

# PUBLIC SUBMISSION

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 Fees Development and Communications

3/22/2016

**Comment On:** NRC-2016-0056-0001  
 Fees Development and Communications; Request for Information

81 FR 15352

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## Submitter Information

**Name:** Wyoming Mining Association

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RULES AND DIRECTIVES  
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 INFO

## General Comment

See attached file(s)

## Attachments

160504 WMA NRC\_RFI Comments 2016

SUNSI Review Complete  
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Add= A. Bradford (AHB1)

**Physical Address**  
2601 Central Avenue  
Cheyenne, WY 82001

**Phone:** 307.635.0331



**Mailing Address**  
PO Box 866  
Cheyenne, WY 82003

**Fax:** 307.778.6240

May 4, 2016

Ms. Cindy Bladey  
Office of Administration  
Mail Stop: OWFN-12-H08  
U.S. Nuclear Regulatory Commission,  
Washington, DC 20555-0001

**Subject: Wyoming Mining Association (WMA) Comments on the Request for Information - Fees Development and Communications- (Federal Register Volume 81, Number. 55 / Tuesday, March 22, 2016 / Notices)**

Dear Ms. Bladey:

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 five (5) 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 2014 was 4,900,000 pounds (U.S. Energy Information Administration - *2014 Domestic Uranium Production Report*). 2014 Wyoming uranium production was 3,300,000 pounds (Wyoming State Geological Survey), accounting for 65% 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 Request for Information are of special concern to the WMA and its uranium recovery industry members.

The following are the Association's comments on the ***Request for Information - Fees Development and Communications***:

#### **General Comments**

The Association strongly supports this effort and views it as an excellent first step toward resolving some long term issues regarding agency fees and the means by which they are assessed. The WMA believes that it is best equipped to comment on the following three (3) areas of the request those being:

- **Request Two**
  - *What are some specific improvements that could be made to the fee-related work papers or forms that would assist in the public's understanding of those papers and forms? For example, can the NRC improve the clarity and content of NRC invoice forms? If so, how?*
- **Request Six**
  - *Are there activities that the NRC should convert from fee-billable to nonfee-billable (or vice versa) and, if so, why? For example, should hearings for new licenses be fee-billable, or should the NRC continue to recover those costs through 10 CFR part 171 annual charges?*
- **Request Seven**

- *Are there activities or fee classes that are more suited to flat fees rather than hourly? For example, should reviews of topical reports be subject to a flat fee or is the level of effort associated with individual topical reports too variable?*

## **Specific Comments**

- **Request Two**

Request Two states: *What are some specific improvements that could be made to the fee-related work papers or forms that would assist in the public's understanding of those papers and forms? For example, can the NRC improve the clarity and content of NRC invoice forms? If so, how?*

This is an issue that the WMA, the National Mining Association (NMA) and various uranium recovery licensees have commented about numerous times in their comments on each year's proposed fee rule. A study of past uranium recovery industry comments on each year's proposed fee rule was completed using ADAMS. This analysis revealed that the uranium recovery industry has been commenting on invoicing procedures and invoice forms and suggesting changes to them since 2001, a period of fifteen (15) years. Attached to this document please find Appendix 1 that contains sets of annual fee comments from associations that represent the uranium recovery industry as well as uranium recovery licensees. These selected comment sets specifically discuss how the agency can "...improve the clarity and content of NRC invoice forms..." The content concerning invoicing is quoted, cited and listed below organized by year and commenter:

### **National Mining Association (NMA) Comments**

- **Proposed Revision of Fee Schedules -FY 2002**

This comment set states:

*NMA requests that NRC continue its efforts to provide invoices that contain more meaningful descriptions of the work done by NRC staff and NFRC Contractors. With hourly rates as high as \$152, NRC should be held to at least the same standard of accountability to its licensees as the private sector is to its clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified. NMA recognizes that implementing such a system would require major revisions to NRC's entire computer billing program, but it is a change that would serve well NRC, its licensees and the public. NRC will not accept licensee inconvenience as an excuse for failure to properly fulfill its license responsibilities so inconvenience provides NRC with no excuse either.*

- **Proposed Revision of Fee Schedules -- FY 2006**

This comments set states:

*The Commission should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and especially contractors. With proposed hourly rates at \$215 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to his clients. In the private sector, adequate explanations, rates and time are provided to clients in order for clients to fully understand what was*

done, when it was done and how long it took. This type of billing system allows costs to be specifically identified. In addition, if the agency performs large amounts of work on submittals from a single licensee the billings should be frequent so that a licensee is better able to track costs.

- **Proposed Revision of Fee Schedules -- FY 2011**

This comment set states:

*While improvements have been made over the last decade, NRC needs to continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and especially contractors. With proposed hourly rates at \$273 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to its clients. In the private sector, adequate explanations, dates and time are provided to clients in order for clients to fully understand what was done, when it was done and how long it took. This type of billing system allows costs to be specifically identified. Enhanced billing details would also better allow NRC to review bills with an eye toward cost-containment and gaining information necessary to determine appropriate flat fees for certain activities.*

- **Proposed Revision of Fee Schedules -- FY 2012**

This comment set states:

*While improvements have been made over the last decade, NRC needs to continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and especially contractors. With proposed hourly rates at \$274 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to its clients. In the private sector, adequate explanations, dates and time are provided to clients in order for clients to fully understand what was done, when it was done and how long it took. This type of billing system allows costs to be specifically identified. Enhanced billing details also would better allow NRC to review bills with an eye toward cost-containment and gaining information necessary to determine appropriate flat fees for certain activities. Again, this issue was discussed at the last NMA/NRC workshop but never acted upon.*

- **Proposed Revision of Fee Schedules -- FY 2013**

This comment set states:

*NRC needs to continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and especially contractors. NMA raised this concern in comments on FY 2012 fees and then again in a letter to NRC's office of chief financial officer. NMA recently received a response from the CFO's office indicating a willingness to address NMA's concerns. Importantly, the letter noted that NRC's "experience with other licensees and applicants has shown that NRC invoices can be tailored to meet industry needs when coordinated communications occur between the licensee or applicant, the NRC Program Office and NRC Office of the Chief Financial Officer." NMA looks forward to determining the path forward to resolving our concerns with NRC invoices at the upcoming meeting with NRC staff.*

On August 3, 2012, Ms. Katie Sweeney General Counsel to the National Mining Association (NMA) sent a letter to Mr. James Dyer, Chief Financial Officer (CFO) of the Nuclear Regulatory Commission (NRC) following a meeting with him to discuss invoices. This letter outlines the National Mining Association's (NMA's) suggestions regarding the "...clarity and content of NRC invoice forms..." This letter is included in Appendix 2.

In a January 7, 2013 letter to Chairman Macfarlane Ms. Katie Sweeney, General Counsel to the National Mining Association (NMA), stated:

*(3) Third, there are several process-related issues that require some detailed discussion with the Commission. NRC billing practices have long been a difficult issue for industry. For several years, industry has been dissatisfied with the level of detail contained in NRC's billing invoices, especially when it relates to time and fees charged by NRC-retained independent contractors. 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. NMA has met with and communicated in writing with NRC's Chief Financial Officer (See Attached Letter) and has received no reply to date. NMA would like to explore this issue in more depth with the Commission.*

This letter and the reply that was received are included in Appendix 2 as well.

The record of the National Mining Association (NMA), which represents uranium recovery licensees, on the issues regarding the clarity and content of invoices is a clear and consistent one extending back to 2002. The WMA, to which Kennecott Uranium Company and Rio Algom (in 2001) belong concurs with the above discussed comments and letters.

#### **Wyoming Mining Association (WMA) Comments**

- **Proposed Revisions to 10 CFR Parts 170 and 171 on License, Inspection and Annual Fees for FY 2001.**

This comment set states:

*The WMA believes that the NRC should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by NRC staff and NRC Contractors. With hourly rates as high as \$144 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to its clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified.*

- **Revision of Fee Schedules; Fee Recovery for FY 2012**

This comment set states:

*The WMA believes that NRC staff should provide invoices containing a similar level of detail to that which is provided in invoices from industry consultants, including the names of the NRC staff members or contractors that incurred the billable hours. In this manner, licensees would at least be able to better understand how staff time is allocated and what specific activities may cost.*

This request for more detailed invoices was acknowledged in the agency's review entitled **PUBLIC COMMENTS ON THE FISCAL YEAR 2012 PROPOSED FEE RULE** that is attached in Appendix 1.

