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U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attn: Rulemakings and Adjudications Staff

Subject: Wyoming Mining Association (WMA) Comments on the Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2015– (Federal Register Volume 80, Number 55 - Monday, March 23, 2015 - Proposed Rules)

To whom it may concern:

The Wyoming Mining Association (WMA) is an industry association representing mining companies, contractors, vendors, suppliers and consultants in the State of Wyoming. Among its mining industry members are uranium recovery licensees, including four (4) operating in-situ uranium recovery licensees, one conventional uranium recovery operator in standby, several companies planning new uranium recovery operations that are currently in the permitting process and several companies conducting final reclamation/restoration operations.

Total uranium concentrate production in the United States in 2013 was 4,659,000 pounds (U.S. Energy Information Administration - *2013 Domestic Uranium Production Report*). 2013 Wyoming uranium production was 2,600,000 pounds (Wyoming State Geological Survey), accounting for 56% of United States production. Wyoming contributes the largest share of any state to the total production of uranium in the United States. As such the issues raised in this Proposed Rule are of special concern to the WMA and its uranium recovery industry members.

The following are the Association's comments on the ***Proposed Rule Revision of Fee Schedules; Fee Recovery for FY 2015***:

Changes in Uranium Recovery Fees (Proposed 2015 versus Fiscal Year 2014 Fees)

The table below shows the proposed changes in the fee structure:

License Type	Fiscal Year 2014 Annual Fee	Proposed Fiscal Year 2015 Annual Fee	Percentage Change
Conventional and heap leach mills	\$33,800	\$40,700	+20.4%
Basic <i>in situ</i> recovery facilities	\$42,800	\$51,500	+20.3%
Expanded <i>in situ</i> recovery facilities	\$48,500	\$58,300	+20.2%
Resin toll milling facilities	N/A	N/A	N/A
11e.(2) disposal incidental to existing tailings sites	\$19,200	\$23,100	+20.3%
Uranium water treatment	\$5,600	\$6,800	+21.4%

Comments on the Proposed Fee Increases and Regulatory Streamlining Issues

The increases for each category of uranium recovery license over the 2014 annual fees exceed 20 percent. This increase far exceeds the current rate of inflation and increases in costs from vendors, suppliers and contractors with which the uranium recovery industry does business. It far exceeds annual salary increases for uranium recovery workers as well. The uranium recovery industry fails to see how increases of this magnitude can be justified. In the preamble to the proposed rule, NRC states:

In comparison to FY 2014, the proposed FY 2015 budgetary resources for uranium recovery licensees increased due to greater resources required for environmental reviews of uranium mining applications and tribal consultations with uranium recovery licensing actions. Specifically, staff worked to expedite environmental reviews for uranium mining applications by improving the National Historic Preservation Act Section 106 Tribal Consultation process to accelerate NRC consideration of uranium mining applications.

The Section 106 Tribal Consultation process is a protracted process that has created substantial frustration, long licensing delays and substantial costs for uranium recovery licensees, both for license applicants and for those involved in certain other licensing actions. The Section 106 Tribal Consultation process was discussed in a letter from Katie Sweeney of the National Mining Association (NMA) to the Honorable Allison M. Macfarlane, Chairman U.S. Nuclear Regulatory Commission dated January 7, 2013. In the letter Katie Sweeney discussed the Section 106 Tribal Consultation process stating:

Second, NRC's conduct of the National Historic Preservation Act's (NHPA) Section 106 process has become a source of great concern within the uranium recovery industry. Industry understands that the Section 106 process is mandatory for new operating facilities and for some other licensing actions and has attempted to assist the Agency in conducting this process. However, industry is deeply concerned with the lack of a standardized process or protocol, perhaps a regional programmatic agreement, for the Section 106 process and with the failure of NRC Staff to be more decisive in its role as the "lead agency" in its licensing process.

The WMA is concerned by the fact that the NRC is attempting to justify a fee increase based upon "... *greater resources required for environmental reviews of uranium mining applications and tribal consultations with uranium recovery licensing actions.*" The Section 106 Tribal Consultation process should be streamlined and not used as a justification for higher fees.

Mr. Larry W. Camper, Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs responded on February 12, 2013 to the January 7, 2013 letter and stated the following regarding the Section 106 Tribal Consultation process:

Staff believes that it has improved its implementation of the NHPA Section 106 process over the last few years. For example, staff has been cooperating with the U.S. Department of the Interior's Bureau of Land Management (BLM) under the Memorandum of Understanding for both the proposed Dewey-Burdock and Ross projects by jointly preparing the supplemental Environmental Impact Statement and conducting the Section 106 review for each project, thus gaining efficiency and minimizing duplicative efforts. Staff also facilitated Tribal field surveys for four Crow Butte proposed projects so that the majority of the surveys were completed within four weeks.

