

monitoring and measurement plans, correspondence, progress reports, and other supporting documentation. The records do not include final reports on the planning and establishment of agency programs following pilot projects, which were previously approved for permanent retention.

11. Environmental Protection Agency, Agency-wide (N1-412-99-21, 2 items, 2 temporary items). Records relating to **Federal Register** notices, including drafts and final notices, tear sheets from the **Federal Register**, newspaper clippings, press releases, citations and abstracts of articles, correspondence, logs, and tracking systems. Also included are electronic copies of documents created using electronic mail and word processing.

12. Environmental Protection Agency, Agency-wide (N1-412-99-22, 4 items, 4 temporary items). Quality Assurance Project Plans and Quality Management Plans, including electronic copies of records created using electronic mail and word processing. Records document administrative procedures for ensuring that environmental data used to support agency decisions are of adequate quality and usability for their intended purpose. Included are records that establish criteria for planning, implementing, documenting, and assessing data collection activities.

13. Railroad Retirement Board, Office of Programs (N1-184-99-1, 6 items, 6 temporary items). Paper and optical disk copies of Railroad Unemployment Insurance Act records compiled in determining the validity of sickness insurance applications and unemployment claim forms for compensation administered by the agency. Also included are electronic copies of documents created using electronic mail and word processing.

14. Federal Energy Regulatory Commission, Office of the Chief Information Officer (N1-138-99-2, 7 items, 7 temporary items). Records relating to the Commission Issuance Posting System Manager, an electronic database for internal agency use that contains copies of issuances and related documents. Included are input documents, the master database, outputs (including text files used for input into a publicly available data base), system documentation, and electronic copies of records created using electronic mail and word processing. Recordkeeping copies of the agency's issuances were previously approved for permanent retention.

15. Federal Energy Regulatory Commission, Office of the Chief Information Officer (N1-138-98-7, 4 items, 4 temporary items). Records

relating to the Commission Issuance Posting System, an electronic database of agency issuances created for public reference use. Included are input documents, the master database, outputs, and system documentation.

16. National Gambling Impact Study Commission, Agency-wide (N1-220-99-3, 40 items, 11 temporary items). Background information and unsolicited public opinion and reference files not used for decision-making purposes by the Commission. Also included are electronic copies of records created using electronic mail, word processing, and web-based systems. Records proposed for permanent retention include correspondence files, meeting files, subject files, subcommittee files, case studies, reports, and publications. Electronic information systems pertaining to the Commission's comprehensive study of the legal, social, and economic impact of gambling on American society are also proposed for permanent retention.

Dated: December 10, 1999.

**Michael J. Kurtz,**

*Assistant Archivist for Record Services—  
Washington, DC.*

[FR Doc. 99-33006 Filed 12-20-99; 8:45 am]

**BILLING CODE 7515-01-P**

## **NATIONAL INDIAN GAMING COMMISSION**

### **Fee Rates**

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted final annual fee rates of 0.00% for tier 1 and 0.08% (.0008) for tier 2 for calendar year 1999. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission.

### **FOR FURTHER INFORMATION CONTACT:**

Bobby Gordon, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005; telephone 202/632/7003; fax 202/632/7066 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating gaming on Indian lands.

The regulations of the Commission (25 CFR part 500) provide for a system of fee assessment and payment that is

self-administered by the gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and the rates being finalized today are effective for calendar year 1999.

**Elizabeth L. Homer,**

*Vice-Chairman.*

[FR Doc. 99-33079 Filed 12-20-99; 8:45 am]

**BILLING CODE 7565-01-M**

## **NUCLEAR REGULATORY COMMISSION**

**[License No. 37-20553-01 (Suspended)  
Docket No. 030-19405, EA 99-217]**

**Alfonso DeLeo, Jr., P.O. Box 312,  
Ardmore, PA 19003; Order Modifying  
Order Suspending License (Effective  
Immediately) and Order Revoking  
License**

### **I**

Alfonso DeLeo (Mr. DeLeo or licensee) is the holder of suspended Byproduct Material License No. 37-20553-01 (license) that was originally issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on April 4, 1982. The license authorized: (1) Possession and use of cesium-137 and americium-241 sealed sources (gauges) at temporary jobsites of the licensee anywhere in the United States where the Commission maintained jurisdiction for regulating the use of licensed material; and (2) storage of the licensed material at 141 Golf Hills Road, Havertown, PA. The license has an expiration date of March 31, 2004. Licensees of the Commission are required to pay annual fees.

