shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, Illinois 60532, and to Mr. Kint if the answer or hearing request is by a person other than Mr. Kint. If a person other than Mr. Kint requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Kint or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be effective and final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland this 1st day of March 1999.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Deputy Executive Director for Regulatory Effectiveness.

[FR Doc. 99–5734 Filed 3–9–99; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[IA 98–065]

Lee Larocque; Order Prohibiting Involvement in NRC-Licensed Activities

I

Mr. Lee LaRocque (Mr. LaRocque) was the Chief Nuclear Medicine Technologist (CNMT) in the Nuclear Medicine Department (NMD) of Windham Community Memorial Hospital, Inc. (Windham or Licensee), Willimantic, Connecticut, from September 1991 until August 1997, when he was demoted to the position of Nuclear Medicine Technologist (NMT). Mr. LaRocque was employed as an NMT in the NMD at the facility from August 1997 to May 14, 1998, when his employment was terminated. Windham holds Facility License No. 06–15203–01 (License), issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 35, which authorizes Windham to use byproduct material for medical use.

II

On May 21, 1998, an investigation was initiated by the NRC Office of Investigations (OI), to determine if Mr. LaRocque, while functioning as the NMT at Windham, administered a dose of iodine-131 (I–131) greater than permitted by the License and created an inaccurate record of the dose. Based upon all the evidence, including an admission by Mr. LaRocque during an interview with OI on October 8, 1998, the NRC concludes that Mr. LaRocque deliberately altered a dose calibrator reading for an I–131 capsule, thereby misleading the Authorized User regarding the assayed dose, administered the capsule to the patient knowing that the dose exceeded the License limits, and deliberately created inaccurate records of the dose.

Specifically, on the morning of May 11, 1998, when a patient arrived at Windham to be given a dose of 29.5 millicuries of I–131 in capsule form, Mr. LaRocque assayed the dose and found that it contained more than 30 millicuries (mCi) activity. The License limits doses administered to patients to 30 mCi of I–131. As a result, the patient was instructed to return to the hospital at 4:30 p.m., the time at which the dose was expected to have decayed to the prescribed dose.

When the patient returned to the hospital at about 4:15 p.m., Mr. LaRocque measured the dose and found that it was slightly greater than 30 mCi. Rather than waiting until 4:30 p.m., Mr. LaRocque retrieved two lead strips from a nearby closet and inserted them into the dose calibrator in order to lower the reading. With the lead strips inside the dose calibrator, the dose measured 29.2 mCi. Mr. LaRocque then informed the AU that the dose was ready for administration to the patient. Pursuant to the Licensee's Quality Management Program, the AU is required to observe the dose calibrator display before the dose is actually given to the patient. At the request of Mr. LaRocque, the AU observed the dose calibrator readout and approved administration of the dose to the patient. Mr. LaRocque then administered the dose.

Mr. LaRocque also completed a radiopharmaceutical written directive and patient verification form stating that the assayed dose was 29.2 mCi. This record is required to be maintained by the Licensee by 10 C.F.R. 35.53(a) and (c). In his interview with OI, Mr. LaRocque admitted that he knowingly misled the AU as to the activity of the dose, and knowingly created inaccurate Licensee records, which stated that the assayed dose and the dose administered to the patient was 29.2 mCi, when Mr. LaRocque knew that the dose was in fact slightly greater than 30 mCi and that the License prohibited the administration of I–131 in doses greater than 30 mCi to patients.

Mr. LaRocque's actions are of particular concern given that on December 10, 1997, only six months before the above-described deliberate misconduct occurred, the NRC had issued a letter to him, explaining that any future deliberate misconduct could subject him to significant enforcement action. Previously, when Mr. LaRocque was the Chief NMT at Windham: (1) after the fact and without first-hand knowledge, he created inaccurate records associated with the disposal of technetium-99m labeled DTPA aerosol kits; and (2) he failed to promptly report that dose calibrator constancy records had been falsified by another NMT. The NRC issued a Notice of Violation to Windham on February 6, 1998, based, in part, on Mr. LaRocque's deliberate misconduct while employed as the Chief NMT.

In a telephone call on December 23, 1998, the NRC discussed its conclusions with Mr. LaRocque and offered Mr. LaRocque an opportunity to attend a predecisional enforcement conference. Mr. LaRocque declined the opportunity, noting that he did not believe he could provide any additional information from what he had already provided to OI. In a letter to Mr. LaRocque dated January 11, 1999, the NRC confirmed that he had declined the opportunity for a conference and offered Mr. LaRocque a second opportunity to attend a conference. Mr. LaRocque did not request a conference.

III

Based on the above, Mr. LaRocque engaged in deliberate misconduct in that: (1) in violation of 10 C.F.R. 30.10(a)(1), he deliberately administered a dose of I–131 to a patient in excess of the 30 mCi limit of Condition 15 the License, thereby putting the Licensee in violation of its License; and (2) in violation of 10 C.F.R. 30.10(a)(2), he deliberately created materially inaccurate Licensee dose records, required to be maintained by 10 C.F.R. 35.53(a) and (c), thereby causing the Licensee to be in violation of 10 C.F.R. 30.9(a).

The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement to provide and maintain information that is complete and accurate in all material respects. Mr. LaRocque's action in causing the Licensee to violate its License and the Commission's regulations, his misrepresentations to the Licensee, and his prior actions as set forth in Section II of this Order, have raised serious doubt as to whether he can be relied upon to comply with NRC requirements, and to provide complete and accurate information to the NRC and its Licensees.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public would be protected if Mr. LaRocque were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. LaRocque be prohibited from any involvement in NRC-licensed activities for a period of one year from the effective date of this Order. If Mr. LaRocque is involved in NRC-licensed activities on the effective date of the Order, Mr. LaRocque must immediately cease such activities, and inform the NRC of the name, address, and telephone number of the employer, and provide a copy of this Order to the employer. Additionally, Mr. LaRocque is required to notify the NRC of his first employment in NRC-licensed activities following the prohibition period.

IV

Accordingly, pursuant to Sections 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. 2.202, 10 C.F.R. 30.10, and 10 C.F.R. 150.20, *it is hereby ordered* That:

1. Mr. Lee LaRocque is prohibited for one year from the effective date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 C.F.R. 150.20.

2. If, on the effective date of this Order, Mr. LaRocque is involved in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address, and telephone number of the employer, and provide a copy of this Order to the employer.

3. For a period of one year after the one-year period of prohibition has expired, Mr. LaRocque shall, within 20 days of his acceptance of each employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first notification, Mr. LaRocque shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. LaRocque of good cause.

V

In accordance with 10 C.F.R. 2.202, Mr. LaRocque must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. LaRocque or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to Mr. LaRocque if the answer or hearing request is by a person other than Mr. LaRocque. If a person other than Mr. LaRocque requests a hearing, that person shall set forth with particularity the manner in which that person's interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. 2.714(d).

If a hearing is requested by Mr. LaRocque or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland this 24th day of February 1999.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Deputy Executive Director for Regulatory Effectiveness.

[FR Doc. 99–5871 Filed 3–9–99; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.