- **Revision of Fee Schedules; Fee Recovery for FY 2015**

Regarding invoices, this comment set states:

*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 WMA which represents Wyoming uranium operators also has a record of requesting that invoices are clear, consistent, detailed and similar to those prepared and submitted by private consulting firms.

#### **Kennecott Uranium Company Comments**

Kennecott Uranium Company is a uranium recovery licensee that owns the Sweetwater Uranium Project (NRC License SUA-1350) located in Sweetwater County, Wyoming which is the sole remaining conventional uranium mill in Wyoming and one of the three (3) remaining conventional uranium mill in the United States. Kennecott Uranium Company has commented extensively on invoicing requesting that the invoices be clear and detailed. Relevant excerpts from their comments regarding invoicing are provided below:

- **Revisions to 10 CFR Parts 170 and 171 on License, Inspection and Annual Fees for FY 2001**

This comment set states:

*Kennecott Uranium Company believes that Nuclear Regulatory Commission (NRC) should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by NRC staff and NRC Contractors. With hourly rates as high as \$144.00 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to his clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified.*

- **10 CFR Parts 170 and 171 Revision of Fee Schedules; Fee Recovery for FY2006**

This comment set states:

*The Commission should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and Contractors. With proposed hourly*

*rates at \$215.00 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to his clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified.*

- **Revision of Fee Schedules; Fee Recovery for FY 2012**

This comment set states:

*Kennecott Uranium Company believes that Commission staff should provide invoices containing a similar level of detail that is provided in invoices from industry consultants. In this manner, licensees would at least be able to better understand how staff time is allocated.*

This request for more detailed invoices was acknowledged in the agency's review entitled **PUBLIC COMMENTS ON THE FISCAL YEAR 2012 PROPOSED FEE RULE** that is attached in Appendix 1.

- **Revision of Fee Schedules; Fee Recovery for FY 2015**

This comment set states:

*Kennecott Uranium Company 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.*

*Lack of invoice detail 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 invoices must provide specific detail regarding the work to be completed under both 10 CFR parts 170 and 171.*

Kennecott Uranium Company also has a record of requesting that invoices are clear, consistent, detailed and similar to those prepared and submitted by private consulting firms.

#### **Other Uranium Recovery Licensee Comments**

- **Rio Algom - 2001 - NRC's Proposed FY 2001 Fee Rule**

This comment set states:

*Rio Algom requests that NRC continue its efforts to provide invoices that contain more meaningful descriptions of the work done by NRC staff and NRC Contractors. With hourly rates as high as \$144, NRC should be held to at least the same standard of accountability to its licensees as the private sector is to its clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified. Rio Algom*

*recognizes that implementing such a system would require major revisions to NRC's entire computer billing program, but it is a change that would serve NRC, licensees and the public well.*

All of these uranium recovery industry comments possess a common thread that being requests for invoices that are clear, consistent, detailed and similar to those prepared and submitted by private consulting firms.

- **Request Six**

Request Six states: *Are there activities that the NRC should convert from fee-billable to nonfee-billable (or vice versa) and, if so, why? For example, should hearings for new licenses be fee-billable, or should the NRC continue to recover those costs through 10 CFR part 171 annual charges?*

The WMA believes that activities that are not under the licensees' control should be converted from fee-billable to nonfee-billable. The costs associated with hearings for either new licenses, license renewals or potentially license amendments that are contested by members of the public should be nonfee-billable. A licensee has no control over the actions of members of the general public or intervener groups. Hearings can be long and complex, not under the licensees control and as such not directly fee-billable.

- **Request Seven**

Request Seven states: *Are there activities or fee classes that are more suited to flat fees rather than hourly? For example, should reviews of topical reports be subject to a flat fee or is the level of effort associated with individual topical reports too variable?*

The WMA believes that there are definitely activities that are suited to flat fees. An example would be reviews of standard types of submittals made by the uranium recovery industry on a routine basis such as annual Corrective Action Program (CAP) Reviews, 10 CFR 40.65 Reports, ALARA Reports, Land Use Reports surety submittals involving adjustments to the surety based upon the Consumer Price Index (CPI), review of a Standby Trust Agreement and basic surety rebaselining submittals.

This issue has been discussed by the National Mining Association (NMA) previously in its comments on the *Proposed Revision of Fee Schedules -- FY 2011* when it stated:

*Enhanced billing details would also better allow NRC to review bills with an eye toward cost-containment and gaining information necessary to determine appropriate flat fees for certain activities.*

The NMA discussed this issue in its 2013 proposed fee rule comments stating:

*Another way for NRC to provide greater certainty regarding fees would be to establish more flat fees for activities at uranium recovery operations. NRC may not yet have the needed information and experience on number of hours and typical timeframes to establish flat fees but NRC's goal should be to move to flat fees for routine activities. While the flat fees would fluctuate as hourly rates are recalculated each fiscal year, flat fees would at least result in a better ability to plan and budget.*

These comment sets are included in Appendix 1 for reference.

The WMA also discussed this issue in its comments on *Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2011* when it stated:



*The Commission should provide licensees with a schedule of approximate costs (or a cost range) for performing common tasks such as a reviewing and approving a surety, reviewing and approving a standby trust agreement or other tasks. With this information licensees would be able to more effectively budget for reviews by Commission staff.*

In its comments on *Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2012* when it stated:

*The NRC should provide licensees with a schedule of approximate costs (or a cost range) for performing common tasks such as a reviewing and approving a surety, reviewing and approving a standby trust agreement, approving a change of control or other similar tasks. With this information, licensees would be able to more effectively budget for reviews by NRC Staff.*

This request for a schedule of costs for common tasks was acknowledged in the agency's review entitled **PUBLIC COMMENTS ON THE FISCAL YEAR 2012 PROPOSED FEE RULE** that is attached in Appendix 1.

These comment sets are included in Appendices 3 and 1 respectively for reference.

Kennecott Uranium Company also discussed this issue in its comments on *Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2011* using similar language to that of the WMA.

This comment set is included in Appendix 3 for reference.

- **Predictability of Invoice Amounts**

The above discussed issue of flat fees for certain types of reviews leads into the issue of predictability of invoice amounts. Flat fees for various items creates certainty in the invoicing process. Licensees will know in advance what they will be charged for certain types of work, which will allow them to accurately budget for the work. The current system does not allow licensees to accurately forecast and budget for agency charges for reviews. This inability to forecast agency billings is a major problem for the industry. Flat fees for at least certain items will allow for a degree of predictability regarding invoices, however it is not enough. The industry in past comments has discussed this issue as follows:

**Wyoming Mining Association (WMA) Comments**

- **Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2011**

This comment set states:

*Licensees typically prepare their budgets approximately five (5) months prior to the start of the new calendar year. Review and inspection invoices are erratic and invoice amounts are impossible to predict, making it impossible for licensees to effectively budget for these items. Licensees need to be able to plan for future invoices from the Commission and require some information in order to effectively budget for these costs.*

This comment set is included in Appendix 3 for reference.

- **Revision of Fee Schedules; Fee Recovery for FY 2012**

In the 2012 comment set on the proposed fee rule the WMA specifically asked for cost estimates from the agency upon completion of the acceptance review stating:

*Licensing submittals are given an acceptance review by NRC staff prior to the initiation of detailed technical review work in order to determine if the submittal contains the requisite information for acceptance. Private industry expects and requires consultants to prepare budgetary estimates before work is begun. With NRC reviews, industry is expected to write a blank check. It is very difficult to explain to company management and shareholders the uncertainty involved with the time it takes to complete licensing actions and the associated exorbitant costs related to NRC reviews.. NRC staff should be able upon completion of the Acceptance Review to provide the licensee or applicant with an estimate of the approximate number of man hours and review costs required to review the submittal.*

This request for cost estimates was acknowledged in the agency's review entitled **PUBLIC COMMENTS ON THE FISCAL YEAR 2012 PROPOSED FEE RULE** that is attached in Appendix 1.

- **Revision of Fee Schedules; Fee Recovery for FY 2015**

This comments set states:

*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 above two (2) comment sets are included in Appendix 1 for reference.

