



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BLVD
ARLINGTON, TEXAS 76011-4511

August 9, 2012

EA-12-099

Joe Gallucci CIH, CSP
Radiation Safety Officer
BP Exploration and Production Inc.
200 West Lake Park Blvd. #405B
Houston, Texas 77079

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION

Dear Mr. Gallucci:

This letter refers to your letter dated July 17, 2012 (ML12202A756), which you sent in response to our correspondence dated June 28, 2012, which the NRC sent regarding the circumstances surrounding the transfer of specifically licensed fixed gauging devices from Roxar, Inc., to BP Exploration and Production Inc. (BP), between 2002 and 2003. At the time of the transfers, an NRC license was required for possession and use of the devices. However, at present, the fixed gauging devices possessed by BP can be possessed, with the appropriate labeling and documentation, as generally licensed devices. It is our understanding that Roxar, Inc., has provided you with instructions for meeting the NRC general license requirements, you have completed or committed to complete the actions required to comply with the NRC general license requirements, and you have committed to installing the required labels the first time the devices are returned to the surface. Labels are not required if the devices are being decommissioned when returned to the surface.

Based on the above information, the NRC has determined that a violation of NRC requirements occurred. The violation involved possession and use of byproduct material without a specific NRC license in accordance with 10 CFR 30.3, Activities requiring license. Specifically, from 2002 to January 12, 2012, PB possessed fixed gauging devices containing byproduct material (a sealed source containing 30 millicuries of cesium-137) and did not hold a specific NRC license for the devices. Although the devices now meet NRC general license requirements, for the period of the violation they were not considered generally licensed devices, and a specific NRC license was required.

The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. A violation of 10 CFR 30.3 is normally categorized at Severity Level IV. However: (1) the failure to obtain an NRC license did not result in an actual safety, health, or security consequence, (2) the failure was not willful, (3) at the time of installation, Roxar, Inc., presented the position that it would handle all regulatory requirements associated with possession and use of the gauges even though this was counter to NRC regulations, (4) the devices have been registered in the NRC's General Licensee Tracking System, (5) you have committed to adhere to all requirements of your general license, and

(6) you have committed to install the appropriate general license labels on the devices the first time that the devices are returned to the surface. Therefore, in accordance with the NRC Enforcement Policy, the NRC is exercising enforcement discretion to not issue a violation.

No further action or response is necessary on your part. You are not required to respond to this letter unless the description herein does not accurately reflect your corrective actions or your position.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response, should you choose to provide one, will be available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Should you have any questions concerning this letter, please contact Mr. Jason Razo at 817-200-1589 or Mr. Michael Vasquez at 817-200-1130.

Sincerely,

/RA/ by VHCampbell for

Anton Vegel, Director
Division of Nuclear Materials Safety

Docket: 9999-0004
General Licensee

cc:
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<input checked="" type="checkbox"/> Publicly Available		<input type="checkbox"/> Non-publicly Available		<input type="checkbox"/> Sensitive	<input checked="" type="checkbox"/> Non-sensitive
RIV:DNMS/NMSB-A	C:NMSB-A	C:ACES	D:DNMS		
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