



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

March 14, 2022

EA-21-103

Mr. Zujia (Justin) Xu, General Manager
Cultilux
325 Funston Street
New Orleans, LA 70123

SUBJECT: NOTICE OF VIOLATION, NRC INSPECTION REPORT 030-39087/2021-001

Dear Mr. Xu:

This letter refers to our inspection conducted remotely from January 11 to July 27, 2021. The purpose of the inspection was to examine activities conducted under your byproduct material distribution license as they relate to public health and safety, and to confirm compliance with the U.S. Nuclear Regulatory Commission (NRC) rules and regulations and with the conditions of your license. A final exit briefing was conducted telephonically with you on November 29, 2021. Details of the inspection and three apparent violations were provided to you in the subject inspection report, dated December 22, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21351A408).

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations by either attending a predecisional enforcement conference or providing a written response before we made our final enforcement decision. In a letter dated January 9, 2022 (ADAMS Accession No. ML22018A191), you provided a written response to the apparent violations. In an email dated March 2, 2022 (ADAMS Accession No. ML22062A617), you committed to revise and re-submit your byproduct material transfer reports.

Based on the information developed during the inspection and the information you provided in your written response to the inspection report, the NRC has determined that three violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding them are described in detail in the subject inspection report. The violations involved the failure to: (A) possess an NRC license prior to distributing byproduct material; (B) restrict the distribution of ceramic metal halide bulbs to models authorized on your license; and (C) submit annual transfer reports required by Title 10 of the *Code of Federal Regulations* (10 CFR) 32.16(c)(1).

The NRC considers the violations above to be significant violations because of the programmatic failures associated with your distribution program. Therefore, these violations have been categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level III problem. The Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$8,000 is considered for a Severity Level III problem. Because your facility has not been the subject of an escalated enforcement action within the last two routine inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. The NRC has determined that *Corrective Action* credit is warranted based on the prompt and comprehensive corrective actions you implemented. Your corrective actions to address the violations are documented in your letter and email dated January 9 and March 2, 2022, respectively, and in NRC Inspection Report 030-39087/2021-001.

Therefore, to encourage prompt and comprehensive correction of violations and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III problem constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance will be achieved is already adequately addressed on the docket in NRC Inspection Report 030-39087/2021-001 and in your letter and e-mail dated January 9 and March 2, 2022, respectively. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter, the enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's 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 or proprietary information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

If you have any questions concerning this matter, please contact Dr. Lizette Roldán-Otero of my staff, at 817-200-1455.

Sincerely,



Signed by Morris, Scott
on 03/14/22

Scott A. Morris
Regional Administrator

Docket No. 030-39087
License No. 17-35464-01E

Enclosure:
Notice of Violation

cc w/ enclosure:

Jeff J. Dauzat, Administrator
Emergency and Radiological Services Division
Louisiana Department of Environmental Quality
602 North Street
Baton Rouge, LA 70802

Richard Scott Blackwell, Environmental Scientist Supervisor
LA Department of Environmental Quality
Emergency & Radiological Services Division
P.O. Box 4312
Baton Rouge, LA. 70821-4312

SUBJECT: NOTICE OF VIOLATION, NRC INSPECTION REPORT 030-39087/2021-001
 DATED MARCH 14, 2022

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 ADAMS: ML22068A236

SUNSI Review By: ACR		ADAMS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Publicly Available <input type="checkbox"/> Non-Publicly Available		<input checked="" type="checkbox"/> Non-Sensitive <input type="checkbox"/> Sensitive	Keyword: EA-21-103
OFFICE	ES:ACES	C:MIB	TL:ACES	RC	NMSS	OE
NAME	ARoberts	LRoldan-Otero	JGroom	DCylkowski	MBurgess	CRiveraDiaz
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NOTICE OF VIOLATION

Cultilux
New Orleans, Louisiana

Docket No. 030-39087
License No. 17-35464-01E
EA-21-103

During an NRC inspection conducted from January 11 and July 27, 2021, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 30.3(a) requires, in part, that no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license in accordance with the regulations in Chapter I.

Contrary to the above, on September 24, 2018, the licensee transferred products containing byproduct material without authorization by a specific or general license in accordance with the regulations in Chapter I. Specifically, the licensee distributed two electron tubes containing krypton-85 but did not receive a specific license authorizing initial sale or distribution until November 13, 2018.

- B. 10 CFR 30.34(c) requires, in part, that each person licensed by the Commission pursuant to the regulations in 10 CFR Parts 30 through 36 shall confine the possession and use of the byproduct material to the locations and purposes authorized in the license.

License Conditions 6.A – 9.A of NRC Materials License 17-35464-01E, dated November 13, 2018, authorized the licensee to distribute ceramic metal halide bulbs containing krypton-85 in device models Spectra X 1000W, 600W, and 315W.

Contrary to the above, from October 31, 2019, to March 12, 2020, the licensee failed to limit its distribution of ceramic metal halide bulbs containing krypton-85 to device models Spectra X 1000W, 600W, 315W. Specifically, the licensee distributed at least 64 ceramic metal halide bulbs containing krypton-85 that are device models Spectra X 500W.

- C. 10 CFR 32.16(a) requires, in part, that each person licensed under 10 CFR 32.14 shall maintain records of all transfers of byproduct material and file a report with the Director of the Office of Nuclear Material Safety and Safeguards.

10 CFR 32.16(c)(1) requires, in part, the licensee shall file the report, covering the preceding calendar year, on or before January 31 of each year.

Contrary to the above, from February 1, 2019, to February 1, 2021, the licensee failed to file a report of all transfers of byproduct material with the Director of the Office of Nuclear Material Safety and Safeguards covering the preceding calendar year. Specifically, the licensee, had not filed any reports of transfers of byproduct material that occurred in calendar years 2018, 2019, and 2020.

This is a Severity Level III problem (NRC Enforcement Policy Section 6.3.c.11).

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance will be achieved is already adequately addressed on the docket in NRC Inspection

Enclosure

Report 030-39087/2021-001 and in your letter and e-mail dated January 9 and March 2, 2022, respectively.

However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-21-103," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, and email it to R4Enforcement@nrc.gov.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction.

If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

Dated this 14th day of March 2022