

petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the

bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the

following message addressed to Phillip F. McKee: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Services Company, Post Office Box 270, Hartford, Connecticut 06141-0270, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 27, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Dated at Rockville, Maryland, this 11th day of September 1996.

For the Nuclear Regulatory Commission.
Daniel G. McDonald Jr., Sr.,

Project Manager, Northeast Utilities Project Directorate, Division of Reactor Projects— I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96-24134 Filed 9-19-96; 8:45 am]

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[Docket No. 30-31085; License No. 31-28369-01; EA 96-349]

Roy Sadovsky, D.V.M., Floral Park, New York; Order Suspending License (Effective Immediately) and Demand for Information

I

Roy Sadovsky, D.V.M., (Licensee) is the holder of Byproduct Nuclear Material License No. 31-28369-01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The License authorizes possession and use of licensed material (i.e., gold-198 seeds) for implantation in horses for

the treatment of leg injuries and diseases in accordance with the conditions specified therein. Condition 10 of the License requires that licensed material be used only at the Meadowlands Race Track in East Rutherford, New Jersey, or Showplace Farm and Gaitway Farm in Millstone Township, New Jersey. The License, originally issued on December 22, 1989, was amended on January 10, 1992, and expired on January 31, 1995. The Licensee filed an application for renewal on January 24, 1995.

II

On December 4 and 5, 1991, the NRC conducted an inspection at the Hyatt Hotel in New Brunswick, New Jersey, and at the Gaitway Farm in Millstone Township, New Jersey. During the inspection, the inspector determined that the Licensee had used licensed material at a location not authorized by the License. Specifically, the Licensee had used licensed material consisting of gold-198 seeds at White Birch Farm in Allentown, New Jersey, an unauthorized location.

In response to a Notice of Violation issued on January 23, 1992, the Licensee stated that he had not realized that the License did not allow work at White Birch Farm, and that "full compliance to avoid further violations will commence immediately and [my] procedures will be limited to the 3 sites allowed by [my] license." The letter was signed by Roy Sadovsky, D.V.M.

On August 26, and September 5, 1996, the NRC conducted an inspection at the Licensee's office in Elmont, New York, and at the Gaitway Farm in Millstone Township, New Jersey. During the inspection, the NRC inspector determined that the Licensee had continued to conduct licensed activities at a location not authorized by Condition 10 of the License. Specifically, the inspector determined, through review of records and interview of the Licensee, that gold-198 seeds were used at White Birch Farm in Allentown, New Jersey, a location not listed on the License, on at least five occasions in 1996, five occasions in 1995, and one occasion in 1994. These violations were apparently willful, in that, the Licensee had been put on notice in 1992 that the License limited use of licensed material to only the locations authorized on the License, and was aware that this material was being used at Allentown, New Jersey, a location not authorized on the NRC license.

Although the NRC investigation and inspection into this matter is ongoing, based on information developed to date,

it appears that the Licensee violated additional NRC requirements by: (1) failing to secure from unauthorized removal or access licensed materials (approximately 120 millicuries of gold-198 that were stored in the Licensee's unlocked, open vehicle on September 5, 1996), as required by 10 CFR 20.1801 and 20.1802; (2) transporting licensed material without complying with the applicable requirements of the U.S. Department of Transportation regulations, as required by 10 CFR 71.5, including failure to use a Type A package as required by 49 CFR 173.415, failure to apply the radioactive material yellow II label required by 49 CFR 172.403, and failure to describe the material on the shipping paper as required by 49 CFR 172.200; (3) failing, in at least one instance in March 1996, to provide individual monitoring devices to personnel who assist in the Licensee's use of licensed material and to ensure the use of those devices by such personnel, as required by Condition 15 of the License (incorporating Item 10 of the application dated March 20, 1989); and (4) conducting operations with gold-198 licensed material, so as to cause dose rates in an unrestricted area to exceed 2 millirem in any one hour, as prohibited by 10 CFR 20.1301(a)(2).

III

Based on the above, it appears that the Licensee has willfully violated NRC requirements. Moreover, these violations are of significant concern in that they have the potential to impact the public health and safety. In particular, the radiation level from the quantity of gold-198 which the Licensee typically uses is approximately 2.5 rem per hour at 10 centimeters, and, when implanted in horses, the legs of the treated horses produce radiation levels at more than 200 millirem per hour at a distance of 30 centimeters.