If steps have indeed been made to improve the Section 106 Tribal Consultation process, then it should not be used as a justification to increase fees.

The NRC should recognize that these increases are especially damaging to the uranium recovery industry at the present time because the spot market price for uranium oxide/U3O8 continues to be depressed at USD39.00 per pound (*Uranium Exchange Monday, April 13, 2014*)

The WMA is concerned that other actions taken by NRC over time to streamline the regulatory process and by extension reduce fees and hourly costs have not been effective. These actions include:

- Preparation of NUREG-1910 - *Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities* dated May 2009
- Performance Based Licensing for Uranium Recovery Licensees

It was believed that when implemented these two (2) actions would result in lower costs to licensees and a general streamlining of the regulatory process. Specifically NUREG-1910 was prepared in the belief that it would result in a faster and less costly license application process. Instead licensing a uranium recovery facility now takes longer and costs more in NRC fees than ever before. Performance based licensing was initiated in the belief that it would reduce the number of amendment requests and NRC review costs. In recent years NRC staff has restricted the use of Safety and Environmental Review Panels (SERPs) to perform routine reviews such as those associated with development of new wellfields, resulting in more amendment requests that result in additional costs.

Uranium recovery is the lowest risk sector of the nuclear fuel cycle and should require the least oversight. Increasingly it is clear that the uranium recovery industry is enduring more (and more costly) oversight.

WMA recognizes as well that industry plays a role in controlling the costs associated with licensing reviews through providing robust licensing documents and responding to agency requests in a timely manner. However, these efforts have been hamstrung by changing requirements made unilaterally by NRC staff without the benefit of industry or public input. NRC staff should work under existing Commission-approved guidance until staff prepares new guidance and solicits stakeholder comments. Regarding standardization WMA believes that some savings could be realized by standardized designs. However, the majority of the increased costs for licensing actions are not related to technical design reviews by NRC staff. The increases are clearly due to reinterpreted safety standards and huge increases in the costs of environmental and cultural resource reviews. An example of this sort of problem is the LC 12.10 Technical Evaluation Report (ADAMS Accession Number: ML14289A148) received by a Wyoming uranium recovery licensee. The National Mining Association (NMA) responded to this document with a letter to Mr. Larry W. Camper, Director, Division of Decommissioning, Uranium Recovery and Waste Programs dated January 23, 2015. The Wyoming Mining Association (WMA) sent a similar letter dated on or about February 9, 2015.

Comments on the Hourly Rate

The Commission also proposed a decrease in the hourly rate from \$279.00 per hour to \$277.00 per hour, or a 0.72% decrease over 2013 rates. While any decrease is welcome, the hourly rate remains very high especially in comparison to the hourly rates of consultants working for the uranium recovery industry. The primary issue that WMA has with the hourly rate is that the large number of hours expended by NRC staff on licensing reviews for the lowest risk sector in the nuclear power cycle results in huge regulatory costs that have become an existential threat to some operators.

Comments on Invoicing

WMA continues to be concerned about the agency's invoicing process. In her January 7, 2013 letter, Katie Sweeney stated:

NRC invoices have been wholly lacking in standard detail that every consultant, law or accounting firm in the private sector must provide and NRC's hourly rates exceed those of many of these organizations in the Western part of the country. Accordingly, NRC's invoices do not offer industry any opportunity to gauge the reasonableness of fees incurred for different phases of the licensing process which, in turn, makes a lessons learned approach for future licensing actions virtually impossible to implement.

This continues to be a problem. In addition, there is no predictability for budgeting purposes regarding the magnitude of these invoices in regards to the review of a given submittal. The uranium recovery industry needs, for budgeting purposes, to be able to estimate the total value of future review invoices for a given submittal. Members of the uranium recovery industry have no idea of the magnitude of the quarterly review invoices until they arrive and must be paid. This creates a difficult situation in the form of large unanticipated expenses for uranium recovery operators. If the agency as part of its completeness review were to provide an approximate and non-binding estimate of cost to complete the review of a given submittal it would be very helpful to uranium recovery operators.

The Wyoming Mining Association (WMA) appreciates the opportunity to comment on this proposed rule. If you have any questions please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'Jonathan Downing', with a stylized flourish at the end.

Jonathan Downing
Executive Director

Cc: Katie Sweeney – National Mining Association (NMA)