

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	EA-23-140
)	
Glow Rhino, LLC)	
Dearborn, Michigan)	

CONFIRMATORY ORDER
EFFECTIVE UPON ISSUANCE

I

Glow Rhino, LLC. (Glow Rhino) is a limited liability company and a commercial seller of consumer products that contain tritium it purchases and receives from initial distributors that have been licensed by NRC. This Confirmatory Order (CO) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on July 18, 2024, in Rockville, Maryland, to address two apparent violations.

II

On November 15, 2022, the NRC's Office of Investigations (OI) opened an investigation (OI Case No. 3-2023-003). The purpose of the investigation was to determine whether Glow Rhino was in compliance with NRC's regulatory requirements related to Glow Rhino's possession and distribution of products containing radioactive material.

Based on the conclusions of the investigation, the NRC issued two apparent violations that were documented in an NRC letter, dated April 11, 2024,

(Agencywide Documents Access and Management System (ADAMS) Accession No. ML24102A272). The NRC letter identified two apparent violations of Title 10 of the *Code of Federal Regulations* (10 CFR) 30.3, "Activities requiring license". The violations are related to the possession and distribution of products containing radioactive material without the appropriate licenses or authorizations from the NRC.

10 CFR 30.3(a), "Activities requiring license" states, 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 issued in accordance with the regulations in this chapter.

The investigation identified that between approximately January 6, 2021, to October 4, 2023, Glow Rhino possessed a number of consumer products that contained licensable quantities of byproduct material (tritium) that was not authorized by a specific or general license. Specifically, Glow Rhino possessed products containing tritium that were not authorized by a possession license and were not exempt from the requirements for a possession license. In addition, the investigation identified that between approximately January 6, 2021, to October 4, 2023, Glow Rhino transferred products containing byproduct material to persons not possessing a license, without having been evaluated by the NRC and registered in the Sealed Source and Device Registry (SSDR) or authorized for distribution by a license issued pursuant to 10 CFR 30.3(a). The NRC has determined that certain consumer product models possessed and distributed by Glow Rhino did not match the description and information in the SSDR. The models identified in the apparent violations were: Tritium Pry Bar, Tritium Glow Fob, Tritium Keybar, Ember Fob, Griffin Pocket Tool, Spyderco Paramilitary 3, G10 Scales, Tritium Benchmade Thumbstud - Glow Rhino, Tritium Benchmade Bugout Axis Lockbar, G10 Tritium Scales for the Benchmade Bugout, Tritium Benchmade Griptilian Axis Lockbar, and Tritium Mini Benchmade

Griptilian Axis Lockbar. Subsequently, NRC approved two of the models, authorizing possession and distribution of those models as of the approval date. On March 1, 2023, NRC approved the Tritium Pry Bar model included in the apparent violation. On October 4, 2023, NRC approved the Tritium Glow Fob with the exoskeleton included in the apparent violation.

When issuing the apparent violations, the NRC provided Glow Rhino an opportunity to respond in writing, attend a pre-decisional enforcement conference or participate in an ADR mediation session to resolve these concerns. In response, Glow Rhino requested the use of the NRC's ADR process. On July 18, 2024, the NRC and Glow Rhino conducted an ADR session mediated by a professional mediator, arranged through Cornell University's Scheinman Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement to resolve any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

NRC and Glow Rhino reached a preliminary settlement agreement during a full-day mediation session that was conducted on July 18, 2024. The elements of the agreement include the following:

1. The Confirmatory Order will acknowledge the following actions have been completed:
 - o Glow Rhino ceased distribution, of all the models in the apparent violation (AV), except glow fob and pry bar, from 9/9/23 to present.

