescribes radiation safety requirements for persons using licensed materials in these operations. The provisions and requirements of this part are in addition to, and not in substitution for, other requirements of this chapter. In particular, the provisions of parts 19, 20, 21, 30, 40, 70, 71, and 150 of this chapter apply to applicants and licensees subject to this part.

(b) The requirements set out in this part do not apply to the issuance of a license authorizing the use of licensed material in tracer studies involving multiple wells, such as field flooding studies, or to the use of sealed sources auxiliary to well logging but not lowered into wells.

## § 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.

*Field station* means a facility where licensed material may be stored or used and from which equipment is dispatched to temporary jobsites.

*Fresh water aquifer*, for the purpose of this part, means a geologic formation that is capable of yielding fresh water to a well or spring.

*Injection tool* means a device used for controlled subsurface injection of radioactive tracer material.

*Irretrievable well logging source* means any sealed source containing licensed material that is pulled off or not connected to the wireline that suspends the source in the well and for which all reasonable effort at recovery has been expended.

*Licensed material* means byproduct, source, or special nuclear material received, processed, used, or transferred under a license issued by the Commission under the regulations in this chapter.

*Logging assistant* means any individual who, under the personal supervision of a logging supervisor, handles sealed sources or tracers that are not in logging tools or shipping containers or who performs surveys required by § 39.67.

*Logging supervisor* means an individual who uses licensed material or provides personal supervision in the use of licensed material at a temporary jobsite and who is responsible to the licensee for assuring compliance with the requirements of the Commission's regulations and the conditions of the license.

*Logging tool* means a device used subsurface to perform well logging.

*Personal supervision* means guidance and instruction by a logging supervisor, who is physically present at a temporary jobsite, who is in personal contact with logging assistants, and who can give immediate assistance.

*Radioactive marker* means licensed material used for depth determination or direction orientation. For purposes of this part, this term includes radioactive collar markers and radioactive iron nails.

*Safety review* means a periodic review provided by the licensee for its employees on radiation safety aspects of well logging. The review may include, as appropriate, the results of internal inspections, new procedures or equipment, accidents or errors that have been observed, and opportunities for employees to ask safety questions.

*Sealed source* means any licensed material that is encased in a capsule designed to prevent leakage or escape of the licensed material.

*Source holder* means a housing or assembly into which a sealed source is placed to facilitate the handling and use of the source in well logging.

*Subsurface tracer study* means the release of unsealed license material or a substance labeled with licensed material in a single well for the purpose of tracing the movement or position of the material or substance in the well or adjacent formation.

*Surface casing for protecting fresh water aquifers* means a pipe or tube used as a lining in a well to isolate fresh water aquifers from the well.

*Temporary jobsite* means a place where licensed materials are present for the purpose of performing well logging or subsurface tracer studies.

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

*Uranium sinker bar* means a weight containing depleted uranium used to pull a logging tool toward the bottom of a well.

*Well* means a drilled hole in which well logging may be performed. As used in this part, "well" includes drilled holes for the purpose of oil, gas, mineral, groundwater, or geological exploration.

*Well logging* means all operations involving the lowering and raising of measuring devices or tools which contain licensed material or are used to detect licensed materials in wells for the purpose of obtaining information about the well or adjacent formations which may be used in oil, gas, mineral, groundwater, or geological exploration.

[52 FR 8234, Mar. 17, 1987, as amended at 65 FR 20344, Apr. 17, 2000]

### **§ 39.5 Interpretations.**

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission, other than a written interpretation by the General Counsel, will be recognized to be binding upon the Commission.

### **§ 39.8 Information collection requirements: OMB approval.**

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150-0130.

(b) The approved information collection requirements contained in this part appear in §§ 39.11, 39.13, 39.15, 39.17, 39.31, 39.33, 39.35, 39.37, 39.39, 39.43, 39.51, 39.61, 39.63, 39.65, 39.67, 39.73, 39.75, 39.77, and 39.91.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In § 39.11, NRC Form 313 is approved under control 3150-0120.

