



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 9, 2021

Mr. Jason Cook, VP Purchasing
Howard Lighting Product
580EastviewDrive
Laurel, MS 39440

SUBJECT: TEMPORARY EXEMPTION FROM U.S. NUCLEAR REGULATORY
COMMISSION REGULATION, TITLE 10 OF THE *CODE OF FEDERAL
REGULATIONS* PART 32.15(D)(1)

Dear Mr. Cook:

By letter dated August 6, 2021, and supplemented by e-mail on August 10, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21221A072 and ML21231A277 respectfully), Howard Lighting Products (the applicant), requested a temporary exemption from the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) §32.15(d)(1).

10 CFR § 32.15(d)(1) addresses the labeling requirements for certain items containing byproduct material and states that the licensee must, "label or mark each unit ... and its container so that the manufacturer or initial transferor of the product and the byproduct material in the product can be identified." Because Howard Lighting Products is requesting a temporary exemption from this labeling requirement, the specific exemption provision in 10 CFR § 30.11, which applies to exemptions from requirements in 10 CFR Part 32, would apply in this instance. Under 10 CFR § 30.11, "[t]he Commission may, upon application of any interested person ... grant such exemptions from the requirements of the regulations in [part 32] as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest."

In its request, Howard Lighting Products stated that it has approximately 71,000 lamps in its inventory that were not properly labeled. Further, the applicant stated that it does "not have the technical capability to etch the NRC language on the lamp units. Any effort by Howard to etch this text on the lamps post-production may result in lamp breakage and related safety issues, and may also compromise the quality and longevity of the lamps." The applicant requested a temporary exemption from the requirement in 10 CFR § 32.15(d)(1), so that it can distribute the existing 71,000 lamps without the required labeling etched on each individual unit.

The requested exemption would not violate the Atomic Energy Act of 1954, as amended, or any other Federal statute regarding the labeling of items containing byproduct material. Therefore, the NRC staff concludes that there is no statutory prohibition on the issuance of the requested temporary exemption and that the NRC is authorized to grant the exemption by law.

The requested exemption would not endanger life or property because this product contains very small amounts of Krypton (Kr)-85 and therefore presents very low risk to customers in

normal use. Additionally, the applicant agreed to place a label stating, "Arc tube fill gas contains Kr-85. Electrodes contain Thorium," on the immediate protective, corrugated paper sleeve or box that holds each unit and to mark the outermost shipping containers with the same information. Thus, the required information will still be communicated to the end-user in a clear and legible fashion on the packaging for each individual unit. As stated in the request, any effort by Howard to etch this text on the lamps post-production may result in lamp breakage and related safety issues and may also compromise the quality and longevity of the lamps. Additionally, storing all 71,000 lamps in a warehouse indefinitely would be a larger health risk than having the lamps distributed to the public for use.

The requested exemption will not endanger the common defense and security because the amount of Kr-85 in each lamp and accumulated total quantity are well below the exempt threshold under 10 CFR 30.15.

This exemption request is in the public interest because allowing the lamps to be distributed would ensure that the materials are not simply disposed of and/or wasted. In turn, the limited natural resources contained in these products would be utilized, rather than ending up in a landfill or being stored indefinitely. Additionally, if the products were unable to be distributed, the costs associated with storage or disposal could be transferred to the end user. Considering the very low risk to consumers and because each lamp's immediate protective sleeve or box will be marked to ensure consumer notification, granting this exemption request is in the public interest.

Therefore, based on the above findings, and in accordance with 10 CFR § 30.11, the NRC grants the requested temporary exemption from the labeling requirements of 10 CFR §32.15(d)(1) for the 71,000 lamps that Howard Lighting Products currently has in stock. This exemption only applies to the 71,000 lamps currently held by Howard Lighting Products; the applicant shall follow the labeling requirement in 10 CFR §32.15(d)(1) for all future products. Additionally, this exemption is contingent on the fact that Howard Lighting place a label stating "Arc tube fill gas contains Kr-85. Electrodes contain Thorium." on the immediate protective sleeve or box that holds each of the 71,000 units and marks the outermost shipping containers with the same information.

Based on the above findings, the NRC grants the following exemption, which will subsequently be added as a condition to the applicant's License.

In accordance with the exemption letter issued on September 9, 2021, Howard Lighting Products is exempt from the labeling requirement under 32.15(d)(1) for the existing 71,000 lamps referenced in its August 10, 2021, email. In lieu of labeling these lamps, Howard Lighting Products shall place a label stating, "Arc tube fill gas contains Kr-85. Electrodes contain Thorium," on the immediate protective, corrugated paper sleeve or box that holds each unit and shall mark the outermost shipping containers with the same information. The licensee shall follow the labeling requirements in Part 32 for all future products.

An environmental assessment for this action is not required, because this action is categorically excluded under 10 CFR 51.22(c)(14)(1). In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <https://www.nrc.gov/reading-rm/adams.html>.

If you have questions, please contact Shirley Xu at Shirley.xu@nrc.gov or by phone at 301-415-7640.

Sincerely,

Materials Safety and Tribal Liaison Branch
Division of Materials Safety, Security, State,
and Tribal Program
Office of Nuclear Material Safety
and Safeguards

SUBJECT: TEMPORARY EXEMPTION FROM U.S. NUCLEAR REGULATORY
COMMISSION REGULATION, TITLE 10 *CODE OF FEDERAL REGULATIONS*
PART 32.15(D)(1)

DATED: September 09, 2021

ADAMS Accession Number: ML21140A346

***via email**

OFFICE	MSST/MSTB	MSST/MSTB	OGC/NLO	MSST/MSTB
NAME	SXu	MPringle	T Jones	SXu
DATE	09/03/2021	09/03/2021	09/02/2021	09/08/2021

OFFICIAL RECORD COPY