#### **Kennecott Uranium Company Comments**

- **Revision of Fee Schedules; Fee Recovery for FY 2012**

This set of comments states:

*Licensing submittals are given a completeness review by NRC staff prior to the initiation of detailed technical review work in order to determine if the submittal contains the requisite information for acceptance. Private industry expects consultants to prepare budgetary estimates before work is begun. With NRC reviews, industry is expected to write a blank check. In a global industry such as the uranium recovery industry, it is very difficult to explain to company executives and shareholders the uncertainty involved with licensing actions. In the case of Kennecott Uranium Company, an estimate of the cost to review the Catchment Basin Completion Report submitted on May 6, 2008 would have been very useful in the budgeting process. Commission staff should be able upon completion of the Completeness Review to provide the licensee or applicant with an estimate of the approximate number of man hours required to review the submittal.*

This request for cost estimates was acknowledged in the agency's review entitled **PUBLIC COMMENTS ON THE FISCAL YEAR 2012 PROPOSED FEE RULE** that is attached in Appendix 1.

- **Revision of Fee Schedules; Fee Recovery for FY 2015**

Kennecott Uranium Company addressed this issue as well in its comments on the 2015 proposed fee rule stating:

*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 but non-binding estimate of cost to complete the review of a given submittal it would be very helpful to uranium recovery operators.*

These comment sets are included in Appendix 1 for reference.

Licensees need to be able to forecast future agency invoices for the review of submittals so that they can budget properly for them

- **Government Accountability Office (GAO) Report on the Fee Setting Process**

The National Mining Association (NMA) was contacted on April 27, 2016 by the Government Accountability Office (GAO) regarding fees. The GAO, at the request of the Senate Environment and Public Works Committee and the House Energy and Commerce Committee, is undertaking a report on the fee setting process. This issue has now drawn the attention of the GAO. The WMA believes that this Request for Information as well as the work being undertaken by the GAO presents a valuable opportunity to improve the agency's fee development, fee setting and invoicing procedures.

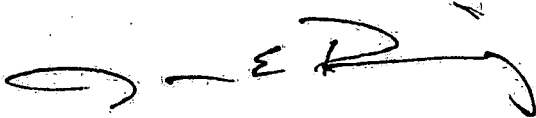
## **Conclusions**

The Wyoming Mining Association (WMA) and the uranium recovery industry in general (either as individual licensees or as represented by the National Mining Association (NMA)) has a long (fifteen (15) year) history of providing input and information regarding the agency's fee development, invoicing and communications processes. The record is a long and remarkably consistent one as evidenced by the discussion above and includes the following suggested changes:

- The WMA believes that invoices should be substantially more detailed, with clear connections to specific tasks that include time spent and costs accrued. These invoices should be similar in scope and detail as invoices prepared by consulting firms used by the industry.
- The WMA believes that activities not under the control of a licensee should not be fee billable but rather recovered through annual charges
- The WMA believes that numerous items should be subject to flat fee billing, if for no other reason than the fact that flat fee billing is predictable, and enables the licensees to predict and budget for certain costs.
- The WMA believes that a substantial problem with the agency's invoicing is the lack of predictability in the invoice amounts. This could be mitigated to some extent by flat fee invoicing for some items however for others, it would require that the agency prepare a non-binding estimate of cost to complete the review.

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 black ink, appearing to read 'J. Downing', with a stylized flourish at the end.

Jonathan Downing  
Executive Director

Cc: Katie Sweeney – National Mining Association (NMA)

## Appendix 1

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DOCKETED  
USNRC

National Mining Association

April 29, 2002 (8:55AM))

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Katie Sweeney

Associate General Counsel

Legal & Regulatory Affairs

DOCKET NUMBER  
PROPOSED RULE 170+171  
(67FR 14818)

April 26, 2002

Secretary  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, Maryland 20852

**Re: Proposed Revision of Fee Schedules -- FY 2002**

Dear Sir:

The National Mining Association (NMA) submits these comments in response to the Nuclear Regulatory Commission's (NRC) proposed revisions to the licensing, inspection and Annual Fees for Fiscal Year (FY) 2002. 67 Fed. Reg. 14818 (March 27, 2002). NMA notes several positive changes that will contribute to lower Annual Fees, and potentially lower the fee burden from less hourly fee charges, for uranium recovery licensees for FY 2002. Yet, as discussed below, NMA continues to have concerns about the underpinnings of the fee structure, in particular, the serious inequities caused by the Omnibus Budget Reconciliation Act of 1990 (OBRA) mandate that NRC recover nearly 100 percent of its budget each year.

NMA represents producers of most of America's coal, metals, industrial and agricultural minerals; manufacturers of mining and mineral processing machinery and supplies; transporters; financial and engineering firms; and other businesses related to coal and hardrock mining. These comments are submitted by NMA on behalf of its member companies who are NRC licensees and who are adversely affected by the NRC fee regulations. These members include the owners and operators of uranium mills and mill tailings sites and in situ uranium production facilities.

**NMA Petition for Rulemaking on Fees**

Seven months ago NMA petitioned NRC to conduct a rulemaking to establish the basis and timeframe for waiving the assessment of all annual and periodic inspection and licensing fees of NRC uranium recovery licensees or, in the alternative, to establish the basis for waiving fees associated with a 10 CFR Part 41 rulemaking proceeding. In that petition, NMA submitted that maintenance of a viable domestic UR industry, including specifically maintenance of its substantial waste disposal capacity, as an important component of a viable domestic nuclear fuel cycle is demonstrably "in the public interest" of the United States of America.<sup>1</sup> In light of the

<sup>1</sup> In a letter to Kennecott Uranium Company approving a postponement of the requirements of timeliness in decommissioning for the Sweetwater Uranium Project dated July

current circumstances facing the uranium recovery industry, temporary fee relief is necessary to ensure the continuation of a domestic uranium industry. These comments will not repeat the arguments made in the NMA fee petition that show the relief requested is in the public interest but as NRC has noted, the NMA fee petition and the proposed rule are intertwined.

NMA fully supports NRC's efforts to obtain comments on NMA's petition for rulemaking, as such comments are necessary for NRC to make an informed decision. Yet, NMA questions the necessity of NRC requesting additional comments on the petition in the proposed FY 2002 fee rule given that NRC "not only published the petition in the Federal Register for comment (66 FR 55604; November 2, 2001), but also mailed the Federal Register document noticing the petition and inviting public comment to each of the NRC's more than 5,000 licensees." Thus, adequate opportunity was provided for comments on NMA's petition. Since review of the comments received expired on January 16, 2002 is already in progress, NMA hopes that the request for additional comment does not, in addition to taxing NRC's resources, slow down the process to the point that a decision cannot be made in time for publication of the final FY 2002 fee rule.

### Annual Fees

If the Commission rejects NMA's petition for rulemaking, under the proposal, the new Annual Fee for uranium recovery licensees would decrease: the Class I fee would decrease from \$94,300 in FY 2001 to \$77,700 and the Class II fee would decrease from \$79,000 in FY 2001 to \$65,100. The decrease in Annual Fees is a result of NRC's proposal to revise its methodology for allocating uranium recovery budgeted costs. For the first time, NRC is proposing to assess the Department of Energy one-half of all NRC budgeted costs attributed to generic/other activities for the uranium recovery program. NMA strongly supports NRC's efforts to make the system more equitable by assessing all parties that benefit from the uranium recovery program and agrees wholeheartedly that "DOE stands to gain from NRC's generic regulatory efforts because DOE eventually will also accept the Title II specifically licensed sites under a general license from the NRC for long term surveillance and care."

NMA still has concerns about the Annual Fee, mainly, that there continues to be the lack of a reasonable relationship between the cost to uranium recovery licensees of NRC's regulatory oversight program and the benefit derived from such services. As NMA has commented in the past, it is a fundamental principle of law that there must be a reasonable relationship between the cost to licensees of a regulatory program and the benefit derived from regulatory services.<sup>2</sup>

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17, 2001, the Commission stated, "...The continued existence of the mill is in the public interest..." and "...Maintaining the domestic capacity to provide the raw materials for nuclear power is in the public interest".

<sup>2</sup> NRC's authority to prescribe fees for "regulatory services" under 10 CFR 170 is based on the Independent Offices Appropriation Act of 1952 (IOAA), 31 USC 9701. To be valid under the IOAA, a fee must "be reasonably related to, and may not exceed the value of the service to the recipient, whatever the agency's costs may be." Central & S. Motor Freight Tariff Ass'n v. United States, 777 F.2d 722, 729 (D.C. Cir. 1985).