Given the high radiation levels emitted by this licensed material, the Licensee's storage of this licensed material in an unsecured vehicle, transport of this material without proper packaging, failure to affix proper labels which would have required a radioactive material yellow level II label, and failure to include shipping papers which accurately described the nature of this licensed material are of serious concern to the NRC. Moreover, given the high radiation levels associated with these sources, the failure to provide and to ensure the use of individual monitoring by a worker raises a question as to whether workers were exposed to radiation levels in excess of NRC requirements.

The NRC must be able to rely on the Licensee to comply with NRC requirements. It is important that licensed material be used in accordance with the applicable requirements. It appears that the Licensee has failed to comply with numerous Commission requirements and has also failed to take the necessary action to correct a violation of NRC requirements as described in a letter from the Licensee received by the NRC on February 7, 1992. While the NRC's investigation and inspection is continuing, given the safety significance of the identified violations and the apparent willful nature of one violation, the Licensee's actions raise serious doubt as to whether the Licensee is able or willing to comply with NRC requirements and whether the public health and safety will be protected.

Consequently, I lack the requisite reasonable assurance that the Licensee's current operations can be conducted under License No. 31-28369-01 in compliance with the Commission's requirements and that the health and safety of the public will be protected. Therefore, the public health, safety and interest require that License No. 31-28369-01 be suspended pending the completion of the NRC's investigation and inspection, and further order. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the violations above is such that the public health, safety, and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, It is hereby ordered, effective immediately, that license no. 31-28369-01 is suspended as follows:

Pending further investigation, inspection, and Order by the NRC:

A. All NRC-licensed material in the Licensee's possession shall immediately be placed in locked storage.

B. The Licensee shall suspend all activities under the License to use, receive, or transfer licensed material. All other requirements of the License remain in effect.

C. All records related to licensed activities must be maintained in their original form and must not be removed or altered in any way.

The Regional Administrator, Region I, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee 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, 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 the Licensee or other person adversely affected relies and the reasons why the Order should not have been issued. Any answer or request for hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also 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 I, 475 Allendale Road, King of Prussia, Pennsylvania 19406-1415, and to the Licensee, if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee 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 the Licensee 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.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the same time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

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 Part IV of this Order shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

VI

In addition, pursuant to sections 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's requirements in 10 CFR 2.204 and 10 CFR 30.32(b), in order for the Commission to determine whether License No. 31-28369-01 should be further modified, suspended, or revoked, or other enforcement action taken to ensure compliance with NRC regulatory requirements, the Licensee is required to submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 20 days of the date of this Order and Demand For Information, a response in writing and under oath or affirmation:

A. Explaining why the License should not be revoked, or in the alternative not renewed, in light of the NRC findings described herein;

B. Describing all locations where licensed material has been used since February 1992, and the date thereof; and

C. Providing the identity and, if known, addresses and telephone numbers of all persons who have assisted with treatments or cared for treated horses, and whether such persons wore individual personnel dosimetry:

1. If such dosimetry was used, provide the dosimetry records of those persons;

2. If no such dosimetry was used, an estimate of the radiation exposure received by each such person during each year since the License was issued.

Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

After reviewing your response, the NRC will determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

Dated at Rockville, Maryland this 13th day of September 1996.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

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

Public Service Electric and Gas Company; PECO Energy Company; Delmarva Power and Light Company; Atlantic City Electric Company; Salem Nuclear Generating Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirement of 10 CFR 55.31(a)(5) to Public Service Electric and Gas Company, et al. (PSE&G, the licensee), for operation of the Salem Nuclear Generating Station, Units 1 and 2, located in Salem County, New Jersey.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant an exemption from the requirement of 10 CFR 55.31(a)(5) which requires each licensed operator applicant to perform at least five significant control manipulations which affect reactivity or power level on the facility for which the license is sought.

The licensee has requested the NRC accept the performance of the required control manipulations by each licensed operator applicant on its certified, plant-referenced simulator.

The proposed action is in accordance with the licensee's application for an exemption dated May 10, 1996, as supplemented by letters dated June 20, 1996, and July 9, 1996.

The Need for the Proposed Action

The proposed action would allow issuance of six senior operator licenses to the applicants with previous licensed senior operator experience prior to their performance of the required control manipulations. Performance of the control manipulations on the Salem facility has not been possible since both Units 1 and 2 have been shutdown for approximately one year for extensive upgrades of both equipment and personnel. In lieu of performing the control manipulations on its facility, the licensee requests acceptance of satisfactory performance of simulated control manipulations on its certified, plant-referenced simulator since all six of the applicants have significant and