



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

March 6, 2013

EA-12-258

Flemming Jensen
General Manager
Havells USA Inc.
125B Villanova Drive
Atlanta, GA 30336

**SUBJECT: HAVELLS USA INC. - NOTICE OF VIOLATION - NRC Inspection Report Nos.
03037842/2012001 and 03037866/2012001**

Dear Mr. Jensen:

This letter provides you with the U.S. Nuclear Regulatory Commission (NRC) enforcement decision for the apparent violations identified during an NRC inspection conducted on November 5, 2012, at the Havells USA Inc. (Havells, formerly known as SLi Lighting Products, Inc.) facility in Atlanta, Georgia. The inspection included a review of Havells's licensed activities as they relate to radiation safety and to compliance with NRC regulations. In addition to the onsite review, the inspection also involved an in-office review of additional information provided by Havells in a telephone conversation on December 7, 2012, regarding Havells's corrective actions for violations identified during the NRC inspection. The NRC discussed the findings of its inspection during a telephonic exit with you on December 7, 2012. The findings were also described in the NRC inspection report sent to you with a letter dated January 3, 2013 (ML13004A202)¹.

In the letter dated January 3, 2013, the NRC indicated that four apparent violations were identified during the NRC inspection, and that one of these apparent violations was being considered for escalated enforcement. The most significant violation involved the failure by Havells to limit the distribution of products containing byproduct material from only those locations authorized on its NRC license. Specifically, Havells was authorized by its NRC exempt distribution license to distribute products (lamps) containing exempt quantities of byproduct material (krypton-85) from its facilities located in Blackwood, New Jersey and Indianapolis, Indiana. However, the NRC identified that on an unspecified number of occasions since receiving its NRC license on March 11, 2009, Havells also distributed such products from its locations in Mullins, South Carolina and Atlanta, Georgia. The violation evidently occurred because, shortly after receiving its NRC exempt distribution license, the responsible manager for Havells's exempt distribution activities left the company and you, as the new manager, did not apparently have a sufficient knowledge or understanding of the NRC license conditions.

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Unless otherwise specified, all documents referenced in this letter are publicly-available in ADAMS using the stated accession number.

In the January 3, 2013, NRC letter, the NRC also informed you that it required additional information to make an enforcement decision for this and the other apparent violations. Specifically, for the violation being considered for escalated enforcement, we requested confirmation that Havells had ceased distribution from unauthorized locations as of November 5, 2012. Additionally, for this and for each of the three violations not being considered for escalated enforcement, we requested information about why the violations occurred, what corrective actions Havells had taken and planned to take, and the date on which Havells will achieve full compliance. Accordingly, we requested that Havells either attend a pre-decisional enforcement conference or provide, in writing, this requested information.

In a letter dated January 29, 2013 (ML13038A467), you confirmed that Havells had, in fact, ceased distribution from unauthorized locations as of November 5, 2012. In this letter, you also described the corrective actions for one of the other apparent violations (involving a failure to label products with the byproduct material contained therein), but failed to address why any of the violations occurred or the date on which full compliance was (or will be) achieved. Therefore, based on the information developed during the inspection, and the additional information provided in the letter from Havells dated January 29, 2013, the NRC has determined that four violations of NRC requirements occurred. The 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 demonstrate the importance of implementing proper control of licensed activities, such that even if you experience personnel changes, activities are performed in accordance with regulation, including the requirement to only distribute from authorized locations.

For the first violation, described above, the NRC concluded that the actual safety significance was low because of the very small quantity of byproduct material contained within each lamp. However, the distribution of products containing byproduct material from locations not authorized by Havells's NRC license precluded the NRC from reviewing the acceptability of these locations for such activity and from having the opportunity to inspect the activities at these locations to verify compliance or determine non-compliance with NRC regulations. Consequently, the violation has been categorized at Severity Level (SL) III in accordance with the Enforcement Policy.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 is considered for a SL III violation. Because Havells has not been the subject of NRC escalated enforcement action within either the last two years or the previous two 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 Enforcement Policy. The NRC has concluded that credit is warranted for Havells's corrective actions taken to address the violation. Specifically, Havells ceased distribution of byproduct material from unauthorized locations immediately upon being informed of the violation. Additionally, Havells is applying for a possession license from the State of Georgia (note that Havells is not currently considering distributing from its South Carolina location), which is required in order to request an amendment of its NRC license to authorize distribution from the Georgia location.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous NRC 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, any similar violations in the future could result in a civil penalty. In addition, issuance of this SL III violation constitutes an escalated enforcement action that may subject you to increased inspection effort in the future.

The other three violations, also documented in the attached Notice, have been categorized at SL IV in accordance with the NRC Enforcement Policy. These violations are being cited because they were identified by the NRC. The circumstances surrounding these violations are documented in detail in the aforementioned inspection report.

