

August 11, 2011

Jay E. Silberg
Counsel for Sharp Electronics Corporation
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, DC 30037-1122

Mr. Silberg:

This is to acknowledge receipt of your letter dated July 27, 2011, sent on the behalf of Sharp Electronics Corporation seeking expedited review of Sharp's resubmitted application dated June 30, 2011, which requests authorization to distribute, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 32.14, projector lamps that contain krypton-85 to persons exempt under 10 CFR 30.15. The letter further requests that the U.S. Nuclear Regulatory Commission (NRC) consider granting Sharp an exemption from the requirements for a distribution license.

We are in the process of considering your request; however, you should be aware that the NRC will generally only consider requests for expedited reviews based on the following criteria:

Expedited Reviews on the Basis of National Security

NRC will give an application high priority and expedite the review if the product or device is necessary for protecting national security. The following criteria should be met for a review to be expedited:

1. A request for expedited review is made directly to NRC by the U.S. Military or a Federal agency (e.g., U.S. Customs, Federal law enforcement agencies).
2. A request is made in writing (e-mail is acceptable) by the appropriate agency official to the appropriate Section Chief or higher-level management.
3. The requesting agency should state that national security is at stake and briefly, and in general terms, describe what the product will be used for. A detailed description that could disclose sensitive information is not necessary. NRC will expedite the review for security reasons, not for business reasons.
4. There is no alternative product; an alternative product would be too costly; or the pursuit of an alternative product would result in significant setbacks to plans or schedules.
5. The requesting agency commits to providing the necessary oversight of the applicant to ensure that:
 - a) the application is of sufficient quality and provides the necessary information to support an expedited review, and
 - b) the applicant is responsive to NRC requests for information.

Expedited Reviews for Reasons Other than National Security

Requests for higher priority must include adequate justification as indicated. Any request must be made by the Company President or CEO, in writing to the appropriate NRC manager, and include the following information:

1. On the dire need for the product to protect public health and safety, the product provides a currently unavailable benefit to society. The applicant must provide details of the need, including (a) who directly benefits from the use of the product, (b) how they benefit, (c) how existing products fail to provide that benefit, (d) why the review must be accomplished in less than the normal review time, and (e) when is it needed.
2. A description of the commercial hardship that is likely to be experienced by the applicant if the evaluation process is delayed. The applicant must provide details of the hardship, including (a) who is affected by the hardship; (b) how they are affected (e.g., bankruptcy, layoffs); and why completion of the action is the only way to avoid that effect; (c) why the review must be accomplished in less than the normal review time; and (d) when it is needed.

Applicants requesting exemptions must provide sufficient information for the license reviewer to determine that the proposed exemption is authorized by law; will not endanger life, property, or the common defense and security; and is otherwise in the public interest.

NRC also has established criteria for considering requests for exemptions from regulatory requirements. All requests for exemptions to the regulations must not present an undue risk to public health and safety and must be consistent with the common defense and security.

NRC has established criteria for exemptions to certain specific regulations. The exemption request must be accompanied by:

- A description of the licensee-proposed exemption and the reason why it is needed;
- A description of specific compensatory safety measures that will provide a level of protection equivalent to the regulation for that the licensee-proposed exemption is being requested; and
- A discussion of reasonable alternatives that have been considered by the licensee.

NRC also has provisions for granting temporary exemptions to NRC regulations or license conditions, on a case-by-case basis. Temporary exemptions may be appropriate in circumstances where:

- A normal license amendment is not appropriate because of the non-recurring, short duration (normally seven days or less) nature of the exemption; and
- The non-compliance would normally result in a Severity Level IV violation per NUREG-1600, "General Statement of Policy and Procedures for NRC Enforcement Actions."

Temporary exemptions are granted only after a determination has been made that the circumstances surrounding the request are urgent and temporary and that an exemption will not endanger life, property, or the common defense and security, and that it is otherwise in the public interest. Such exemptions should not be exercised repeatedly for the same set of circumstances for the same licensee.

Requests for a temporary exemption must be accompanied by:

- A discussion of the regulatory requirements for that an exemption is requested and the identification of the specific regulation(s) or license condition(s) involved in the exemption;
- A discussion of circumstances surrounding the situation requiring a temporary exemption to NRC regulations, including the need for prompt action by NRC licensing staff, and the probable consequences to the licensee if the request is not granted;
- A preliminary evaluation of the safety significance and potential consequence(s) of granting the proposed request;
- A description of any compensatory measures, if appropriate; and
- A discussion that justifies the duration of the exemption.

You should be aware that we may need additional information to complete our review of your requests. If you have any questions, you may contact Bruce Carrico at 301-415-7826 (jbruce.carrico@nrc.gov) or me at 301-415-6250 (jack.foster@nrc.gov).

Sincerely,

/RA/

Jack W. Foster, Chief
Licensing Branch
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

cc: Sharp Electronics Corporation
ATTN: Mr. Alexander Pellerito, Jr.
Associate General Counsel – Trade Relations
1 Sharp Plaza
Mahwah, NJ 07495

Temporary exemptions are granted only after a determination has been made that the circumstances surrounding the request are urgent and temporary and that an exemption will not endanger life, property, or the common defense and security, and that it is otherwise in the public interest. Such exemptions should not be exercised repeatedly for the same set of circumstances for the same licensee.

Requests for a temporary exemption must be accompanied by:

- A discussion of the regulatory requirements for that an exemption is requested and the identification of the specific regulation(s) or license condition(s) involved in the exemption;
- A discussion of circumstances surrounding the situation requiring a temporary exemption to NRC regulations, including the need for prompt action by NRC licensing staff, and the probable consequences to the licensee if the request is not granted;
- A preliminary evaluation of the safety significance and potential consequence(s) of granting the proposed request;
- A description of any compensatory measures, if appropriate; and
- A discussion that justifies the duration of the exemption.

You should be aware that we may need additional information to complete our review of your requests. If you have any questions, you may contact Bruce Carrico at 301-415-7826 (jbruce.carrico@nrc.gov) or me at 301-415-6250 (jack.foster@nrc.gov).

Sincerely,

/RA/

Jack W. Foster, Chief
Licensing Branch
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

cc: Sharp Electronics Corporation
ATTN: Mr. Alexander Pellerito, Jr.
Associate General Counsel – Trade Relations
1 Sharp Plaza
Mahwah, NJ 07495

DISTRIBUTION: MSSA r/f

ML112210698

OFFICE	FSME/MSSA	FSME/MSSA
NAME	JBCarrico	JFoster
DATE	8/10/11	8/11/11

OFFICIAL RECORD COPY