



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

September 14, 2005

Pa'ina Hawaii, LLC
ATTN: Michael Kohn
President
P.O. Box 30542
Honolulu, Hawaii 96820

SUBJECT: WATER POLLUTION CONTROL REQUIREMENTS IN THE STATE OF HAWAII

Our office received a letter dated August 31, 2005, from the State of Hawaii's Department of Health. This letter deals with water pollution control and indicates the various Federal and State of Hawaii rules and regulations that might apply to the application that we received from you for a license to build and operate a commercial pool type industrial irradiator in Honolulu, Hawaii. We are forwarding you a copy of the letter we received, so that you may review the letter for applicability to your license request.

Should you have any questions concerning this matter, please contact me at (817) 860-8252 or Mr. Jack Whitten at (817) 860-8197.

Sincerely,

A handwritten signature in cursive script that reads "Anthony D. Gaines".

Anthony D. Gaines, Senior Health Physicist
Nuclear Materials Licensing Branch

Docket: 030-36994
Mail Control No.: 470601

Enclosure as stated

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HAWAII 96801-3378

CHIYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH

SEP 06 2005

In reply, please refer to:
EMD / CWB

Dr. Fukino

08107CEC.05

August 31, 2005

Mr. Jack E. Whitten, Chief
Nuclear Materials Licensing Branch
Division of Nuclear Materials Safety
Region IVY U.S. Nuclear Regulatory Commission
61 1 Ryan Plaza Drive, Suite 400
Arlington, Texas 76011

Dear Mr. Whitten:

**Subject: Water Pollution Control Requirements in the State of Hawaii
U.S. Nuclear Regulatory Commission (NRC) License
Request for Paina Hawaii, LLC, Irradiator in Honolulu, Hawaii**

Reference is made to the letter (No. P-11056, dated August 10, 2005) from Ms. Laura H. Thielen, Director of the Planning Office, Department of Business, Economic Development and Tourism (DBEDT) to you regarding the application from Pa'ina Hawaii, LLC, for a license from NRC to build and operate a commercial pool type industrial irradiator in Honolulu, Hawaii.

The Department of Health (Department), Clean Water Branch (CWB) is given the responsibility of water pollution control in the State of Hawaii under the authorization of Federal Clean Water Act (CWA); Hawaii Revised Statutes (HRS), Chapter 342D; and Hawaii Administrative Rules (HAR), Chapters 11-54 (titled Water Quality Standards) and 11-55 (titled Water Pollution Control).

1. Pursuant to CWA, Paragraph 401(a)(1), a Section 401 Water Quality Certification (WQC) is required for "[A]ny applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate . . ." **A Section 401 WQC is required if the construction and/or operation of the proposed commercial pool type industrial irradiator will result in any discharges to the navigable waters.** The term "discharge" is defined in CWA, Section 502; Title 40, Code of Federal Regulation (CFR), §122.2; and HAR, Chapter 11-54.

Section 401 WQC Application Form and Section 401 WQC Application Guidelines are available at CWB web site:

<http://www.hawaii.gov/health/environmental/water/cleanwater/index.html>.

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2. In accordance with HAR, Sections 11-55-04 and 11-55-34.05, the Director of Health may require the submittal of an individual permit application or a Notice of Intent (NOI) for a permit coverage authorized under the National Pollutant Discharge Elimination System (NPDES) for any effluent discharges into State waters:
 - a. An application for an NPDES individual permit is to be submitted at least 180 days before the commencement of the respective activities. The NPDES application forms may also be picked up at our office or downloaded from our website at <http://www.hawaii.gov/health/environmental/water/cleanwater/forms/indiv-index.html>.
 - b. An NOI to be covered by an NPDES general permit is to be submitted at least 30 days before the commencement of the respective activity. A separate NOI is needed for coverage under each NPDES general permit. The NOI forms may be picked up at our office or downloaded from our website at: <http://www.hawaii.gov/health/environmental/water/cleanwater/forms/genl-index.html>.
 - i. Storm water associated with industrial activities, as defined in Title 40, Code of Federal Regulations, Sections 122.26(b)(14)(i) through 122.26(b)(14)(ix) and 122.26(b)(14)(xi). [HAR, Chapter 11-55, Appendix B]
 - ii. Construction activities, including clearing, grading, and excavation, that result in the disturbance of equal to or greater than one acre of total land area. The total land area includes a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under a larger common plan of development or sale. **An NPDES permit is required before the commencement of the construction activities.** [HAR, Chapter 11-55, Appendix C]
 - iii. Discharges of treated effluent from leaking underground storage tank remedial activities. [HAR, Chapter 11-55, Appendix D]
 - iv. Discharges of once through cooling water less than one million gallons per day. [HAR, Chapter 11-55, Appendix E]
 - v. Discharges of hydrotesting water. [HAR, Chapter 11-55, Appendix F]
 - vi. Discharges of construction dewatering effluent. [HAR, Chapter 11-55, Appendix G]
 - vii. Discharges of treated effluent from petroleum bulk stations and terminals. [HAR, Chapter 11-55, Appendix H]

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- viii. Discharges of treated effluent from well drilling activities. [HAR, Chapter 11-55, Appendix I]
 - ix. Discharges of treated effluent from recycled water distribution systems. [HAR, Chapter 11-55, Appendix J]
 - x. Discharges of storm water from a small municipal separate storm sewer system. [HAR, Chapter 11-55, Appendix K]
 - xi. Discharges of circulation water from decorative ponds or tanks. [HAR, Chapter 11-55, Appendix L]
3. In accordance with HAR, Section 11-55-38, the applicant for an NPDES permit is required to either submit a copy of the new NOI or NPDES permit application to the State Department of Land and Natural Resources, State Historic Preservation Division (SHPD), or demonstrate to the satisfaction of the DOH that the project, activity, or site covered by the NOI or application has been or is being reviewed by SHPD.
4. Any discharges related to project construction or operation activities, with or without a Section 401 WQC or NPDES permit coverage, shall comply with the applicable State Water Quality Standards as specified in HAR, Chapter 11-54.

We recommend that the Paina Hawaii, LLC should contact the CWB for detailed permitting requirements. The Paina Hawaii, LLC shall also be informed that HRS, Subsection 342D-50(a) requires that “[n]o person, including any public body, shall discharge any water pollutants into state waters, or cause or allow any water pollutant to enter state waters except in compliance with this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the director.”

Should you have any questions, please contact Mr. Alec Wong, Supervisor of the Engineering Section, CWB, at (808) 586-4309.

Sincerely,



DENIS R. LAU, P.E., CHIEF
Clean Water Branch

EC:cf