### **II**

Pursuant to 10 CFR 171.16, Mr. DeLeo is required to pay an annual fee for the license. In accordance with 10 CFR Part 15, the licensee was sent an original invoice, a second invoice, and a final notice requesting payment. The final notice of payment due specifically informed the licensee that "non-payment of your fee may result in the revocation of your license in accordance with the enforcement provisions of the Commission's regulations," namely, 10 CFR 171.23. The NRC conducted an inspection at Mr. DeLeo's Havertown, PA facility on November 16, 1994, at which time he still possessed the

gauges, and had not paid the annual fees. To date, the annual fee(s) listed

below have not been paid as required by 10 CFR Part 171.

#### DELINQUENT INVOICES

Invoice date	Invoice No.	Amount billed	Comment
1. 8/9/91 .....	AMO2856-91	\$1,400.00	FY 1991 Annual Invoice.
2. 8/24/92 .....	AMO2423-92	400.00	FY 1992 Annual Invoice.
3. 8/21/93 .....	AMO2764-93	400.00	FY 1993 Annual Invoice.
4. 8/20/94 .....	AMO2144-94	2,470.00	FY 1994 Annual Invoice.
5. 7/22/95 .....	AMO2094-95	1,700.00	FY 1995 Annual Invoice.

On February 12, 1996, the NRC issued an Order Suspending License (Effective Immediately) to Alfonso DeLeo, Jr., based on the non-payment of license fees for fiscal years 1991 through 1995. The Order of February 12, 1996, required, among other things, that Alfonso DeLeo, Jr. dispose of any licensed material acquired or possessed under the authority of License No. 37-20553-01. As of the date of this Order, Mr. DeLeo had not complied with the February 12, 1996 Order, in that he has not disposed of the subject licensed material.

During a subsequent inspection by the NRC at Mr. DeLeo's Havertown, PA facility on December 5, 1996, the NRC determined that he failed to notify the Commission in accordance with 10 CFR 30.36(d)(3) of the cessation of principal licensed activities. Specifically, Mr. DeLeo had ceased activities prior to August 15, 1994, the regulation's effective date. As a result, a Notice of Violation (Notice) was issued on December 16, 1996. Mr. DeLeo failed to reply to the Notice within 30 days of its issuance as required by 10 CFR 2.201. The NRC contacted Mr. DeLeo on February 13, 1997, concerning his failure to reply to the December 16, 1996 Notice, and he indicated that he would reply to the Notice. Mr. DeLeo did not reply to the Notice until March 16, 1998.

Prior to that reply, the NRC also sent Mr. DeLeo a letter on February 24, 1997, describing the Decommissioning Timeliness rule (10 CFR 30.36), and indicating that the licensed material in his possession needed to be transferred to another authorized recipient by October 15, 1998. The letter further stated that failure to dispose of licensed material by that date could result in significant enforcement action, including the imposition of monetary civil penalties. Nonetheless, Mr. DeLeo did not transfer the gauges. During another inspection of Mr. DeLeo's Havertown, PA, facility on March 16, 1998, he was again informed that 10 CFR 30.36 required him to transfer

licensed material to an authorized recipient by October 15, 1998.

The NRC attempted to contact Mr. DeLeo several times between December 30, 1998, and March 10, 1999 by leaving messages on his answering machine to determine the status of the licensed material. As of April 1, 1999, Mr. DeLeo had not returned the telephone calls. As a result, a joint inspection/investigation by the NRC's Division of Nuclear Materials Safety and Office of Investigations was conducted on April 1, 1999, at his Havertown, PA, facility. That investigation disclosed that Mr. DeLeo still retained possession of the gauges. Based on the above, including the OI investigation, the NRC concluded that Mr. DeLeo was in willful violation of NRC requirements.

Since Mr. DeLeo had not conducted his activities in full compliance with NRC requirements, a written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon Mr. DeLeo by letter dated June 2, 1999. The Notice states the nature of the violation, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

Although Mr. DeLeo confirmed to the NRC, during a telephone conversation on June 18, 1999, that he had received the NRC's June 2, 1999 letter transmitting the Notice of Violation and Proposed Imposition of Civil Penalty, he failed to respond to it and was still in possession of the gauges. Therefore, the NRC staff issued an Order on August 23, 1999, imposing a \$5,500 civil penalty and also proposing additional daily penalties in the amount of \$500 per day for his continued failure to transfer the gauges. Subsequently, the NRC held a management meeting with Mr. DeLeo on November 9, 1999 in the Region I office to explain the NRC's position and provide Mr. DeLeo an opportunity to explain his position. Mr. DeLeo did not agree with the NRC's position that he must immediately transfer his licensed material to an authorized recipient.

