

From: Roberto Torres
To: Jack Whitten
Date: Monday, March 20, 2006 8:55:00 AM
Subject: Re: ACT: Irradiator Facility Lease for Pa'ina Hawaii, LLC

Jack:

I consulted with Tony and he did not have any comments to the proposed response listed below. The proposed response uses text already approved for public distribution in the letter signed by the RA to the Governor of Hawaii. I will respond to Mr. Tomokiyo on your behalf.

Mr. Tomokiyo:

NRC received on June 2005 an application from Pa'ina Hawaii, LLC, 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 was to use this commercial irradiator to irradiate fresh fruit and vegetables, bound for the mainland from the Hawaiian Islands, as well as for irradiating cosmetics, and pharmaceutical products.

NRC's regulations governing the possession and use of radioactive material in an irradiator is contained in 10 CFR Part 36 (10 CFR Part 36.pdf). Section 36.39 contains the regulatory requirements governing design criteria of an irradiator while section 36.41 contains the regulatory requirements governing construction monitoring and acceptance testing. The document entitled NUREG-1556, Volume 6, provides guidance to an applicant in preparing a license application for 10 CFR Part 36 irradiator as well as NRC criteria for conducting a technical evaluation of a license application (NUREG 1556 Volume 6.pdf).

We have begun the technical review of the irradiator application. However, our review is not complete at this time. 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 the 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.

I trust that this information responds to your inquiry. If you have further questions, please feel free to contact Jack Whitten at (817) 860-8197.

**Roberto J. Torres
Senior Health Physicist
U.S. Nuclear Regulatory Commission, Region IV
Division of Nuclear Materials Safety
Nuclear Materials Licensing Branch
611 Ryan Plaza Drive, Suite 400
Arlington, Texas 76011
Telephone 817-860-8189
Facsimile 817-860-8188
rjt@nrc.gov**

>>> Jack Whitten 03/16/2006 5:00 PM >>>
Roberto//

Please put together a reply, bounce it off Tony, and send the final draft to me. We can send him electronic

links to 10 CFR Part 36 and NUREG 1556, Vol. 6. We can point him in the direction of 10 CFR 36.39 and 10 CFR 36.41.

Thx//JackW

>>> <ethan.tomokiyo@hawaii.gov> 2:41 PM 3/15/2006 15/2006 >>>

Dear Mr. Whitten:

We were referred to you by Mr. Michael Kohn of Pa'ina Hawaii, LLC (PH). As you are aware, PH has applied for a long-term land lease with the DOT-A. Because we are responsible for drafting PH's lease, we wish to include verbiage in the lease regarding NRC's specific, detailed guidelines and specifications governing the construction and operation of the irradiator facility. What is the timetable for NRC's issuance of these guidelines and specifications? As time is of the essence, your prompt response is appreciated.

Thank you.

Ethan "TOMO" Tomokiyo
Property Manager
Dept. of Transportation-Airports Division
400 Rodgers Blvd., 7th Floor
Hon, HI 96819-1880
Ph. 808-838-8673 Fax. 808-838-8753