- Glow Rhino ceased distribution of glow fob 9/21/22 – 10/4/23 and pry bar 10/13/22 -3/1/23. Glow Rhino resumed distribution after the models were authorized by NRC.
 - Glow Rhino recalled available products back in from third-party vendors.
2. NRC and Glow Rhino agree to disagree on the issue of whether the models referenced in NRC letter dated 4/11/24 letter are authorized or not.
 3. Glow Rhino will provide access to NRC for inspection to allow NRC independent verification that Confirmatory Order conditions have been satisfied. The inspection will be an announced inspection.
 4. **Within 90 days**, Glow Rhino will provide written confirmation to NRC that it has returned all units for models specifically listed in AV1 to the supplier (or another entity licensed to possess tritium). The written confirmation will include, for each model listed in AV1: the Glow Rhino model number, the number of units in Glow Rhino's possession, the number of units transferred, the name and license number of the entity it was transferred to, and the date of transfer. Glow Rhino will obtain written documentation of transfer from the licensee(s) that they transferred the material to. Glow Rhino will provide a copy of that documentation to NRC.
 5. Glow Rhino will establish and maintain a crosswalk.
 - **Within 45 days**, Glow Rhino will provide a list of all Glow Rhino models still in Glow Rhino possession that contain radioactive material. The list will include the Glow Rhino model number.
 - **Within 90 days**, for each model in the list, Glow Rhino will:

- (A) establish and maintain a written crosswalk. The crosswalk will list all models possessed by Glow Rhino. For each model, the crosswalk will list: the supplier's name, the supplier exempt license number, the supplier registered model number, and written confirmation from the supplier that the model is an authorized model (i.e., has been distributed under an exempt distribution license and is registered in accordance with 10 CFR 32.210). The crosswalk will be updated to include any changed or new models prior to Glow Rhino distribution of those models.
 - or (B) For any model not included on the crosswalk in (A), Glow Rhino will provide written documentation that Glow Rhino has returned all units of that model to the supplier.
 - **Within 90 days**, Glow Rhino will provide to NRC,
 - (A) the initial copy of the written crosswalk of models in Glow Rhino possession
 - and (B) a copy of the written documentation of returned models.
 - Glow Rhino will maintain the crosswalk in (A) for a minimum of 3 years.
 - A copy of the crosswalk will be maintained on site available for NRC review. A copy will be provided to NRC upon request.
6. **Within 90 days**, Glow Rhino will establish and implement a **written** procedure to verify that Glow Rhino only possesses authorized models.
- The procedure will include instructions for:
 - the development and maintenance of the crosswalk
 - how the crosswalk is used to verify only authorized models are ordered
 - updating the crosswalk to include any changed or new models prior to Glow Rhino distribution of those models.

- A copy of the procedure will be maintained on site available for NRC review. A copy will be provided to NRC upon request.
7. **Within 120 days**, all Glow Rhino individuals involved in the tritium product verification and acquisition will be **trained** in the applicable Glow Rhino procedures/processes, as applicable for their role.
- Training will include reading the procedures established within this Agreement in Principle.
 - Training for management will also include: reading the NRC letter dated 4/11/24 and reading the NRC Confirmatory Order.
 - Glow Rhino will provide training to new individuals involved in tritium product verification and acquisition and will do annual refresher training for a minimum 3 years.
 - Training will be documented, and the documentation will include the date, names, and a summary of content.
 - A copy will be maintained on site available for NRC review. A copy will be provided to NRC upon request.

The NRC considers the actions discussed above to be appropriately prompt and comprehensive.

The NRC agrees to not issue a separate Notice of Violation to Glow Rhino.

The NRC agrees to not impose a civil penalty.

The NRC agrees not to pursue any further enforcement action in connection with the NRC's April 11, 2024, letter to Glow Rhino (EA-23-140).

Unless otherwise specified, all dates are from the date of issuance of the Confirmatory Order.

Unless otherwise specified, all documents required to be submitted to the NRC will be sent to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Director, Materials Safety, Security, State, and Tribal Programs, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852-2738.

This agreement is binding upon successors and assigns of Glow Rhino. In the event of the transfer of the ownership of Glow Rhino to another entity, the terms and conditions set forth hereunder shall continue to apply and accordingly survive any transfer of ownership.

Based on the completed (and planned) actions described above, and the commitments described in Section V below, the NRC agrees to not pursue any further enforcement action based on the apparent violations identified in NRC's April 11, 2024, letter (see Section II).