(2) [Reserved]

## **Subpart B--Specific Licensing Requirements**

### **§ 39.11 Application for a specific license.**

A person, as defined in § 30.4 of this chapter, shall file an application for a specific license authorizing the use of licensed material in well logging on Form NRC 313, "Application for Material License." Each application for a license, other than a license exempted from part 170 of this chapter, must be accompanied by the fee prescribed in § 170.31 of this chapter. The application must be sent to the appropriate NRC Regional Office listed in appendix D of part 20 of this chapter.

### **§ 39.13 Specific licenses for well logging.**

The Commission will approve an application for a specific license for the use of licensed material in well logging if the applicant meets the following requirements:

- (a) The applicant shall satisfy the general requirements specified in § 30.33 of this chapter for byproduct material, in § 40.32 of this chapter for source material, and in § 70.~~33~~23 of this chapter for special nuclear material, as appropriate, and any special requirements contained in this part.
- (b) The applicant shall develop a program for training logging supervisors and logging assistants and submit to the Commission a description of this program which specifies the--
  - (1) Initial training;
  - (2) On-the-job training;
  - (3) Annual safety reviews provided by the licensee;
  - (4) Means the applicant will use to demonstrate the logging supervisor's knowledge and understanding of and ability to comply with the Commission's regulations and licensing requirements and the applicant's operating and emergency procedures; and
  - (5) Means the applicant will use to demonstrate the logging assistant's knowledge and understanding of and ability to comply with the applicant's operating and emergency procedures.
- (c) The applicant shall submit to the Commission written operating and emergency procedures as described in § 39.63 or an outline or summary of the procedures that includes the important radiation safety aspects of the procedures.
- (d) The applicant shall establish and submit to the Commission its program for annual inspections of the job performance of each logging supervisor to ensure that the Commission's regulations, license requirements, and the applicant's operating and emergency procedures are followed. Inspection records must be retained for 3 years after each annual internal inspection.
- (e) The applicant shall submit a description of its overall organizational structure as it applies to the radiation safety responsibilities in well logging, including specified delegations of authority and responsibility.

(f) If an applicant wants to perform leak testing of sealed sources, the applicant shall identify the manufacturers and the model numbers of the leak test kits to be used. If the applicant wants to analyze its own wipe samples, the applicant shall establish procedures to be followed and submit a description of these procedures to the Commission. The description must include the--

- (1) Instruments to be used;
- (2) Methods of performing the analysis; and
- (3) Pertinent experience of the person who will analyze the wipe samples.

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

(a) A licensee may perform well logging with a sealed source only after the licensee has a written agreement with the employing well owner or operator. This written agreement must identify who will meet the following requirements:

- (1) If a sealed source becomes lodged in the well, a reasonable effort will be made to recover it.
- (2) A person may not attempt to recover a sealed source in a manner which, in the licensee's opinion, could result in its rupture.
- (3) The radiation monitoring required in § 39.69(a) will be performed.
- (4) If the environment, any equipment, or personnel are contaminated with licensed material, they must be decontaminated before release from the site or release for unrestricted use; and
- (5) If the sealed source is classified as irretrievable after reasonable efforts at recovery have been expended, the following requirements must be implemented within 30 days:
  - (i) Each irretrievable well logging source must be immobilized and sealed in place with a cement plug.
  - (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 [ $\frac{1}{8}$ -inch] thick. The plaque must contain--
    - (A) The word "CAUTION";
    - (B) The radiation symbol (the color requirement in § 20.1901(a) need not be met);
    - (C) The date the source was abandoned;
    - (D) The name of the well owner or well operator, as appropriate;
    - (E) The well name and well identification number(s) or other designation;
    - (F) An identification of the sealed source(s) by radionuclide and quantity;

(G) The depth of the source and depth to the top of the plug; and

(H) An appropriate warning, such as, "DO NOT RE-ENTER THIS WELL."

(b) The licensee shall retain a copy of the written agreement for 3 years after the completion of the well logging operation.

(c) A licensee may apply, pursuant to § 39.91, for Commission approval, on a case-by-case basis, of proposed procedures to abandon an irretrievable well logging source in a manner not otherwise authorized in paragraph (a)(5) of this section.

