

BED BATH & BEYOND

Beyond any store of its kind.

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March 9, 2009

Sent via email (MSEA@nrc.gov) and FedEx #7973 9349 2720

Charles Miller, Director
Office of Federal and State Materials
and Environmental Management Programs
Attention: Angela R. McIntosh, Mail Stop T8-E24
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Mr. Miller:

On January 16, 2009, the U. S. Nuclear Regulatory Commission (NRC) issued a Demand for Information (Demand) to Bed Bath & Beyond Inc. (BBB) and other similarly situated general license users of tritium exit signs (TES). The Demand required that BBB submit the following information within sixty days of the date of the NRC request.

- A. Explain how BBB ensures compliance with the NRC requirements applying to the possession, transfer, and disposal of tritium exit signs you have acquired. Identify and provide contact information for the individual you have appointed who is responsible for ensuring day to day compliance with these requirements.
- B. State the number of tritium exit signs BBB currently possesses and the number of signs that, according to your records, should be in your possession.
- C. Explain the reasons for any discrepancy between the number of tritium exit signs BBB currently possesses and the number of signs that should be in your possession.
- D. Describe any actions BBB has taken, or plans to take, to locate tritium exit signs that should be, but are not, in your possession.
- E. Describe any actions BBB has taken, or plans to take, to prevent future losses of tritium exit signs.

BBB has carefully reviewed the Demand and initiated a program to gather the NRC-requested information. Based upon preliminary information, BBB estimates that 748 of its 1032 stores may currently use or once have used TES. The NRC Demand came as a complete surprise to BBB and it has taken its corporate organization some time to determine how to efficiently and accurately collect the requested information concurrent with the needs of the day to day operation of a business in challenging economic times.

BBB's goal is to provide accurate information to the NRC – a task that it cannot and should not rush. The care BBB is taking in this response is consistent with the NRC's requirement that BBB make its submittal under oath or affirmation.

At a minimum, BBB must (1) perform an inventory of the signs it currently possesses; (2) review a significant number of corporate records to fully determine how many TES BBB should have in its possession; (3) take reasonable steps to assess, possibly on a sign by sign basis, any discrepancies between the number of TES BBB currently possesses and the number of TES that it should possess; (4) develop a corrective action plan to ensure that in the future, TES discrepancies will not occur; and (5) compile and validate this information for submittal to the NRC. The time it will take BBB to complete these key actions is not entirely within BBB's control in that we anticipate having to contact our TES vendor, general contractors who built our stores, present and prior landlords, etc.

BBB notes that it appears that it took Wal-Mart over a year to perform the same task for its stores using what we speculate are substantially more resources at its disposal. This effort already has begun at BBB's facilities. While BBB does not anticipate that a year will be necessary to respond to the Demand, the time it needs to respond is significantly more than what the NRC allotted in the Demand. As such, BBB respectfully requests that the NRC allow BBB until July 17, 2009 to collect and report the requested information (approximately an additional four months). This request is reasonable considering the detailed information the NRC has requested and it will not result in any significant impacts on public health and safety due to the minor amounts of radioactive material in a TES and the minimal opportunity for the public to be exposed to the tritium contained within.

Please contact me (908-855-4294 or jim.oconnor@bedbath.com) with your response at your earliest convenience.

Regards,


James O'Connor

Vice President – Loss Prevention and Safety

cc: Larry Guarino, Bed Bath & Beyond (via e-mail)
Michael H. Wilck, Esq., Bed Bath & Beyond (via e-mail)
Thomas C. Poindexter, Esq.; Morgan, Lewis & Bockius (via e-mail)