NMA acknowledges that the passage of the NRC Fairness in Funding Act, which could not have been accomplished without strong NRC support, addresses some of NMA's fairness and equity concerns regarding charging licensees for activities that provide licensees no direct benefit. That act amends OBRA by reducing the amount of NRC's budget that NRC must recover from its licensees. OBRA originally mandated that NRC recover approximately 100 percent of its budget authority each fiscal year. This year, NRC is required to recover approximately 96 percent of its budget. The OBRA amendment further decreases the fee recovery amount by an additional two percent per year until the fee recovery amount is 90 percent by FY 2005. While this Act alleviates some of NMA's equity concerns, it will not guarantee a reasonable relationship between costs and benefits.

Too heavy a continues to fall on uranium recovery facilities, particularly those sites awaiting NRC approval of Reclamation Plans or those on "standby." Given the complex regulatory scheme and numerous license conditions imposed on these sites, it is rarely a matter of licensee discretion when to operate or finalize closure of a site. Indeed, the realities of the uranium market are a large determinant in whether a licensee ceases operations, goes on standby or begins decommissioning. Sites that are on standby or awaiting approval of Reclamation Plans require minimal oversight yet must continue to pay an Annual Fee that is clearly not commensurate with the benefit of holding the license.

This problem of the lack of reasonable relationship between Annual Fees and services rendered by NRC is exacerbated as more states become Agreement States and more sites are decommissioned, leaving fewer NRC licensees to bear an even greater share of the burden. NRC needs to determine an equitable way of dealing with the scenario that could result in the last licensee having to pay for the entire program. NRC appears to have no plan to deal with this situation despite the NRC Office of Inspector General's identification of this issue as a problem in its briefing to the Commission on its 1993 Fee Audit:

It is our understanding that no long-range plan has been prepared by NRC to address these potential effects. The Commission may be interested in determining the economic implications of future higher license fees and a declining number of licensees . . .

Transcript of December 10, 1993, Briefing by IG on Fee Audit.

NRC must determine an equitable way of dealing with this scenario that is already playing out in the uranium recovery area. For example, there are only three conventional mills remaining as NRC licensees and the number of in-situ leach facilities continue to decrease.

### **Hourly Fees**

If the Commission rejects NMA's petition for rulemaking, under the proposal, the new hourly rate applicable to the uranium recovery category of licensees would increase significantly from \$144 in FY 2001 to \$152. While NMA believes an hourly rate of \$152 is excessive, NMA strongly supports NRC's proposal to address NMA's concerns about full cost recovery for



project managers' time. Under the new policy announced in the proposed rule, if project management duties to support a licensee/facility do not exceed 75 percent of the assigned person's time in any given two week period, then the staff member will be considered a Point of Contact. As a result, that person's time which is not specifically associated with a licensing action or inspection is now recovered through Annual Fees, a more equitable result since it allows such costs to be spread across a range of licensees. The revised policy has resulted in classifying approximately four staff members as project managers at this time, compared to approximately 97 in FY 2000.

NMA requests that NRC continue its efforts to provide invoices that contain more meaningful descriptions of the work done by NRC staff and *NRC Contractors*. With hourly rates as high as \$152, NRC should be held to at least the same standard of accountability to its licensees as the private sector is to its clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified. NMA recognizes that implementing such a system would require major revisions to NRC's entire computer billing program, but it is a change that would serve well NRC, its licensees and the public. NRC will not accept licensee inconvenience as an excuse for failure to properly fulfill its license responsibilities so inconvenience provides NRC with no excuse either.

#### **Fee Waiver Provisions**

The proposed rule revises the criteria for fee waivers and relocates the fee waiver information to a new exemption section at 10 CFR 170.11(a)(1). These provisions should be revised to encourage industry to work cooperatively with the NRC on generic regulatory improvements or efforts.

Licensees often undertake pioneering or "ground breaking" licensing actions. The associated NRC review fees for such first-of-a-kind licensing actions are often substantial. The result of such pioneering actions, however, is an assessment that which may contribute to generic regulatory activities and which may serve as precedence for other licensees. It is through such efforts that many safety improvements, burden reductions, improved regulatory processes, and public confidence enhancements result. Such "ground-breaking" actions by licensees should be encouraged and supported by the NRC. The proposed rule does just the opposite. The restrictive application of the "primary beneficiary" criterion as proposed will have unintended consequences. There will be a chilling effect on licensees that would otherwise have volunteered to pilot significant regulatory initiatives that have safety benefits and burden reduction benefits.

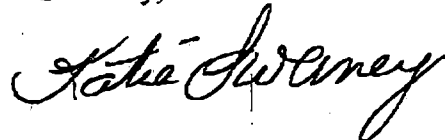
We echo the Nuclear Energy Institute's recommendation that the proposed sections (A), (B), (C), and (D) of 10 CFR 170.11(a)(1)(iii) be deleted and that the following new paragraph be added:

(iv) To request action for a specific licensee(s), but which also has the potential to result final regulatory decisions or final products which could provide a useful precedent to additional licensees or which could contribute to the development of generic regulatory improvements.

**Conclusion**

NMA supports the positive changes that will contribute to lower Annual Fees, and potentially lower the fee burden from less hourly fee charges, for uranium recovery licensees for FY 2002. If the Commission rejects NMA's petition for rulemaking, NRC must continue to find ways to reduce fees for uranium recovery licensees. NMA encourages NRC to minimize dual jurisdiction issues and associated costs to licensees such as NRC should rely more heavily on the existing state regulations specific to ISL mining. NMA appreciates the opportunity to provide comments on the proposed FY 2002 fee rule. If you have any questions or if we can be of assistance, please contact me at 202/463-2627.

Sincerely,

A handwritten signature in cursive script, reading "Katie Sweeney". The signature is written in dark ink and is positioned above the printed name.

Katie Sweeney

DOCKET NUMBER  
PROPOSED RULE PR 170+171  
(71FR07349)



NMA  
THE AMERICAN RESOURCE

3

March 13, 2006

Secretary  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, Maryland 20852

DOCKETED  
USNRC

March 13, 2006 (4:15pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**Re: Proposed Revision of Fee Schedules -- FY 2006**

Dear Sir:

The National Mining Association (NMA) submits these comments in response to the Nuclear Regulatory Commission's (NRC) proposed revisions to the licensing, inspection and annual fees for Fiscal Year (FY) 2006. 71 Fed. Reg. 7349 (February 10, 2006). Due to a rebaselining this year, uranium recovery licensees will experience an incredible 120% increase in annual fees for FY 2006. Given that the entire FY 2006 budget only increased by 15%, a 120% increase is excessive for the five existing uranium recovery licensees.

NMA represents producers of most of America's coal, metals, industrial and agricultural minerals; manufacturers of mining and mineral processing machinery and supplies; transporters; financial and engineering firms; and other businesses related to coal and hardrock mining. These comments are submitted by NMA on behalf of its member companies who are NRC licensees and who are adversely affected by the NRC fee regulations. These members include the owners and operators of uranium mills and mill tailings sites and in situ uranium production facilities.

NMA has commented extensively in the past on NRC's fee allocation system. NMA acknowledges that the 1999 amendments (NRC Fairness in Funding Act) to the Omnibus Budget Reconciliation Act of 1990 (OBRA) addressed some of NMA's fairness and equity concerns regarding charging licensees for activities that provide licensees no direct benefit. Yet NMA remains concerned about fee calculation methodologies as the amendments still do not guarantee a reasonable relationship between costs and benefits.

**Annual Fees**

Under the proposed rule, the new annual fee for uranium recovery licensees would more than double from \$30,200 in FY 2005 to \$66,400. The 120% increase in annual fees is allegedly due the reallocation of existing NRC FTE to uranium recovery licensing and inspection activities from other activities. NMA does not disagree that there is likely a need to increase the number of FTE addressing

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SECY-02

uranium recovery issues. Considering market forces and expected licensing activities, additional FTE will be required. Of course, completion of Memoranda of Understanding (MOUs) between the Commission and non-agreement states such as Wyoming or Nebraska regarding regulation of in-situ wellfields may reduce somewhat the need for additional FTE. Expansion of performance based licensing with its increased use of Safety and Environmental Review Panels (SERPs) would also help in reducing costs.

While the NRC staff working in uranium recovery are competent, there are too few of them. That problem is exacerbated by the fact that many of the them are relatively new to uranium recovery and do not have the institutional memory regarding many critical issues, delaying decisions on renewals, license amendments and other activities. If the FY 2006 fee increases were accompanied by more timely licensing actions, then the trade off might be more acceptable. Indeed, such improvements may alleviate concerns that there is lack of reasonable relationship between annual fees and services rendered by NRC as required by the Independent Offices Appropriation Act of 1952 (IOAA), 31 USC 9701.