(d) A written agreement between the licensee and the well owner or operator is not required if the licensee and the well owner or operator are part of the same corporate structure or otherwise similarly affiliated. However, the licensee shall still otherwise meet the requirements in paragraphs (a)(1) through (a)(5).

[52 FR 8234, Mar. 17, 1987, as amended at 56 FR 23472, May 21, 1991; 58 FR 67660, Dec. 22, 1993; 65 FR 20344, Apr. 17, 2000]

### **§ 39.17 Request for written statements.**

Each license is issued with the condition that the licensee will, at any time before expiration of the license, upon the Commission's request, submit written statements, signed under oath or affirmation, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked.

## **Subpart C--Equipment**

### **§ 39.31 Labels, security, and transportation precautions.**

(a) *Labels.* (1) The licensee may not use a source, source holder, or logging tool that contains licensed material unless the smallest component that is transported as a separate piece of equipment with the licensed material inside bears a durable, legible, and clearly visible marking or label. The marking or label must contain the radiation symbol specified in § 20.1901(a), without the conventional color requirements, and the wording "DANGER (or CAUTION) RADIOACTIVE MATERIAL."

(2) The licensee may not use a container to store licensed material unless the container has securely attached to it a durable, legible, and clearly visible label. The label must contain the radiation symbol specified in § 20.1901(a) of this chapter and the wording "CAUTION (or DANGER), RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES (or NAME OF COMPANY)."

(3) The licensee may not transport licensed material unless the material is packaged, labeled, marked, and accompanied with appropriate shipping papers in accordance with regulations set out in 10 CFR part 71.

(b) *Security precautions during storage and transportation.* (1) The licensee shall store each source containing licensed material in a storage container or transportation package. The container or package must be locked and physically secured to prevent tampering or removal of licensed material from storage by unauthorized personnel. The licensee shall store licensed material in a manner which will minimize danger from explosion or fire.

(2) The licensee shall lock and physically secure the transport package containing licensed material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

[52 FR 8234, Mar. 17, 1987, as amended at 56 FR 23472, May 21, 1991; 58 FR 67660, Dec. 22, 1993]

**§ 39.33 Radiation detection instruments.**

(a) The licensee shall keep a calibrated and operable radiation survey instrument capable of detecting beta and gamma radiation at each field station and temporary jobsite to make the radiation surveys required by this part and by part 20 of this chapter. To satisfy this requirement, the radiation survey instrument must be capable of measuring 0.001 mSv (0.1 mrem) per hour through at least 0.5 mSv (50 mrem) per hour.

(b) The licensee shall have available additional calibrated and operable radiation detection instruments sensitive enough to detect the low radiation and contamination levels that could be encountered if a sealed source ruptured. The licensee may own the instruments or may have a procedure to obtain them quickly from a second party.

(c) The licensee shall have each radiation survey instrument required under paragraph (a) of this section calibrated--

(1) At intervals not to exceed 6 months and after instrument servicing;

(2) For linear scale instruments, at two points located approximately 1/3 and 2/3 of full-scale on each scale; for logarithmic scale instruments, at midrange of each decade, and at two points of at least one decade; and for digital instruments, at appropriate points; and

(3) So that an accuracy within plus or minus 20 percent of the calibration standard can be demonstrated on each scale.

(d) The licensee shall retain calibration records for a period of 3 years after the date of calibration for inspection by the Commission.

[52 FR 8234, Mar. 17, 1987, as amended at 63 FR 39483, July 23, 1998]

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

(a) *Testing and recordkeeping requirements.* Each licensee who uses a sealed source shall have the source tested for leakage periodically. The licensee shall keep a record of leak test results in units of microcuries and retain the record for inspection by the Commission for 3 years after the leak test is performed.

(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.

(2) The licensee shall submit a report to the appropriate NRC Regional Office listed in appendix D of part 20 of this chapter, within 5 days of receiving the test results. The report must describe the equipment involved in the leak, the test results, any contamination which resulted from the leaking source, and the corrective actions taken up to the time the report is made.

