



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

December 16, 2005

The Honorable Suzanne Chun Oakland  
Hawaii Senate  
Honolulu, Hawaii 96813

Dear Ms. Chun Oakland:

I am responding to your letter of November 10, 2005, in which you urged the U.S. Nuclear Regulatory Commission (NRC) to conduct an environmental review, pursuant to the National Environmental Policy Act (NEPA), before further NRC actions are taken regarding the application for a license received from Pa'ina Hawaii, LLC (Pa'ina). Your letter also indicated that you regard a nuclear irradiator facility as presenting significant health, safety, and environmental risks to the public.

The license application you refer to is under review by the NRC. On June 27, 2005, the NRC received an application from Pa'ina for the possession and use of radioactive material to be used in a commercial pool type industrial irradiator to be built on Honolulu International Airport property. The request is to use this commercial irradiator to irradiate fresh fruit and vegetables bound for the mainland from the Hawaiian Islands, cosmetics, and pharmaceutical products.

Although we are in process and have begun the technical review of the irradiator application, our review is not complete at this time. The NRC's technical review of the application primarily focuses on the radiation safety, physical security, and emergency preparedness aspects of the radioactive material used in the irradiator. Additionally, the NRC staff reviews the irradiator's design and radiation safety program as these programs apply to the safety of employees, the public, and the environment. Other Federal agencies, such as the U.S. Food and Drug Administration and U.S. Department of Agriculture, are responsible for determining the food types and products that can be used for human consumption after being irradiated. In addition to meeting NRC requirements, the applicant, Pa'ina, must comply with all applicable Federal, State of Hawaii, and municipal regulations.

While we do review the facilities and procedures to ensure they are sufficient to have no individual or cumulative significant effect on the human environment, we do not normally perform a full environmental assessment. The NRC has determined by regulation that certain licensing and regulatory actions are categorically excluded from a complete environmental review. Specifically, 10 CFR Part 51.22(c)(14)(vii), excludes irradiator applicants from the need to develop an environmental assessment. The basis for this is explained in NRC's Statements of Consideration for 10 CFR 51.22 (49 FR 9352, March 12, 1984). Part of the basis is that personnel exposures during the use of irradiators are normally less than 5 percent of the limits described in 10 CFR Part 20, Standards for Protection Against Radiation. Another part of the basis is that there are no releases of radioactive material during normal operation of an irradiator. All categorical exclusions described in 10 CFR Part 51 were reviewed by the Council

on Environmental Quality (CEQ), which oversees and ensures that Federal agencies meet their obligations under NEPA. The CEQ determined that NRC's NEPA procedures (i.e., 10 CFR Part 51) addressed all sections of the CEQ regulations required to be addressed by 40 CFR 1507.3(b), Agency Compliance [with NEPA].

Although 10 CFR 51.22(c)(14)(vii) excludes irradiator applicants from developing an environmental assessment, a request for a 10 CFR Part 2 hearing has been submitted by Earthjustice on behalf of Concerned Citizens of Honolulu. The hearing request includes two contentions arguing that the NRC staff should complete an environmental impact assessment. The hearing request is currently under review by the NRC's Atomic Safety and Licensing Board.

Enclosed with this letter for additional information is NRC's fact sheet about commercial irradiators. This fact sheet addresses safety review and requirements, licensing and inspection processes, accidents and contamination events, shipment and disposal of radioactive sources, security of radioactive sources, emergency procedures, and decommissioning.

The NRC regulates the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, to promote the common defense and security, and to protect the environment. Accordingly, safety is the most important consideration in evaluating license applications and assessing the performance of our licensees; and we ensure that applicants, such as Pa'ina, have appropriate procedures, facilities and staff qualifications in place prior to making a decision on a final license. If construction is authorized, the NRC will conduct inspections during the irradiator construction phase to ensure that the facility is constructed in a manner that can safely support licensed activities. If the license is issued authorizing commercial operation, NRC will routinely inspect the operating irradiator to ensure that regulatory requirements are met and Pa'ina's performance does not fall below an acceptable level.

I trust that this information responds to your concerns.

Sincerely,

*/RA/*

Bruce S. Mallett  
Regional Administrator

Docket No. 030-36974

Enclosure: As stated

cc w/Enclosure: Atomic Safety and Licensing Board

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