#### **Elimination of the Existing Fee Payment Exemption for Uranium Recovery Licensees**

Given the significant, unanticipated, increase in annual fees for FY 2006, NMA does not support the proposal to eliminate the existing fee payment exemption for uranium recovery licensees. NRC should continue to allow uranium recovery licensees to pay annual fees quarterly in order to compensate somewhat for the 120% increase in fees. Quarterly payments will allow these licensees to better allocate budgetary outlays.

#### **Hourly Fees**

Under the proposal, the new hourly rate applicable to the uranium recovery category of licensees would increase significantly from \$198 in FY 2005 to \$215. This 9% increase in the hourly rate is due to a government wide pay raise as well as more accurate allocation of agency overhead. NRC needs to continue to investigate ways to reduce hourly fees including streamlining of the regulatory process. The Commission should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and especially contractors. With proposed hourly rates at \$215 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to his clients. In the private sector, adequate explanations, dates and time are provided to clients in order for clients to fully understand what was done, when it was done and how long it took. This type of billing system allows costs to be specifically identified. In addition, if the agency performs large amounts of work on submittals from a single licensee the billings should be frequent so that a licensee is better able to track costs.

**Assessing Part 170 Fees to Federal Agency Licensees**

NMA supports the proposal to charge federal agency licensees for specific service provided by NRC. NMA agrees that it is fair and appropriate to assess these federal agency licensees in the same manner as other NRC licensees.

NMA appreciates this opportunity to provide comments. If you have any questions, please contact me at 202/463-2627.

Sincerely,

A handwritten signature in cursive script, reading "Katie Sweeney".

Katie Sweeney  
Associate General Counsel

**From:** "Sweeney,Katie" <KSweeney@nma.org>  
**To:** <SECY@nrc.gov>  
**Date:** Mon, Mar 13, 2006 4:08 PM  
**Subject:** NMA FY2006 fee comments

Attached are the National Mining Association's comments on the Proposed FY 2006 Fees. If you have any questions or problems opening the attachment, please contact me at 202/463-2627 or ksweeney@nma.org.

Thanks.

Katie Sweeney  
Associate General Counsel  
National Mining Association

<<NMA FY2006 fee comments.pdf>>

**Mail Envelope Properties** (4415DF58.763 : 23 : 18280)

**Subject:** NMA FY2006 fee comments  
**Creation Date:** Mon, Mar 13, 2006 4:08 PM  
**From:** "Sweeney,Katie" <[KSweeney@nma.org](mailto:KSweeney@nma.org)>

**Created By:** [KSweeney@nma.org](mailto:KSweeney@nma.org)

**Recipients**

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owf5\_po.OWFN\_DO  
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NMA FY2006 fee comments.pdf

Mime.822

**Size**

321

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**Date & Time**

Monday, March 13, 2006 4:08 PM

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**Options**

**Expiration Date:** None  
**Priority:** Standard  
**Reply Requested:** No  
**Return Notification:** None

**Concealed Subject:** No  
**Security:** Standard

DOCKETED  
USNRC

April 19, 2011 (9:05 am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF



April 18, 2011

4

Secretary  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, Maryland 20852

**Re: Proposed Revision of Fee Schedules -- FY 2011**

Dear Sir:

The National Mining Association (NMA) submits these comments in response to the Nuclear Regulatory Commission's (NRC) proposed revisions to the licensing, inspection and annual fees for Fiscal Year (FY) 2011. 76 Fed. Reg. 14748 (March 17, 2011). NMA represents producers of most of America's coal, metals, industrial and agricultural minerals; manufacturers of mining and mineral processing machinery and supplies; transporters; financial and engineering firms; and other businesses related to coal and hardrock mining. These comments are submitted by NMA on behalf of its member companies who are current or prospective NRC licensees and who are adversely affected by the NRC fee regulations. These members include the current and prospective owners and operators of uranium mills and mill tailings sites and *in situ* uranium production facilities.

NMA has commented extensively in the past on NRC's fee allocation system. NMA acknowledges that the 1999 amendments (NRC Fairness in Funding Act) to the Omnibus Budget Reconciliation Act of 1990 (OBRA) addressed some of NMA's fairness and equity concerns regarding charging licensees for activities that provide licensees no direct benefit. Yet NMA remains concerned about NRC fees, particularly rising hourly rates, lack of cost containment measures, mounting delays, and inadequate billing details.

NRC announced in the proposed rule:

In FY 2011 the NRC revised its budget structure. This new structure allows the agency to accurately identify all its direct and overhead costs. Under this new FY 2011 structure, more of the budgeted resources have been identified as overhead costs. The agency is using this information to further streamline its costs and make efficient use of all its resources.

76 Fed. Reg. 14750. Despite statements about availability of information on the new budget structure, NMA could not find many details in either the proposal itself or the associated work papers, so it was difficult to determine

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DS 10



what, if any, affect the change had on fees associated with uranium recovery but generally NMA supports efforts that assist NRC in streamlining costs and making more efficient use of resources.

### **Annual Fees**

Under the proposed rule, the annual fees for all categories of uranium recovery activities decrease. The annual fees decrease as follows:

- Conventional and heap leach mills – from \$38,300 in FY 2010 to \$31,900;
- Basic *in situ* recovery facilities – from \$36,300 in FY 2010 to \$30,300;
- Expanded *in situ* recovery facilities – from \$41,100 in FY 2010 to \$34,300;
- *In situ* recovery resin facilities – from \$34,400 in FY 2010 to \$28,800;
- 11e.(2) disposal incidental to existing tailings sites – from \$12,400 in FY 2010 to \$10,400; and
- Uranium water treatment – from \$8,600 in FY 2010 to \$7,200.

NMA supports the decrease in the annual fee category but notes that these costs pale in comparison to the hourly fees.

### **Hourly Fees**

The new hourly rate will increase from \$259 in FY 2010 to \$273. This 5.4% increase is more than double the current rate of inflation. The increase in the hourly rate is reportedly due to higher FY 2011 agency overhead budgeted resources as well as a small reduction in the number of full time equivalents (FTE). NMA understands that without additional legislative changes, NRC is required by existing law to collect 90 percent of its budget through fees. Applicants and licensees are well aware they must pay for NRC services that convey an identifiable benefit to them but in return, applicants and licensees expect fair, efficient and timely results.

Understandably, applicants and licensees would like to be able to budget services subject to hourly fees, such as licensing and renewal actions. While the steady increases in hourly rates over the last decade have made budgeting difficult, of equal concern is that the number of hours involved in reviews have followed the same pattern. NRC may not be able to completely control the budget amount it must recover through fees, but the agency certainly should be able to exercise better management and oversight of the hourly fees and investigate ways to reduce those fees by streamlining regulatory processes.

- Better Management and Oversight

NRC should revise the proposed rule to require more efficient processing of services subject to hourly fees. As currently written, the rule fails to promote opportunities for cost containment. NRC should establish typical timeframes for activities and

promote use of deadlines and cost estimates. Deadlines are particularly important for documents where fees are calculated on a case-by-case basis and NRC should be required to provide at least a preliminary cost estimate. Not only would such efforts likely reduce hourly fees they would have the added benefit of encouraging more timely actions by NRC.

For example, one licensee has been charged over \$144,000 to date for a pre-operational inspection, with the final report still to be charged for. NMA is not questioning that \$144,000 reflects the number of hours NRC staff spent on the inspection but on its face, \$144,000 (representing over 550 hours) seems excessive, especially given the low risk nature of the operations involved. NMA questions whether reasonable cost containment measures could have been implemented to still allow an appropriately thorough inspection commensurate with the risk posed but at more reasonable cost. Could fewer staff (5 actually participated) have been sent on the inspection? Were 550 hours really necessary for inspection of an existing facility? Did the inspectors make the most efficient use of their time? Did newer staff receive the necessary background information prior to the inspection to allow them to be appropriately familiar with the site?

Another way for NRC to provide greater certainty regarding fees would be to establish more flat fees for activities at uranium recovery operations. NRC may not yet have the needed information and experience on number of hours and typical timeframes to establish flat fees but NRC's goal should be to move to flat fees for routine activities. While the flat fees would fluctuate as hourly rates are recalculated each fiscal year, flat fees would at least result in a better ability to plan and budget.