(e) *Exemptions from testing requirements.* The following sealed sources are exempt from the periodic leak test requirements set out in paragraphs (a) through (d) of this section:

(1) Hydrogen-3 (tritium) sources;

(2) Sources containing licensed material with a half-life of 30 days or less;

(3) Sealed sources containing licensed material in gaseous form;

(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.

[52 FR 8234, Mar. 17, 1987, as amended at 65 FR 20344, Apr. 17, 2000]

### **§ 39.37 Physical inventory.**

Each licensee shall conduct a semi-annual physical inventory to account for all licensed material received and possessed under the license. The licensee shall retain records of the inventory for 3 years from the date of the inventory for inspection by the Commission. The inventory must indicate the quantity and kind of licensed material, the location of the licensed material, the date of the inventory, and the name of the individual conducting the inventory. Physical inventory records may be combined with leak test records.

### **§ 39.39 Records of material use.**

(a) Each licensee shall maintain records for each use of licensed material showing--

(1) The make, model number, and a serial number or a description of each sealed source used;

(2) In the case of unsealed licensed material used for subsurface tracer studies, the radionuclide and quantity of activity used in a particular well and the disposition of any unused tracer materials;

(3) The identity of the logging supervisor who is responsible for the licensed material and the identity of logging assistants present; and

(4) The location and date of use of the licensed material.

(b) The licensee shall make the records required by paragraph (a) of this section available for inspection by the Commission. The licensee shall retain the records for 3 years from the date of the recorded event.

**§ 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° C for 20 minutes, 600° C for 1 hour, and then be subject to a thermal shock test with a temperature drop from 600° C to 20° 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 paragraph (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.

### **§ 39.43 Inspection, maintenance, and opening of a source or source holder.**

(a) Each licensee shall visually check source holders, logging tools, and source handling tools, for defects before each use to ensure that the equipment is in good working condition and that required labeling is present. If defects are found, the equipment must be removed from service until repaired, and a record must be made listing: the date of check, name of inspector, equipment involved, defects found, and repairs made. These records must be retained for 3 years after the defect is found.

(b) Each licensee shall have a program for semiannual visual inspection and routine maintenance of source holders, logging tools, injection tools, source handling tools, storage containers, transport containers, and uranium sinker bars to ensure that the required labeling is legible and that no physical damage is visible. If defects are found, the equipment must be removed from service until repaired, and a record must be made listing: date, equipment involved, inspection and maintenance operations performed, any defects found, and any actions taken to correct the defects. These records must be retained for 3 years after the defect is found.

(c) Removal of a sealed source from a source holder or logging tool, and maintenance on sealed sources or holders in which sealed sources are contained may not be performed by the licensee unless a written procedure developed pursuant to § 39.63 has been approved either by the Commission pursuant to § 39.13(c) or by an Agreement State.

(d) If a sealed source is stuck in the source holder, the licensee may not perform any operation, such as drilling, cutting, or chiseling, on the source holder unless the licensee is specifically approved by the Commission or an Agreement State to perform this operation.

(e) The opening, repair, or modification of any sealed source must be performed by persons specifically approved to do so by the Commission or an Agreement State.

### **§ 39.45 Subsurface tracer studies.**

(a) The licensee shall require all personnel handling radioactive tracer material to use protective gloves and, if required by the license, other protective clothing and equipment. The licensee shall take precautions to avoid ingestion or inhalation of radioactive tracer material and to avoid contamination of field stations and temporary jobsites.

(b) A licensee may not knowingly inject licensed material into fresh water aquifers unless specifically authorized to do so by the Commission.

### **§ 39.47 Radioactive markers.**

The licensee may use radioactive markers in wells only if the individual markers contain quantities of licensed material not exceeding the quantities specified in § 30.71 of this chapter. The use of markers is subject only to the requirements of § 39.37.

### **§ 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."

**§ 39.51 Use of a sealed source in a well without a surface casing.**

The licensee may use a sealed source in a well without a surface casing for protecting fresh water aquifers only if the licensee follows a procedure for reducing the probability of the source becoming lodged in the well. The procedure must be approved by the Commission pursuant to § 39.13(c) or by an Agreement State.

