

March 30, 2006

Department of the Navy
Navel Surface Warfare Center
Dahlgren Division
ATTN: Douglas Ochsenknect
 (Acting) Program Executive
 Counter-Narcoterrorism
 Technology Program Office
17320 Dahlgren Road
Dahlgren, VA 22448-5100

SUBJECT: DEPARTMENT OF THE NAVY LETTER DATED JANUARY 23, 2006

Gentlemen:

This acknowledges our receipt of your letter dated January 23, 2006, in which you describe a product you have under development and request the Nuclear Regulatory Commission's (NRC) views on a proposed licensing approach. We are currently in the process of evaluating your request with the NRC's Office of the General Counsel. Because your request is unique and complex and is an unbudgeted activity, we anticipate being able to forward our assessment of your request to the Commission in about 5 months from the date of this letter.

However, first we want to confirm our understanding of what you are describing as the product or device and your request regarding licensing. We understand that you are suggesting:

- (1) each individual infrared-luminescent microsphere containing tritiated polystyrene and a phosphor be considered as the product or device;
- (2) these products would be used as a marker;
- (3) the devices may be incorporated into paints, glass, plastics, fibers, etc., and that they may be applied to articles of clothing, bags, vehicles, equipment, etc. using a binder material;
- (4) the product would be manufactured by a non-government entity who would obtain a NRC license that would allow distribution to recipients who would be exempt from all licensing requirements with regard to possession and use of the product;
- (5) any license application would be submitted by the non-government manufacturer;
- (6) up to 42 curies of the product would be transferred to an exempt person;
- (7) and the exempt recipients would incorporate the product into paints, etc. and using the product.

You suggest this would be similar to what currently occurs for self-luminous products under 10 CFR 32.22. We assume that the licensing of the product would not be handled through the Department of the Navy Master Material License (MML). However, it is unclear whether your current request is being made through the Navy MML, or has been coordinated with the Navy MML.

D. Ochsenknect

2

If the above summary is inconsistent with your request, we request that you make any necessary clarifications in writing. Otherwise, we will proceed with processing your request. If you have any questions, please contact Tim Harris at (301) 415-7218.

Sincerely,

/RA/

Thomas H. Essig, Chief
Material Safety and Inspection Branch
Division of Industrial and
Medical Nuclear Safety, NMSS

D. Ochsenknect

2

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Sincerely,

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Thomas H. Essig, Chief
Material Safety and Inspection Branch
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