



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I**
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PENNSYLVANIA 19406-2713

August 3, 2012

EA-12-150

Docket No. 99990001

Mr. Brad Oneglia
Assistant Vice President
O&G Industries, Inc.
112 Wall St.
Torrington, CT 06790

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION: O&G INDUSTRIES, INC.

Dear Mr. Oneglia:

We are sending you this letter to document our discussions regarding your possession of a portable nuclear density gauge containing byproduct material (radium-226), and to provide our conclusions regarding O&G Industries, Inc.'s compliance with NRC regulations for this device. No further action or response is necessary on your part.

During a telephone conversation on March 13, 2012, between you and Scott Wilson of my staff, we learned that O&G Industries, Inc. (O&G) owned a portable nuclear density gauge (gauge) containing a radium-226 sealed source. We informed you that this material is considered byproduct material, and requires an NRC license to possess. We discussed the change to NRC regulations that occurred with the enactment of the Energy Policy Act of 2005 (Act), and the NRC regulations resulting from the Act, which became effective on August 7, 2009. Specifically, we indicated that, effective August 7, 2009, O&G was required to have an NRC license for the gauge.

We also informed you that O&G needed to apply for an NRC license, transfer the gauge to an authorized NRC licensee, or legally dispose of the gauge. You stated that you were previously unaware of the new regulation and that O&G would: 1) immediately secure the gauge in compliance with 10 CFR 30.34(i); 2) maintain the gauge in storage until authorized by NRC license or transferred to an NRC licensee; 3) transfer possession of the gauge to an authorized individual; and 4) ensure compliance with the public dose limits in 10 CFR 20.1301, "Dose Limits for Individual Members of the Public." We noted that O&G transferred ownership of the gauge to an NRC licensee on March 16, 2012.

Based on the above information, the NRC has determined that a violation of NRC requirements occurred. The violation involved the possession and use of byproduct material without a specific NRC license issued in accordance with the regulations in 10 CFR Part 30. Specifically, from August 7, 2009, to March 16, 2012, O&G Industries, Inc. possessed one Seaman Nuclear Corporation Model C-200 portable nuclear gauge containing byproduct material (radium-226 sealed source; 4.5 millicuries) without obtaining a specific NRC license.

This violation would normally be categorized at Severity Level IV; however, in accordance with NRC Enforcement Guidance Memorandum (EGM) 09-004, dated May 13, 2009, the NRC will exercise discretion and not issue a violation. The NRC's decision is based on the criteria listed in EGM 09-004. Specifically: 1) this was the first occurrence O&G was involved in after August 7, 2009, the effective date of the requirement; 2) the failure did not result in an actual safety, health, or security consequence; 3) the failure was not willful; 4) O&G management was unaware of the requirement; and 5) O&G transferred possession and ownership of the gauge to an NRC licensee on March 16, 2012.

On July 11, 2012, Scott Wilson of my staff informed you of this conclusion by telephone.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC document system (ADAMS), accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Current NRC regulations and guidance are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC, Organization & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

Please note that the office of the Region I Division of Nuclear Materials Safety has moved effective May 9, 2012. Our new address is:

U. S. Nuclear Regulatory Commission
Region I
2100 Renaissance Blvd, Suite 100
King of Prussia, PA 19406-2713

Please contact Scott Wilson at 610-337-5136 if you have any questions regarding this matter.

Sincerely,

/RA/

Raymond K. Lorson, Director
Division of Nuclear Materials Safety

cc:
State of Connecticut

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cc:
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