On October 08, 2024, Glow Rhino consented to issuing this Confirmatory Order with the commitments, as described in Section V below. Glow Rhino further agreed that this Confirmatory Order is to be effective upon issuance, and that the agreement memorialized in this Confirmatory Order settles the matter between the parties, and Glow Rhino has waived its right to a hearing.

IV

I find that the actions completed or planned by Glow Rhino, as described in Section III above, combined with the commitments as set forth in Section V, are acceptable and necessary, and conclude that public health and safety are reasonably assured with these completed actions and commitments. In view of the foregoing, I have determined that public health and safety require that Glow Rhino's commitments be confirmed by this Order. Based on the above and Glow Rhino's consent, this Confirmatory Order is effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, as applicable, IT IS HEREBY ORDERED, EFFECTIVE UPON ISSUANCE, THAT:

1. NRC and Glow Rhino agree to disagree on the issue of whether the models referenced in NRC letter dated April 11, 2024, are authorized or not. However, Glow Rhino accepts the NRC determination for the purposes of restoring compliance and addressing corrective actions.
2. The following actions have been completed, based on the NRC determination that the models in the apparent violations in NRC letter dated April 11, 2024, were not authorized:

- a. Glow Rhino ceased distribution, of all the models in the apparent violations (AV), except glow fob and pry bar, from September 9, 2023, to present. The models identified in the AVs were: Tritium Pry Bar, Tritium Glow Fob, Tritium Keybar, Ember Fob, Griffin Pocket Tool, Spyderco Paramilitary 3, G10 Scales, Tritium Benchmade Thumbstud - Glow Rhino, Tritium Benchmade Bugout Axis Lockbar, G10 Tritium Scales for the Benchmade Bugout, Tritium Benchmade Griptilian Axis Lockbar, and Tritium Mini Benchmade Griptilian Axis Lockbar.
 - b. Glow Rhino ceased distribution of Tritium Glow Fob from September 21, 2022, to October 4, 2023, and Tritium Pry Bar from October 13, 2022, to March 1, 2023. Glow Rhino resumed distribution after the models were authorized by NRC.
 - c. Glow Rhino recalled available product back in from third-party vendors.
3. Glow Rhino will provide access to NRC for inspection to allow NRC independent verification that Confirmatory Order conditions have been satisfied. The inspection will be an announced inspection.
 4. **Within 90 days**, Glow Rhino will provide written confirmation to NRC that it has returned all units for models specifically listed in AV1 to the supplier (or another entity licensed to possess the radioactive material). The written confirmation will include, for each model listed in AV1: the Glow Rhino model number, the number of units in Glow Rhino's possession, the number of units transferred, the name and license# of the entity it was transferred to, and the date of transfer. The written confirmation will also include written documentation of receipt from the licensee(s) that Glow Rhino transferred the material to.
 5. Glow Rhino will establish and maintain a crosswalk.

- a. **Within 45 days**, Glow Rhino will provide in writing to NRC a list of all Glow Rhino models still in Glow Rhino's possession that contain radioactive material. The list will include the Glow Rhino model number.
- b. **Within 90 days**, for each model in the list, Glow Rhino will:
 - (A) establish and maintain a written crosswalk. The crosswalk will list all models possessed by Glow Rhino. For each model, the crosswalk will list: the supplier's name, the supplier exempt license number, the supplier registered model number, and written confirmation from the supplier that the model is an authorized model (i.e., it has been distributed under an exempt distribution license and is registered in accordance with 10 CFR 32.210). The crosswalk will be updated to include any changed or new models prior to Glow Rhino distribution of those models, and
 - (B) For any model not included on the crosswalk in (A), Glow Rhino will provide written confirmation to NRC that Glow Rhino has returned all units of that model to the supplier. The written confirmation will include, for each model: the Glow Rhino model number, the number of units in Glow Rhino's possession, the number of units transferred, the name and license# of the entity it was transferred to, and the date of transfer. The written confirmation will also include written documentation of receipt from the licensee(s) (or other entity licensed to possess the radioactive material) to which Glow Rhino transferred the material.
- c. **Within 90 days**, Glow Rhino will provide to NRC,
 - (A) the initial copy of the written crosswalk of models in Glow Rhino possession and
 - (B) a copy of the written documentation of returned models.
- d. Glow Rhino will maintain the written crosswalk in (A) for a minimum of 3 years.