### III

The deliberate failures of the licensee to: (1) Comply with the February 12, 1996 Order (suspension of license); (2) pay the annual fee as required by Commission regulations; and (3) comply with 10 CFR 30.36 demonstrate that the licensee is either unwilling or unable to comply with Commission requirements. Consequently, I lack the requisite reasonable assurance that public health and safety will be protected if the licensee were to continue to be in possession of licensed material at this time. Therefore, the public health, safety, and interest require that the licensee leak test the licensed material prior to transfer to an authorized recipient; that the licensee transfer the licensed material to an authorized recipient within 30 days as described below; and that Byproduct Material License No. 37-20553-01 be revoked. Furthermore, pursuant to 10 CFR 2.202, I find that the significance and willfulness of the violations described above is such that no further notice is required and that the public health, safety and interest require that the provisions of Section IV.A. of this Order be immediately effective.

### IV

Accordingly, pursuant to sections 81, 161b, 161c, 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 Parts 30, 170, and 171,

A. *It is hereby ordered*, effective immediately, that:

1. The requirements of Paragraphs A through E of Section III of the Order dated February 12, 1996, and attached hereto remain in effect except where modified below.

2. The licensee shall complete a leak test pursuant to Byproduct Material License No. 37-20553-01, Condition 12.A., B., C., D., E., F., and G. to confirm the absence of leakage and to establish the levels of residual radioactive contamination prior to transfer of the gauges to an authorized recipient.

3. Within 30 days of the date of this Order, the licensee shall cause all licensed material in its possession to be transferred to an authorized recipient in accordance with 10 CFR 30.41.

4. After the conditions of Paragraph 3 are met and within 30 days of the date of this Order, the licensee shall submit a completed NRC Form 314 to the Regional Administrator, NRC Region I, at 475 Allendale Road, King of Prussia, Pennsylvania 19406-1415.

B. *It is further ordered* that:

1. Upon a written finding by the Regional Administrator, NRC Region I, that no licensed material remains in the licensee's possession and that other applicable provisions of 10 CFR 30.36 have been fulfilled, Byproduct Material License No. 37-20553-01 is revoked.

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

## 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, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and shall include a statement of good cause for the extension. The answer may consent to the 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 set forth the matters of fact and law on which the licensee or other person adversely affected relies and 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, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; and 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 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, may, in addition to demanding a hearing, at the 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 Section IV 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.

Dated at Rockville, Maryland this 13th day of December 1999.

For the Nuclear Regulatory Commission.

**Carl J. Paperiello,**

*Deputy Executive Director for Materials, Research and State Programs.*

[FR Doc. 99-33021 Filed 12-20-99; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-458]

### Entergy Operations, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-47 issued to Entergy Operations, Inc. (the licensee), for operation of the River Bend Station, Unit 1 (RBS) located in West Feliciana Parish, Louisiana.

The proposed amendment would add an exception to the RBS Technical Requirements Manual (TRM), Section TR 3.9.14, current prohibition for travel of loads in excess of 1200 pounds over fuel assemblies in the spent fuel storage. The exception would allow the movement of spent fuel pool watertight gates, which separate the spent fuel pool from the cask and lower transfer pools. Approval of this exception would allow the licensee to perform maintenance and repairs to the gates and watertight seals, provided the licensee complies with the defense-in-depth recommendations, or take alternative measures to compensate for deficiencies in the defense-in-depth approach, addressed in NUREG-0612, "Control of Heavy Loads at Nuclear Power Plants." Corresponding sections of the RBS Updated Safety Analysis Report (USAR) would be revised to be consistent with the exception and to state that the provisions of NUREG-0612 will be met.

The load of the gate (approximately 1600 pounds) and rigging (approximately 400 pounds) exceeds the load analyzed over spent fuel. In accordance with the guidance in Nuclear Regulatory Commission (NRC) Bulletin 96-02, "Movement of Heavy Loads over Spent Fuel, over Fuel in the Reactor Core, or over Safety-Related Equipment," issued April 11, 1996, and Title 10 of the *Code of Federal Regulations*, Part 50.59 (10 CFR 50.59), these changes have been determined to involve an unreviewed safety question.

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

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involved a significant increase in the probability or consequences of an accident previously evaluated.

The River Bend Station (RBS) fuel building fuel storage facilities consist of three separate