

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-36974]

### Notice of License Request for Pa'ina Hawaii, LLC, Irradiator in Honolulu, HI and Opportunity To Request a Hearing

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of consideration of a new license request and opportunity to request a hearing.

**DATES:** A request for a hearing must be filed by October 3, 2005.

**FOR FURTHER INFORMATION CONTACT:** Jack E. Whitten, Chief, Nuclear Materials Licensing Branch, Division of Nuclear Materials Safety, Region IV, U.S. Nuclear Regulatory Commission, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas, 76011, telephone (817) 860-8197, fax (817) 860-8263; or by e-mail: [jew1@nrc.gov](mailto:jew1@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or Commission) received on June 27, 2005, from Pa'ina Hawaii, LLC, a Hawaiian owned company, an application to build and operate a commercial pool type industrial irradiator in Honolulu, Hawaii, near the Honolulu International Airport. This commercial irradiator will irradiate fresh fruit and vegetables bound for the mainland from the Hawaiian Islands, cosmetics, and pharmaceutical products. The irradiator will also be used by the applicant to conduct research and development projects, and irradiate a wide range of other materials as specifically approved by the NRC on a case-by-case basis.

The NRC staff has begun its technical review of the irradiator application. Review of the application focuses on the safety, physical security, and emergency preparedness aspects of radioactive material used in the irradiator in addition to its design and complementing radiation safety program as they apply to the safety of employees, the public, and the environment. Note that other federal agencies, such as the U.S. Food and Drug Administration (FDA) and U.S. Department of Agriculture (USDA), are responsible for determining the food types and products used for human consumption that may be safely irradiated. In addition to satisfying NRC regulations, Pa'ina Hawaii, LLC, must also comply with all applicable Federal, State of Hawaii, and municipal regulations.

Before approving the proposed license, the NRC will need to make the

findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. An environmental assessment for this licensing action is not required, since this action is categorically excluded under the provisions of 10 CFR 51.22(c)(14)(vii).

##### II. Opportunity To Request a Hearing

The NRC hereby provides notice that this is a proceeding on a license application. In accordance with the general requirements in subpart C of 10 CFR part 2,<sup>1</sup> "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings," any person whose interest may be affected by this proceeding and who desires to participate as a party must file a written request for a hearing and a specification of the contentions which the person seeks to have litigated in the hearing.

In accordance with 10 CFR 2.302 (a), a request for a hearing must be filed with the Commission either by:

1. First class mail addressed to: Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications;

2. Courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemakings and Adjudications Staff between 7:45 a.m. and 4:15 p.m., Federal workdays;

3. E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov); or

4. By facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff, at (301) 415-1101; verification number is (301) 415-1966.

In accordance with 10 CFR 2.302(b), all documents offered for filing must be accompanied by proof of service on all parties to the proceeding or their attorneys of record as required by law or by rule or order of the Commission, including:

1. The applicant, by delivery to Pa'ina Hawaii, LLC, P.O. Box 30542, Honolulu, Hawaii 96820; and,

2. The NRC staff, by delivery to the Office of the General Counsel, One

White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Hearing requests should also be transmitted to the Office of the General Counsel, either by means of facsimile transmission to (301) 415-3725, or by e-mail to [ogcmailcenter@nrc.gov](mailto:ogcmailcenter@nrc.gov).

The formal requirements for documents are contained in 10 CFR 2.304(b), (c), (d), and (e), and must be met. However, in accordance with 10 CFR 2.304(f), a document filed by electronic mail or facsimile transmission need not comply with the formal requirements of 10 CFR 2.304(b), (c), and (d), if an original and two (2) copies otherwise complying with all of the requirements of 10 CFR 2.304(b), (c), and (d) are mailed within two (2) days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.309(b), a request for a hearing must be filed within 60 days of the date of publication of this **Federal Register** notice.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, the general requirements involving a request for a hearing filed by a person other than an applicant must state:

1. The name, address and telephone number of the requestor;

2. The nature of the requestor's right under the Act to be made a party to the proceeding;

3. The nature and extent of the requestor's property, financial or other interest in the proceeding;

4. The possible effect of any decision or order that may be issued in the proceeding on the requestor's interest; and

5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;

2. Provide a brief explanation of the basis for the contention;

3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;

4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to

<sup>1</sup> The references to 10 CFR part 2 in this notice refer to the amendments to the NRC Rules of Practice, 69 FR 2182 (January 14, 2004), codified at 10 CFR part 2.

support the action that is involved in the proceeding;

5. Provide a concise statement of the alleged facts or expert opinions which support the requestor's/petitioner's position on the issue and on which the requestor/petitioner intends to rely to support its position on the issue; and

6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application that the requestor/petitioner disputes and the supporting reasons for each dispute, or, if the requestor/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requestor's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the application or other supporting documents filed by the applicant, or otherwise available to the petitioner. Contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Requestors/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requestors/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requestor/petitioner that wishes to adopt a contention proposed by another requestor/petitioner must do so in writing within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requestor/petitioner.

In accordance with 10 CFR 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

### III. Further Information

Documents related to this action, including the application for the license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents currently on

file include the Pa'ina Hawaii, LLC, License Application dated June 23, 2005 (ADAMS Accession No. ML052060372). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room (PDR) Reference staff by telephone at (800) 397-4209 or (301) 415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Documents related to this action not specifically referenced in this Notice may not be electronically available and/or may not be publicly available. Persons who have an interest in reviewing these documents should submit a request to NRC under the Freedom of Information Act (FOIA). Instructions for submitting a FOIA request can be found on the NRC's Web site at <http://www.nrc.gov/reading-rm/foia/foia-privacy.html>.

Dated in Arlington, Texas this 26th day of July, 2005.

For the Nuclear Regulatory Commission.

**Jack E. Whitten,**

*Chief, Nuclear Materials Licensing Branch,  
Division of Nuclear Materials Safety, Region IV.*

[FR Doc. E5-4105 Filed 8-1-05; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 50-272 and 50-311]**

### **PSEG Nuclear LLC, Salem Nuclear Generating Station, Unit Nos. 1 and 2; Notice of Consideration of Approval of Transfer of Facility Operating Licenses and Conforming Amendments and Opportunity for a Hearing**

The Nuclear Regulatory Commission (NRC or the Commission) is considering the issuance of an order under Title 10 of the Code of Federal Regulations (10 CFR) Section 50.80 approving the transfer of Facility Operating License Nos. DPR-70 and DPR-75 for the Salem Nuclear Generating Station, Unit Nos. 1 and 2 (Salem), respectively, to the extent currently held by PSEG Nuclear LLC (PSEG) to Exelon Generation Company, LLC (Exelon). PSEG is the licensed operator of Salem. PSEG and Exelon currently own 57.41 percent and 42.59 percent, respectively, of Salem. The transfer of PSEG's ownership interests and operating authority to

Exelon is part of the proposed merger of PSEG's parent corporation, Public Service Enterprise Group, into Exelon Corporation, the indirect parent company of Exelon. The Commission is also considering amending the licenses for administrative purposes to reflect the proposed transfer.

According to an application for approval filed by PSEG, Exelon would assume title to PSEG's interest in the facility following approval of the proposed license transfers, while retaining its current ownership interests, such that Exelon would own 100 percent of Salem, and would become responsible for the operation, maintenance, and eventual decommissioning of Salem. No physical changes to the Salem facility or operational changes are being proposed in the application.

The proposed amendments would delete references to PSEG, or replace references to PSEG in the licenses with references to Exelon, as appropriate, to reflect the proposed transfer. Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the