- Streamlining Processes

As NRC has recognized, streamlining of processes can maximize efficient use of agency resources. An added benefit is reduction in hourly fees and maximizing use of licensee or applicant resources. Two examples of streamlining efforts NRC initiated in the uranium recovery area are preparation of a "Generic Environmental Impact Statement (GEIS) for *In Situ* Leach Uranium Milling Facilities" (GEIS) and establishment of a Memorandum of Understanding (MOU) between the Commission and the Bureau of Land Management (BLM) regarding cooperation on environmental analyses. NMA strongly supported both efforts as ways to contain costs for licensees/applicants and save NRC resources. As promising as both these efforts are, they have not been as effectively implemented as needed to achieve the desired results.

The intent of the GEIS is to streamline licensing actions for *in situ* recovery (ISR) operations by using the GEIS as the starting point for site-specific environmental reviews of license applications for new ISR facilities, as well as applications to renew or amend existing ISR licenses. Specifically, the GEIS addresses common environmental issues associated with the construction, operation, and decommissioning of ISL facilities, as well as the ground water restoration at such

facilities, if they are located in particular regions of the western United States. In the press release announcing the GEIS, NRC indicated:

The GEIS will improve the efficiency of the agency's environmental reviews of these applications by serving as a starting point for site-specific environmental reviews of these applications. The agency expects to complete most licensing reviews within two years, subject to available resources.

NRC June 4, 2009 Press Release, No. 09-103.

The promised efficiencies have yet to be realized – the existing applicants in the licensing pipeline have experienced lengthy and unexpected delays as have licensees engaged in expansion or license renewal. Not all these delays are attributable to NRC but some significant delays have been. NRC needs to redouble its efforts to capitalize on the GEIS, more expeditiously review licensing actions and better allocate its time and resources.

Similarly, the NRC/BLM MOU has not resulted in the promised efficiencies. The MOU outlines how the agencies will coordinate on environmental analyses related to development of uranium resources on public lands. While obviously, NRC cannot alone, without the BLM, take full advantage of the MOU, NRC is partially responsible for failing to push for better implementation. For example, the MOU establishes a NRC/BLM Steering Committee comprised of senior level representatives from each agency to ensure that the MOU is effectively promoting coordination and to address issues that may arise as the MOU is being implemented. It is NMA's understanding that not all steering committee representatives have been named, nor have there been any meetings. This problem should be remedied immediately to allow use of the MOU to the fullest.

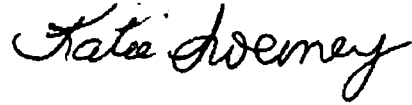
- Invoices

While improvements have been made over the last decade, NRC needs to continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and especially contractors. With proposed hourly rates at \$273 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to its clients. In the private sector, adequate explanations, dates and time are provided to clients in order for clients to fully understand what was done, when it was done and how long it took. This type of billing system allows costs to be specifically identified. Enhanced billing details would also better allow NRC to review bills with an eye toward cost-containment and gaining information necessary to determine appropriate flat fees for certain activities.

In conclusion, NMA believes that NRC needs to not only make sure the agency is effectively using its resources but needs to evaluate alternative approaches that would maximize efficiencies, minimize costs, and establish accountability. NMA

appreciates this opportunity to provide comments. If you have any questions, please contact me at 202/463-2627.

Sincerely,

A handwritten signature in black ink, reading "Katie Sweeney". The script is cursive and fluid, with the first name "Katie" and last name "Sweeney" clearly distinguishable.

Katie Sweeney  
Associate General Counsel

## **Rulemaking Comments**

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**From:** Sweeney, Katie [KSweeney@nma.org]  
**Sent:** Tuesday, April 19, 2011 8:23 AM  
**To:** Rulemaking Comments  
**Subject:** National Mining Association comments on the FY 2011 Proposed Fee Rule  
**Attachments:** Final FY 2001 Fee Comments.PDF

Attached are the comments of the National Mining Association in response to the Nuclear Regulatory Commission's proposed revisions to the licensing, inspection and annual fees for Fiscal Year (FY) 2011. 76 Fed. Reg. 14748 (March 17, 2011). If you any questions, please contact me.

*Katie Sweeney*  
General Counsel  
National Mining Association  
101 Consitution Avenue, Suite 500 West  
Washington, DC 20001

[ksweeney@nma.org](mailto:ksweeney@nma.org)  
202/463-2627

PR 170 AND 171  
(77FR15530)

7

DOCKETED  
USNRC

April 19, 2012 (9:35 am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF



April 16, 2012

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-001

Dear Sir/Madam:

The National Mining Association (NMA) submits these comments in response to the Nuclear Regulatory Commission's (NRC) proposed revisions to the licensing, inspection and annual fees for Fiscal Year (FY) 2012. 77 Fed. Reg. 15,530 (March 15, 2012). NMA represents producers of most of America's coal, metals, industrial and agricultural minerals; manufacturers of mining and mineral processing machinery and supplies; transporters; financial and engineering firms; and other businesses related to coal and hardrock mining. These comments are submitted by NMA on behalf of its member companies who are current or prospective NRC licensees and who are adversely affected by the NRC fee regulations. These members include the current and prospective owners and operators of uranium mills and mill tailings sites and *in situ* uranium production facilities.

NMA has commented extensively in the past on NRC's fee allocation system. NMA acknowledges that the 1999 amendments (NRC Fairness in Funding Act) to the Omnibus Budget Reconciliation Act of 1990 (OBRA) addressed some of NMA's fairness and equity concerns regarding charging licensees for activities that provide licensees no direct benefit. Yet NMA remains concerned about NRC fees, particularly rising hourly rates, lack of cost containment measures, mounting delays, and inadequate billing details. Together, NRC and industry must find some solutions to these problems.

#### Annual Fees

Under the proposed rule, the annual fees for all categories of uranium recovery activities decrease slightly. The annual fees decrease as follows:

- Conventional and heap leach mills – from \$31,900 in FY 2011 to \$23,600;
- Basic *in situ* recovery facilities – from \$30,300 in FY 2011 to \$29,900;
- Expanded *in situ* recovery facilities – from \$34,300 in FY 2011 to \$33,800;
- *In situ* recovery resin facilities – from \$28,800 in FY 2011 to \$28,300;

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NRC Fee Comments  
April 16, 2012  
Page Two

- 11e.(2) disposal incidental to existing tailings sites – from \$10,400 in FY 2011 to \$10,200; and
- Uranium water treatment – from \$7,200 in FY 2011 to \$7,100.

NMA supports the decrease in the annual fee category but notes that these costs pale in comparison to the hourly fees. Admittedly, in years past NMA's fee comments focused primarily on annual fees because (1) the level of UR activity was such that for most companies the annual fees overshadowed hourly fees and (2) NRC was less vigilant about assessing hourly fees for certain licensee-specific actions. As the pace of activity has increased and the percentage of fees recovered for UR activities through hourly rates nears 90 percent, our concerns logically have shifted to the hourly fees. As explained below, however, while the actual hourly rate is important, it is the number of hours charged and lack of cost containment that trouble industry the most.

### **Hourly Fees**

While the increase in the new hourly rate is slight, from \$273 in FY2011 to \$274, it continues the steady increase in hourly rates over the last decade. NMA understands that without additional legislative changes, NRC is required by existing law to collect 90 percent of its budget through fees. Applicants and licensees are well aware they must pay for NRC services that convey an identifiable benefit to them but in return, applicants and licensees expect fair, efficient and timely results. NRC may not be able to completely control the budget amount it must recover through fees, but the agency certainly should be able to exercise better management and oversight of the hourly fees and investigate ways to reduce those fees by streamlining regulatory processes.

To the extent that lack of NRC staff resources limits NRC's ability to provide timely results or accomplish streamlining efficiencies, NMA is prepared to assist the agency in future budgeting initiatives. From industry's perspective, it appears as if the agency is attempting a juggling act between processing new applications and performing needed actions related to existing licenses including license renewals. Unfortunately for NRC, both types of actions must be able to move forward in a timely manner otherwise companies are left in limbo, unable to plan and budget and vulnerable to losing investment backing. If resource constraints are forcing NRC to favor processing of new licenses over existing license maintenance or vice versa, NRC needs to seek additional resources with appropriate expertise to allow the agency to perform its job. NMA is willing to speak to the commission or contact Congress to advocate for additional resources for uranium recovery activities. Though first, the agency should ensure that it is wisely using the resources it does have.