**§ 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.

[65 FR 20345, Apr. 17, 2000]

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

(a) Use of a tritium neutron generator target source, containing quantities not exceeding 1,110 GBq [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 GBq [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.

[65 FR 20345, Apr. 17, 2000; 68 FR 75390, Dec. 31, 2003]

**Subpart D--Radiation Safety Requirements**

**§ 39.61 Training.**

(a) The licensee may not permit an individual to act as a logging supervisor until that person--

(1) Has completed training in the subjects outlined in paragraph (e) of this section;

(2) Has received copies of, and instruction in--

(i) The NRC regulations contained in the applicable sections of parts 19, 20, and 39 of this chapter;

(ii) The NRC license under which the logging supervisor will perform well logging; and

(iii) The licensee's operating and emergency procedures required by § 39.63;

(3) Has completed on-the-job training and demonstrated competence in the use of licensed materials, remote handling tools, and radiation survey instruments by a field evaluation; and

- (4) Has demonstrated understanding of the requirements in paragraphs (a) (1) and (2) of this section by successfully completing a written test.
- (b) The licensee may not permit an individual to act as a logging assistant until that person--
- (1) Has received instruction in applicable sections of parts 19 and 20 of this chapter;
  - (2) Has received copies of, and instruction in, the licensee's operating and emergency procedures required by § 39.63;
  - (3) Has demonstrated understanding of the materials listed in paragraphs (b) (1) and (2) of this section by successfully completing a written or oral test; and
  - (4) Has received instruction in the use of licensed materials, remote handling tools, and radiation survey instruments, as appropriate for the logging assistant's intended job responsibilities.
- (c) The licensee shall provide safety reviews for logging supervisors and logging assistants at least once during each calendar year.
- (d) The licensee shall maintain a record on each logging supervisor's and logging assistant's training and annual safety review. The training records must include copies of written tests and dates of oral tests given after July 14, 1987. The training records must be retained until 3 years following the termination of employment. Records of annual safety reviews must list the topics discussed and be retained for 3 years.
- (e) The licensee shall include the following subjects in the training required in paragraph (a)(1) of this section:
- (1) Fundamentals of radiation safety including--
    - (i) Characteristics of radiation;
    - (ii) Units of radiation dose and quantity of radioactivity;
    - (iii) Hazards of exposure to radiation;
    - (iv) Levels of radiation from licensed material;
    - (v) Methods of controlling radiation dose (time, distance, and shielding); and
    - (vi) Radiation safety practices, including prevention of contamination, and methods of decontamination.
  - (2) Radiation detection instruments including--
    - (i) Use, operation, calibration, and limitations of radiation survey instruments;
    - (ii) Survey techniques; and
    - (iii) Use of personnel monitoring equipment;
  - (3) Equipment to be used including--

- (i) Operation of equipment, including source handling equipment and remote handling tools;
  - (ii) Storage, control, and disposal of licensed material; and
  - (iii) Maintenance of equipment.
- (4) The requirements of pertinent Federal regulations. And
- (5) Case histories of accidents in well logging.

**§ 39.63 Operating and emergency procedures.**

Each licensee shall develop and follow written operating and emergency procedures that cover--

- (a) The handling and use of licensed materials including the use of sealed sources in wells without surface casing for protecting fresh water aquifers, if appropriate;
- (b) The use of remote handling tools for handling sealed sources and radioactive tracer material except low-activity calibration sources;
- (c) Methods and occasions for conducting radiation surveys, including surveys for detecting contamination, as required by § 39.67(c) - (e);
- (d) Minimizing personnel exposure including exposures from inhalation and ingestion of licensed tracer materials;
- (e) Methods and occasions for locking and securing stored licensed materials;
- (f) Personnel monitoring and the use of personnel monitoring equipment;
- (g) Transportation of licensed materials to field stations or temporary jobsites, packaging of licensed materials for transport in vehicles, placarding of vehicles when needed, and physically securing licensed materials in transport vehicles during transportation to prevent accidental loss, tampering, or unauthorized removal;
- (h) Picking up, receiving, and opening packages containing licensed materials, in accordance with § 20.1906 of this chapter;
- (i) For the use of tracers, decontamination of the environment, equipment, and personnel;
- (j) Maintenance of records generated by logging personnel at temporary jobsites;
- (k) The inspection and maintenance of sealed sources, source holders, logging tools, injection tools, source handling tools, storage containers, transport containers, and uranium sinker bars as required by § 39.43;
- (l) Identifying and reporting to NRC defects and noncompliance as required by Part 21 of this chapter;
- (m) Actions to be taken if a sealed source is lodged in a well;
- (n) Notifying proper persons in the event of an accident; and

