



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

December 29, 2021

Mr. Kevin Van Kamp
General Manager
CVI Laser Optics
200 Dorado Place
Albuquerque, NM 87123

SUBJECT: NRC INSPECTION REPORT 040-38373/2021-001; AND NOTICE OF VIOLATION

Dear Mr. Van Kamp:

This letter refers to the announced routine inspection that commenced remotely on October 7, 2021, and included onsite inspection activities on October 20, 2021, at your facility in Albuquerque, New Mexico, with continued in-office review through December 20, 2021. The inspection was an examination of activities conducted under your license as they relate to public health and safety, to confirm compliance with the U.S. Nuclear Regulatory Commission's (NRC's) rules, regulations, and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observation of licensed activities, and interviews with personnel. The inspector discussed the preliminary inspection findings with Mr. Greg Jones, Facilities Manager, and Mr. Chris Stone, Area Manager, at the conclusion of the onsite portion of the inspection. A final exit briefing was conducted telephonically with you and your consultant, Mr. Scott Logan, Curie Environmental Services, on December 20, 2021.

Based on the results of this inspection, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy which can be found at the NRC's Web site at <https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations are cited in the enclosed Notice of Violation (Notice) because they were identified by the NRC during the inspection. The violations involved the failure to: (1) label the packaging of thorium fluoride-coated optical components in accordance with your NRC license commitments, and (2) provide all of the required information in reports to the NRC regarding thorium fluoride-coated optical components that were distributed under your NRC license.

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 was achieved is already adequately addressed on the docket in emails from Mr. Jones dated October 19, 2021, and October 29, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession numbers [ML21347A986](#) and [ML21347A987](#)). Therefore, you are not required to respond to this letter unless the description herein 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 "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure, and your response, will be made available electronically for public inspection in the NRC Public Document Room or from ADAMS, accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>.

Should you have any questions regarding this letter or the enclosed Notice, please contact Dr. Janine F. Katanic, CHP, at (817) 200-1151, or the undersigned at (817) 200-1455.

Sincerely,



Signed by Roldan-Otero, Lizette
on 12/29/21

Lizette Roldán-Otero, PhD, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

License No. 30-35198-01E
Docket No. 040-38373

Enclosure:
Notice of Violation (Notice)

cc w/Enclosure:
Santiago Rodriguez, Chief
New Mexico Environment Department
Radiation Control Bureau
P.O. Box 5469
Santa Fe, NM 87502-5469

SUBJECT: NRC INSPECTION 040-38373/2021-001; AND NOTICE OF VIOLATION – DATED
DECEMBER 29, 2021

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ADAMS ACCESSION NUMBER: **ML21361A095**

SUNSI Review: ADAMS: Non-Publicly Available and Sensitive
By: JFK Yes No Publicly Available and non-sensitive

OFFICE	SHP:MIB	C:MIB				
NAME	JFKatanic	LRoldanOtero				
SIGNATURE	/RA/	LRO				
DATE	12/20/2021	12/29/2021				

OFFICAL RECORD COPY

NOTICE OF VIOLATION

CVI Laser Optics
Albuquerque, NM

Docket No. 040-38373
License No. 30-35198-01E

During an NRC inspection commenced remotely on October 7, 2021, and included onsite inspection activities on October 20, 2021, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 40.53(b) requires, in part, that each person licensed under 10 CFR 40.52 shall ensure that each product is labeled as provided in the specific exemption in 10 CFR 40.13(c) and as required by their license.

License Condition 13 of NRC license number 30-35198-01E, issued February 2, 2015, requires in part, that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the documents listed in the license.

License application dated November 24, 2014, states, in part, that additional labeling will be added to include that "Optical components are coated with thorium fluoride. Subsequent use is exempt from further regulation by the NRC pursuant to 10 CFR 40.13(c)(7)."

Contrary to the above, from February 2, 2015, to October 7, 2021, the licensee failed to label each product as provided in the specific exemption in 10 CFR 40.13(c) and as required by their license. Specifically, all of the thorium fluoride-coated optical components distributed by the licensee, over 14,000 products, failed to include a label indicating that "Optical components are coated with thorium fluoride. Subsequent use is exempt from further regulation by the NRC pursuant to 10 CFR 40.13(c)(7)."

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.3.d.).

- B. 10 CFR 40.53(c)(3) requires, in part, that each person licensed under 10 CFR 40.52 shall file a report with the Director, Office of Nuclear Material Safety and Safeguards that must include the following information on products transferred to other persons for use under 10 CFR 40.13(c) or equivalent regulations of an Agreement State: (i) a description or identification of the type of each product and the model number(s), (ii) for each type of source material in each type of product and each model number, the total quantity of the source material, and (iii) the number of units of each type of product transferred during the reporting period by model number.

Contrary to the above, from February 4, 2015, to October 7, 2021, reports filed by the licensee to the Director, Office of Nuclear Material Safety and Safeguards, failed to include all of the required information. Specifically, reports filed for calendar years 2015, 2016, 2017, 2018, 2019, and 2020, failed to include the model numbers of the thorium fluoride-coated optical components transferred to other persons for use under 10 CFR 40.13(c) or equivalent regulations of an Agreement State.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.9.d.).

Enclosure

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 was achieved is already adequately addressed on the docket in emails dated October 19, 2021, and October 29, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession numbers [ML21347A986](#) and [ML21347A987](#)).

However, CVI Laser Optics is required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, Inspection Report 040-38373/2021-001" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, Texas 76011, and emailed to lizette.roldan-otero@nrc.gov within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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

If you choose to respond, your response will be made available electronically for public inspection in the NRC's 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, 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 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).

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days of receipt.

Dated this 29th day of December 2021