



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

October 30, 2012

EA-12-103

ENI US Operating Co., Inc.  
Giancarlo Mangiafico, Coordinator  
ENI Production Operations Projects  
1200 Smith Street, Suite 1700  
Houston, Texas 77002

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION

Dear Mr. Mangiafico:

This letter refers to your letter dated October 23, 2012 (ML12303A011), which you sent in response to our correspondence dated August 8, 2012, which the NRC sent regarding the circumstances surrounding the transfer of fixed gauging devices from Roxar, Inc. to ENI Petroleum in 2006. At the time of the transfers, an NRC license was required for possession and use of the device. However, at present, the fixed gauging devices possessed by ENI US Operating Co., Inc. can be possessed, with the appropriate labeling and documentation, as a generally licensed device. It is our understanding that Roxar Flow Measurement, 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 device is returned to the surface. Labels are not required if the device is 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 2006 to January 12, 2012, ENI US Operating Co., Inc. 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 device now meets NRC general license requirements, for the period of the violation it was not considered a generally licensed device, 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 gauge even though this was counter to the NRC regulations; (4) the device will be 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 label on the device the first time that the device is 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/*

Anton Vegel, Director  
Division of Nuclear Materials Safety

Docket: 9999-0004  
General Licensee

cc:  
Richard A. Ratliff, P.E., L.M.P., Chief  
Radiation Safety Licensing Branch Manager  
Division for Regulatory Services  
TX Dept. of State Health Services  
P.O. Box 149347 Mail Code 2835  
Austin, TX 78714-9347

Roxar Flow Measurement, Inc.  
ATTN: Ms. Marie Benson  
6005 Rogerdale Road  
Mail Stop: SC200.2  
Houston, Texas 77072

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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
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