(o) Actions to be taken if a sealed source is ruptured including actions to prevent the spread of contamination and minimize inhalation and ingestion of licensed materials and actions to obtain suitable radiation survey instruments as required by § 39.33(b).

[52 FR 8234, Mar. 17, 1987, as amended at 67 FR 77652, Dec. 19, 2002]

### **§ 39.65 Personnel monitoring.**

(a) The licensee may not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during the handling of licensed radioactive materials, a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. Each personnel dosimeter must be assigned to and worn by only one individual. Film badges must be replaced at least monthly and other personnel dosimeters replaced at least quarterly. After replacement, each personnel dosimeter must be promptly processed.

(b) The licensee shall provide bioassay services to individuals using licensed materials in subsurface tracer studies if required by the license.

(c) The licensee shall retain records of personnel dosimeters required by paragraph (a) of this section and bioassay results for inspection until the Commission authorizes disposition of the records.

[52 FR 8234, Mar. 17, 1987, as amended at 65 FR 63752, Oct. 24, 2000]

### **§ 39.67 Radiation surveys.**

(a) The licensee shall make radiation surveys, including but not limited to the surveys required under paragraphs (b) through (e) of this section, of each area where licensed materials are used and stored.

(b) Before transporting licensed materials, the licensee shall make a radiation survey of the position occupied by each individual in the vehicle and of the exterior of each vehicle used to transport the licensed materials.

(c) If the sealed source assembly is removed from the logging tool before departure from the temporary jobsite, the licensee shall confirm that the logging tool is free of contamination by energizing the logging tool detector or by using a survey meter.

(d) If the licensee has reason to believe that, as a result of any operation involving a sealed source, the encapsulation of the sealed source could be damaged by the operation, the licensee shall conduct a radiation survey, including a contamination survey, during and after the operation.

(e) The licensee shall make a radiation survey at the temporary jobsite before and after each subsurface tracer study to confirm the absence of contamination.

(f) The results of surveys required under paragraphs (a) through (e) of this section must be recorded and must include the date of the survey, the name of the individual making the survey, the identification of the survey, instrument used, and the location of the survey. The licensee shall retain records of surveys for inspection by the Commission for 3 years after they are made.

### **§ 39.69 Radioactive contamination control.**

- (a) If the licensee detects evidence that a sealed source has ruptured or licensed materials have caused contamination, the licensee shall initiate immediately the emergency procedures required by § 39.63.
- (b) If contamination results from the use of licensed material in well logging, the licensee shall decontaminate all work areas, equipment, and unrestricted areas.
- (c) During efforts to recover a sealed source lodged in the well, the licensee shall continuously monitor, with an appropriate radiation detection instrument or a logging tool with a radiation detector, the circulating fluids from the well, if any, to check for contamination resulting from damage to the sealed source.

### **Subpart E--Security, Records, Notifications**

#### **§ 39.71 Security.**

- (a) A logging supervisor must be physically present at a temporary jobsite whenever licensed materials are being handled or are not stored and locked in a vehicle or storage place. The logging supervisor may leave the jobsite in order to obtain assistance if a source becomes lodged in a well.
- (b) During well logging, except when radiation sources are below ground or in shipping or storage containers, the logging supervisor or other individual designated by the logging supervisor shall maintain direct surveillance of the operation to prevent unauthorized entry into a restricted area, as defined in § 20.1003 of this chapter.