- Streamlining Processes

As NRC has recognized, streamlining of processes can maximize efficient use of agency resources. An added benefit is reduction in hourly fees and maximizing use of

licensee or applicant resources. Three examples of streamlining efforts NRC initiated in the uranium recovery area are preparation of a "Generic Environmental Impact Statement (GEIS) for *In Situ* Leach Uranium Milling Facilities" (GEIS), performance based licensing and establishment of a Memorandum of Understanding (MOU) between the Commission and the Bureau of Land Management (BLM) regarding cooperation on environmental analyses. NMA strongly supported all of these efforts as ways to contain costs for licensees/applicants and save NRC resources. In fact, NMA spent near three-quarter of a million dollars to provide technical information to support the GEIS and allocated resources to support the MOU. As promising as both these efforts are, they have not been as effectively implemented as needed to achieve the desired results.

The intent of the GEIS is to streamline licensing actions for *in situ* recovery (ISR) operations by using the GEIS as the starting point for site-specific environmental reviews of license applications for new ISR facilities, as well as applications to renew or amend existing ISR licenses. Specifically, the GEIS addresses common environmental issues associated with the construction, operation, and decommissioning of ISL facilities, as well as the ground water restoration at such facilities, if they are located in particular regions of the western United States. In the press release announcing the GEIS, NRC indicated:

The GEIS will improve the efficiency of the agency's environmental reviews of these applications by serving as a starting point for site-specific environmental reviews of these applications. The agency expects to complete most licensing reviews within two years, subject to available resources.

NRC June 4, 2009 Press Release, No. 09-103.

The promised efficiencies have yet to be realized – the most recently licensed facilities experienced lengthy and unexpected delays as have licensees engaged in expansion or license renewal. Not all these delays are attributable to NRC but some significant delays have been. NRC needs to redouble its efforts to capitalize on the GEIS, more expeditiously review licensing actions and better allocate its time and resources.

Similarly, the NRC/BLM MOU has not resulted in the promised efficiencies. The MOU outlines how the agencies will coordinate on environmental analyses related to development of uranium resources on public lands. While obviously, NRC cannot alone, without the BLM, take full advantage of the MOU, NRC could do more to ensure better implementation.

Performance Based Licensing was instituted for uranium recovery licensees over a decade ago. Licensees have yet to realize substantial benefits from this policy as NRC has made too many operational activities at licensed sites subject to license



conditions. Therefore, licensees are required to submit relatively minor changes to NRC for approval, thereby subjecting the action to NRC review, time delays and excessive fees.

Expansion of Performance Based Licensing and the increased use of Safety and Environmental Review Panels (SERPs) would help in reducing review costs. Expansion of the use of Performance Based Licensing is justified due to the very low risks posed by uranium recovery licensees considering the low specific activity of the materials that they handle. Contrary to this approach, staff has restricted actions that can be approved by a SERP in recent draft licenses.

Another process contributing to licensing delays is the National Historic Preservation Act section 106 process. It is NMA's understanding that NRC is developing a draft protocol to guide the agency's section 106 process. We urge NRC to move forward quickly to provide a draft for public comment so the process can be implemented smoothly. NRC should also look to other federal agencies, such as BLM, that more routinely and proficiently conduct section 106 reviews for examples of best practices.

- Better Management and Oversight

NRC should revise the proposed rule to require more efficient processing of services subject to hourly fees. As currently written, the rule fails to promote opportunities for cost containment. NRC should establish typical timeframes for activities and promote use of deadlines and cost estimates. Deadlines are particularly important for documents where fees are calculated on a case-by-case basis and NRC should be required to provide at least a preliminary cost estimate. These are standard practice in industry. Not only would such efforts likely reduce hourly fees they would have the added benefit of encouraging more timely actions by NRC.

Another way for NRC to provide greater certainty regarding fees would be to establish more flat fees for activities at uranium recovery operations. NRC may not yet have the needed information and experience on number of hours and typical timeframes to establish flat fees but NRC's goal should be to move to flat fees for routine activities. While the flat fees would fluctuate as hourly rates are recalculated each fiscal year, flat fees would at least result in a better ability to plan and budget. This idea was discussed at the NMA/NRC 2011 workshop but, as yet, have not been acted upon.

Improved oversight of NRC staff by managers also would provide an opportunity to ensure proper allocation of resources. Managers need to review staff responses to applicants and licensees to ascertain that requests for additional information are pertinent, consistent with NRC regulations and policies and not duplicative.

- Invoices

NRC Fee Comments  
April 16, 2012  
Page TwoFive

While improvements have been made over the last decade, NRC needs to continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and especially contractors. With proposed hourly rates at \$274 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to its clients. In the private sector, adequate explanations, dates and time are provided to clients in order for clients to fully understand what was done, when it was done and how long it took. This type of billing system allows costs to be specifically identified. Enhanced billing details also would better allow NRC to review bills with an eye toward cost-containment and gaining information necessary to determine appropriate flat fees for certain activities. Again, this issue was discussed at the last NMA/NRC workshop but never acted upon.

In conclusion, NMA believes that NRC needs to not only make sure the agency is using its resources effectively but needs to evaluate alternative approaches that would maximize efficiencies, minimize costs, and establish accountability. NMA appreciates this opportunity to provide comments. If you have any questions, please contact me at 202/463-2627.

Sincerely,

# PUBLIC SUBMISSION

<b>As of:</b> April 19, 2012
<b>Received:</b> April 16, 2012
<b>Status:</b> Pending_Post
<b>Tracking No.</b> 80ff2506
<b>Comments Due:</b> April 16, 2012
<b>Submission Type:</b> Web

**Docket:** NRC-2011-0207  
Revision of Fee Schedules; Fee Recovery for FY 2012

**Comment On:** NRC-2011-0207-0001  
Revision of Fee Schedules; Fee Recovery for Fiscal Year 2012

**Document:** NRC-2011-0207-DRAFT-0006  
Comment on FR Doc # 2012-06153

---

## Submitter Information

**Name:** Katie Sweeney  
**Organization:** National Mining Association

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## General Comment

Attached are the comments of the National Mining Association.

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## Attachments

Final 2012 NRC Fee comments

## **Rulemaking Comments**

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**From:** Gallagher, Carol  
**Sent:** Thursday, April 19, 2012 9:19 AM  
**To:** Rulemaking Comments  
**Subject:** Comment on Revision of Fee Schedules  
**Attachments:** NRC-2011-0207-DRAFT-0006.pdf - Adobe Acrobat Pro.pdf

Attached for docketing is a comment from Katie Sweeney on the above noted proposed rule (77 FR 15530; 3/15/12) that I received via the regulations.gov website on 4/16/12.

Thanks,  
Carol



KATIE SWEENEY  
General Counsel

April 8, 2013

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-001

DOCKETED  
USNRC

April 09, 2013 (1:40 p.m.)

OFFICE OF THE SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Dear Sir/Madam:

The National Mining Association (NMA) submits these comments in response to the Nuclear Regulatory Commission's (NRC) proposed revisions to the licensing, inspection and annual fees for Fiscal Year (FY) 2013. 78 Fed. Reg. 14,880 (March 7, 2013). NMA represents producers of most of America's coal, metals, industrial and agricultural minerals; manufacturers of mining and mineral processing machinery and supplies; transporters; financial and engineering firms; and other businesses related to coal and hardrock mining. These comments are submitted by NMA on behalf of its member companies who are current or prospective NRC licensees and who are adversely affected by the NRC fee regulations. These members include the current and prospective owners and operators of uranium mills and mill tailings sites and *in situ* uranium production facilities.

NMA has commented extensively in the past on NRC's fee allocation system, particularly rising hourly rates, lack of cost containment measures, mounting delays, and inadequate billing details. These issues are even more pressing today as NRC encounters additional resource constraints. As revealed at the Feb. 20 Uranium Recovery Briefing of the Commission, these constraints are now severe enough to merit significant project deferrals in the upcoming years. NRC and industry must find some solutions to these problems including identifying additional ways for NRC to maximize its existing resources. NMA appreciates the opportunity to meet with NRC uranium recovery and financial office staff in the next few weeks to discuss these comments in more detail.

### **Annual Fees**

Under the proposed rule, the annual fees increase for most uranium recovery (UR) licensees, except the Department of the Energy and water treatment facilities. The fees for 2013 are as follows:

- Conventional and heap leach mills – from \$23,600 in FY 2013 to \$28,600;
- Basic *in situ* recovery facilities – from \$29,900 in FY 2012 to \$36,300;
- Expanded *in situ* recovery facilities – from \$33,800 in FY 2012 to \$41,000;
- 11e.(2) disposal incidental to existing tailings sites – from \$10,200 in FY 2012 to \$16,200; and
- Uranium water treatment – from \$7,100 in FY 2012 to \$4,800.