Because your January 29, 2013, letter did not fully address the corrective actions for each of these additional apparent violations, and so that the NRC may obtain Havells's understanding of why all of the apparent violations occurred, you are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. Please note that your response should address the reasons for all four cited violations and the corrective actions (immediate and long-term) for the three violations categorized at SL IV. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

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. If personal privacy or proprietary information is necessary to provide an acceptable response, 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 withholding of such information, you must specifically identify portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (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).

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure as well as your response will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agency-wide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

F. Jensen

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The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

William M. Dean
Regional Administrator

Docket Nos. 03037842 & 03037866
License Nos. 39-31336-01 & 39-31336-02E

Enclosure: Notice of Violation

cc: w/enclosure
Kevin Doughty, Vice President
Ingrid Lehrengel, Radiation Safety Officer
State of Georgia

F. Jensen

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Sincerely,

/RA/

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Regional Administrator

Docket Nos. 03037842 & 03037866
License Nos. 39-31336-01 & 39-31336-02E

Enclosure: Notice of Violation

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Kevin Doughty, Vice President
Ingrid Lehrengel, Radiation Safety Officer
State of Georgia

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NOTICE OF VIOLATION

Havells USA Inc
Atlanta, GA

Docket Nos. 03037842 & 03037866
License Nos. 39-31336-01 & 39-31336-02E
EA-12-258

During an NRC inspection conducted between November 5 and December 7, 2012 (which included an on-site inspection as well as an in-office review of information provided by Havells USA Inc (Havells) during a telephone conversation on December 7, 2012), for which an exit meeting was conducted on December 7, 2012, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Condition 11 of NRC License No. 39-31336-02E requires, in part, that the licensee may only distribute byproduct material (lamps containing no more than 0.0005 μ ci of krypton-85) from its facilities located in Blackwood, New Jersey and Indianapolis, Indiana.

Contrary to the above, on an unspecified number of occasions between March 11, 2009, and December 7, 2012, Havells distributed products containing exempt quantities of byproduct material to locations not authorized by its license. Specifically, Havells distributed lamps containing no more than 0.0005 μ ci of krypton-85 from Mullins, South Carolina and Atlanta, Georgia locations, and these locations are not authorized by its NRC license.

This is a Severity Level III violation (Section 6.3).

- B. 10 CFR 32.15(d), in part, requires the labeling or marking of each unit and its container so that the byproduct material in the product can be identified.

Contrary to the above, on and prior to November 5, 2012, Havells had not labeled or marked each unit and its container so that the byproduct material in the product can be identified. Specifically, Havells had not labeled or marked three containers for lamp starters to indicate that they contained krypton-85.

This is a Severity Level IV violation (Section 6.3).

- C. 10 CFR 32.16, in part, requires that each person licensed under §32.14 file a report with the Director of the NRC Office of Federal and State Materials and Environmental Management Programs (FSME) on or before January 31 of each year that provides specific information about the products transferred during the previous calendar year for use under §30.15 or equivalent regulations of an Agreement State.

Contrary to the above, as of December 7, 2012, Havells, which, as the holder of NRC License No. 39-31336-02E, is licensed under §32.14, had not filed a report with the Director of FSME on or before January 31 of each year that provides specific information about the products transferred during the previous calendar year for use under §30.15 or equivalent regulations of an Agreement State. Specifically, Havells failed to file such reports for calendar years 2009, 2010, and 2011.

Enclosure

This is a Severity Level IV violation (Section 6.3).

- D. Item 1 of NRC License Nos. 39-31336-01 & 39-31336-02E, authorizes the possession (for License No. 39-31336-01) and distribution (for License No. 39-31336-02E) of byproduct materials (krypton-85) by SLI Lighting Products, Inc.

Item 2 of NRC License Nos. 39-31336-01 & 39-31336-02E specifies that the authorized licensee is located at 122 East Laurel St., Mullins, SC 29575.

Contrary to the above, SLi Lighting Products, Inc. (the holder of NRC License Nos. 39-31336-01 & 39-31336-02E) changed its name and location but failed to amend its NRC license to reflect these changes. Specifically, on December 31, 2010, SLi Lighting Products, Inc. reincorporated as Havells USA Inc. and subsequently, on January 1, 2011, moved its corporate office to a new location (125B Villanova Dr. Atlanta, GA).

This is a Severity Level IV violation (Section 6.3)

Pursuant to the provisions of 10 CFR 2.201, Havells is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation; EA-12-258," and should include for each violation, the reason for the violation, or, if contested, the basis for disputing the violation or severity level. Additionally, for the three violations categorized at SL IV, your response should include: (1) the corrective steps that have been taken and the results achieved, (2) the corrective steps that will be taken, and (3) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time. 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, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's document system (ADAMS), which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, to the extent possible, it should not include any personal privacy, proprietary, or safeguards 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

Enclosure

response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (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). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 06 day of March, 2013

Enclosure