[52 FR 8234, Mar. 17, 1987, as amended at 63 FR 39483, July 23, 1998]

#### **§ 39.73 Documents and records required at field stations.**

Each licensee shall maintain the following documents and records at the field station:

- (a) A copy of parts 19, 20, and 39 of NRC regulations;
- (b) The license authorizing the use of licensed material;
- (c) Operating and emergency procedures required by § 39.63;
- (d) The record of radiation survey instrument calibrations required by § 39.33;
- (e) The record of leak test results required by § 39.35;
- (f) Physical inventory records required by § 39.37;
- (g) Utilization records required by § 39.39;
- (h) Records of inspection and maintenance required by § 39.43;
- (i) Training records required by § 39.61(d); and
- (j) Survey records required by § 39.67.

#### **§ 39.75 Documents and records required at temporary jobsites.**

Each licensee conducting operations at a temporary jobsite shall maintain the following documents and records at the temporary jobsite until the well logging operation is completed:

- (a) Operating and emergency procedures required by § 39.63.
- (b) Evidence of latest calibration of the radiation survey instruments in use at the site required by § 39.33.
- (c) Latest survey records required by §§ 39.67 (b), (c), and (e).
- (d) The shipping papers for the transportation of radioactive materials required by § 71.5 of this chapter; and
- (e) When operating under reciprocity pursuant to § 150.20 of this chapter, a copy of the Agreement State license authorizing use of licensed materials.

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

- (a) The licensee shall immediately notify the appropriate NRC Regional Office by telephone and subsequently, within 30 days, by confirmation in writing, using an appropriate method listed in § 30.6(a) of this chapter, if the licensee knows or has reason to believe that a sealed source has been ruptured. The written confirmation must designate the well or other location, describe the magnitude and extent of the escape of licensed materials, assess the consequences of the rupture, and explain efforts planned or being taken to mitigate these consequences.
- (b) The licensee shall notify the Commission of the theft or loss of radioactive materials, radiation overexposures, excessive levels and concentrations of radiation, and certain other accidents as required by §§ 20.2201 - 20.2202, § 20.2203 and § 30.50 of this chapter.
- (c) If a sealed source becomes lodged in a well, and when it becomes apparent that efforts to recover the sealed source will not be successful, the licensee shall--
  - (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
  - (2) Advise the well owner or operator, as appropriate, of the abandonment procedures under § 39.15 (a) or (c); and
  - (3) Either ensure that abandonment procedures are implemented within 30 days after the sealed source has been classified as irretrievable or request an extension of time if unable to complete the abandonment procedures.
  - (d) The licensee shall, within 30 days after a sealed source has been classified as irretrievable, make a report in writing to the appropriate NRC Regional Office. The licensee shall send a copy of the report to each appropriate State or Federal agency that issued permits or otherwise approved of the drilling operation. The report must contain the following information:

- (1) Date of occurrence;
- (2) A description of the irretrievable well logging source involved including the radionuclide and its quantity, chemical, and physical form;
- (3) Surface location and identification of the well;
- (4) Results of efforts to immobilize and seal the source in place;
- (5) A brief description of the attempted recovery effort;
- (6) Depth of the source;
- (7) Depth of the top of the cement plug;
- (8) Depth of the well;
- (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;
- (10) Any other information, such as a warning statement, contained on the permanent identification plaque; and
- (11) State and Federal agencies receiving copy of this report.

[52 FR 8234, Mar. 17, 1987, as amended at 56 FR 64980, Dec. 13, 1991; 58 FR 67660, Dec. 22, 1993; 65 FR 20345, Apr. 17, 2000; 68 FR 58806, Oct. 10, 2003]

## **Subpart F--Exemptions**

### **§ 39.91 Applications for exemptions.**

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

## **Subpart G--Enforcement**

### **§ 39.101 Violations.**

- (a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of--
- (1) The Atomic Energy Act of 1954, as amended;
  - (2) Title II of the Energy Reorganization Act of 1974, as amended; or
  - (3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of--

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

[57 FR 55074, Nov. 24, 1992]

**§ 39.103 Criminal penalties.**

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 39 are issued under one or more of sections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 39 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 39.1, 39.2, 39.5, 39.8, 39.13, 39.91, 39.101, and 39.103.

[57 FR 55074, Nov. 24, 1992]