- e. A copy the crosswalk will be maintained on site available for NRC review. A copy will be provided to NRC upon request.
6. **Within 90 days**, Glow Rhino will establish and implement a **written** procedure to verify that Glow Rhino only possesses authorized models. Authorized models are models that have been authorized by NRC for distribution under an exempt distribution license.
- a. The procedure will include instructions for:
 - 1. the development and maintenance of the crosswalk required by Condition 5,
 - 2. how the crosswalk is used to verify that only authorized models are ordered
 - 3. and, updating the crosswalk to include any changed or new models prior to Glow Rhino's distribution of those models.
 - b. Glow Rhino will maintain and implement the written procedure for a minimum of 5 years.
 - c. A copy of the procedure will be maintained on site available for NRC review. A copy will be provided to NRC upon request.
7. **Within 120 days**, all Glow Rhino individuals involved in the tritium product verification and acquisition will be **trained** in the applicable Glow Rhino procedures/processes, as applicable for their role.
- a. Training will include reading the procedures established through this Confirmatory Order.
 - b. Training for management will also include: reading the NRC letter dated April 11, 2024, and reading this Confirmatory Order.

- c. Glow Rhino will provide training to new individuals involved in tritium product verification and acquisition. This training will be provided prior to the new individual engaging in activities involving tritium product verification and acquisition.
- d. Glow Rhino will do annual refresher training for all individuals for a minimum of 3 years.
- e. Training will be documented and include date, names of the individuals trained, name of the individual conducting the training, and a summary of the content.
- f. Glow Rhino will maintain the training documentation for a minimum of 5 years.
- g. A copy of training records will be maintained on site available for NRC review. A copy will be provided to NRC upon request

The NRC considers the actions discussed above to be appropriately prompt and comprehensive.

The NRC agrees to not issue a separate Notice of Violation to Glow Rhino.

The NRC agrees to not impose a civil penalty.

The NRC agrees not to pursue any further enforcement action in connection with the NRC's April 11, 2024, letter to Glow Rhino (EA-23-140).

Unless otherwise specified, all documents required to be submitted to the NRC will be sent to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Director, Materials Safety, Security, State, and Tribal Programs, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852-2738.

This agreement is binding upon successors and assigns of Glow Rhino. In the event of the transfer of the ownership of Glow Rhino to another entity, the terms and conditions set forth hereunder shall continue to apply and accordingly survive any transfer of ownership.

The Director, Office of Enforcement, may, in writing, relax, rescind, or withdraw any of the above conditions upon demonstration by Glow Rhino or its successors of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this CO, other than Glow Rhino, may request a hearing within 30 calendar days of the date of issuance of this CO. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a petition, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as

further discussed, is granted. Detailed guidance on making electronic submissions may be found in the “Guidance for Electronic Submissions to the NRC” (ADAMS Accession No. ML13031A056) and on the NRC’s public website at <https://www.nrc.gov/site-help/e-submittals.html>.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC’s public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC’s public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC’s E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time (ET) on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice

that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1- 866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, excluding Federal government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "cancel" when the link requests

certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a petition, designating the issues for any hearing that will be held, and designating the Presiding Officer. A notice granting a hearing will be published in the Federal Register and served on the parties to the hearing.

If a person (other than Glow Rhino) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this CO and shall address the criteria set forth in 10 CFR 2.309(d) and (f). If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this CO should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be

final 30 days from the date of this CO without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

FOR THE NUCLEAR REGULATORY COMMISSION

David L. Pelton, Director

A handwritten signature in black ink, appearing to read 'D. L. Pelton', followed by a horizontal line extending to the right.

Signed by Pelton, David
on 10/16/24

Office of Enforcement

Dated this 16th day of October 2024