Over the last few years, most annual fees for UR facilities have decreased. NRC attributes the increase for FY 2013 annual fees primarily to rulemaking and licensing board activities. While there has been an uptick in licensing board activities, NMA is unaware of any ongoing rulemakings effecting UR facilities that would justify the proposed increases nor does NRC identify any in the proposed rule. In contrast, the proposal mentions specific rulemakings (e.g., related to updating the Waste Confidence rule and termination of the Private Fuel Storage license) in explaining the increased annual fees for the spent fuel storage/reactors in decommissioning fee class.

### **Hourly Fees**

While NMA has concerns about increases in annual fees, the costs associated with annual fees pale in comparison to the hourly fees. NRC is proposing to raise the hourly rate from \$274 to \$277. NRC anticipates the vast majority of UR fees will be recouped through hourly fees as opposed to annual fees. Of the estimated \$11.7 million budget for UR activities in FY 2013, approximately \$10.4 million will be recovered through annual fees. As the pace of activity has increased and the percentage of fees recovered for UR activities through hourly rates nears 90 percent, our most significant concerns relate to the hourly fees. While the actual hourly rate is important, it is the number of hours charged and lack of cost containment that trouble industry the most.

Applicants and licensees are well aware they must pay for NRC services that convey an identifiable benefit to them but in return, applicants and licensees expect fair, efficient and timely results. NRC may not be able to completely control the budget amount it must recover through fees, but the agency certainly should be able to exercise better management and oversight of the hourly fees and investigate ways to reduce those fees by streamlining regulatory processes.

To the extent that NRC resource constraints limit NRC's ability to provide timely results, accomplish streamlining efficiencies, or force NRC to favor processing of existing license maintenance activities over new applications, NMA is prepared to assist the agency in future budgeting initiatives. NMA is willing to help NRC secure needed additional resources by continuing communication with the commission on this issue or contacting Congress to advocate for additional resources for uranium recovery

activities. At the Feb. 20 UR briefing, NMA clearly conveyed its concerns about existing resource constraints to the commission and will follow up on potential solutions.

- Streamlining Processes

As NRC has recognized, streamlining of processes can maximize efficient use of agency resources. An added benefit is reduction in hourly fees and maximizing use of licensee or applicant resources. Particularly with the resource constraints facing the agency, NRC must find new ways to streamline processes in order to accomplish its legal and policy imperatives. Two examples of streamlining efforts NRC initiated in the uranium recovery area are preparation of a "Generic Environmental Impact Statement (GEIS) for *In Situ* Leach Uranium Milling Facilities" (GEIS) and establishment of a Memorandum of Understanding (MOU) between the commission and the Bureau of Land Management (BLM) regarding cooperation on environmental analyses. NMA strongly supported both efforts as ways to contain costs for licensees/applicants and save NRC resources. NRC needs to ensure these initiatives are effectively implemented in order to provide the promised benefits. NMA notes that the MOU has recently been revised to include provisions that cover compliance with the National Environmental Policy Act and section 106 of the National Historic Preservation Act (NHPA). As a process contributing significantly to licensing delays, NMA is pleased that NRC and BLM will be coordinating more to ensure the process is completed in a timely and efficient manner.

- Better Management and Oversight

NRC should revise the proposed rule to require more efficient processing of services subject to hourly fees. As currently written, the rule fails to promote opportunities for cost containment. As NMA has recommended previously, NRC should establish typical timeframes for activities and promote use of deadlines and cost estimates. Deadlines are particularly important for documents where fees are calculated on a case-by-case basis and NRC should be required to provide at least a preliminary cost estimate. Not only would such efforts likely reduce hourly fees they would have the added benefit of encouraging more timely actions by NRC.

Another way for NRC to provide greater certainty regarding fees would be to establish more flat fees for activities at uranium recovery operations. NRC may not yet have the needed information and experience on number of hours and typical timeframes to establish flat fees but NRC's goal should be to move to flat fees for routine activities. While the flat fees would fluctuate as hourly rates are recalculated each fiscal year, flat fees would at least result in a better ability to plan and budget. NMA looks forward to discussing how this recommendation could be implemented at the upcoming meeting with NRC staff.

NRC Secretary  
April 8, 2013  
Page Four

- Invoices

NRC needs to continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and especially contractors. NMA raised this concern in comments on FY 2012 fees and then again in a letter to NRC's office of chief financial officer. NMA recently received a response from the CFO's office indicating a willingness to address NMA's concerns. Importantly, the letter noted that NRC's "experience with other licensees and applicants has shown that NRC invoices can be tailored to meet industry needs when coordinated communications occur between the licensee or applicant, the NRC Program Office and NRC Office of the Chief Financial Officer." NMA looks forward to determining the path forward to resolving our concerns with NRC invoices at the upcoming meeting with NRC staff.

### **Conclusion**

In conclusion, NMA believes that NRC needs to not only make sure the agency is effectively using its resources but needs to evaluate alternative approaches that would maximize efficiencies, minimize costs, and establish accountability. NMA appreciates this opportunity to provide comments. If you have any questions, please contact me at 202/463-2627.

Sincerely,

A handwritten signature in cursive script that reads "Katie Sweeney".

Katie Sweeney



## **RulemakingComments Resource**

---

**From:** Sweeney, Katie [KSweeney@nma.org]  
**Sent:** Tuesday, April 09, 2013 1:38 PM  
**To:** RulemakingComments Resource  
**Subject:** NMA Comments on FY 2013 Fees  
**Attachments:** Final NMA Comments on NRC FY 2013 Fees.pdf

Attached for your reference are the National Mining Association's comments on the proposed fee recovery rule for FY 2013. Please contact me if you have any questions. Thank you.

*Katie Sweeney*  
General Counsel  
National Mining Association  
101 Constitution Ave NW, Suite 500 East  
Washington, DC 20001

202/463-2627  
[ksweeney@nma.org](mailto:ksweeney@nma.org)



DOCKET NUMBER  
PROPOSED RULE **150.170+171**  
(66 FR 16982)

DOCKETED  
USNRC

(9)

## WYOMING MINING ASSOCIATION

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATIONS STAFF

EMAIL [wma@vsn.com](mailto:wma@vsn.com)  
On the Web at:  
[www.wma-minelife.com](http://www.wma-minelife.com)

HITCHING POST INN

P.O. Box 866  
Cheyenne, Wyoming  
82003

April 27, 2001

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
ATTN: Rulemakings and Adjudications Staff

Gentlemen:

**Subject: Wyoming Mining Association - Comments on the Proposed Revisions to 10 CFR Parts 170 and 171 on License, Inspection and Annual Fees for FY 2001.**

The Wyoming Mining Association (WMA) is an industry association of mining companies and associates (suppliers, contractors, service companies, vendors, etc.) in the State of Wyoming. The association's membership includes a number of uranium recovery licensees licensed by the Nuclear Regulatory Commission. The association has reviewed the above mentioned Proposed Revisions to 10 CFR Parts 170 and 171 on License, Inspection and Annual Fees for FY 2001 and has the following comments:

### **Annual Fee for Class I and II Facilities**

The WMA supports the proposed reduction in the Annual Fee for Class I facilities from \$132,000 per year (Fiscal Year 2000) to \$94,300 per year (Fiscal Year 2001) and for Class II facilities from \$111,000 per year (Fiscal Year 2000) to \$79,000 per year (Fiscal Year 2001). This is a positive step for the uranium recovery industry, however it does not go far enough, given the current state of the industry and its importance to the energy needs of the United States. In addition, the WMA supports the continued use of a quarterly billing schedule for Class I and Class II licenses.

The WMA also acknowledges that the passage of the Fairness in Funding Act, which could not have been accomplished without strong NRC support attempts to address some of the concerns of the uranium recovery licensees. It is however a fundamental principle of law that there must be a

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reasonable relationship between the costs to the uranium recovery licensees of a regulatory program and the benefit derived from the regulatory services delivered. The NRC's authority to prescribe fees for "regulatory services" under 10 CFR 170 is based upon the Independent Offices Appropriation Act of 1952 (IOAA), 31 USC 9701. To be valid under IOAA, a fee must "be reasonably related to, and may not exceed the value of the service to the recipient, whatever the agency's costs may be." (*Central & S. Motor Freight Tariff Ass'n v. United States*, 777 F.2d 722, 729 (D.C. Cir. 1985)). To heavy a burden is falling upon uranium recovery licensees. Sites that are on standby or awaiting approval of reclamation plans require minimal oversight yet must continue to pay an annual fee that is clearly not commensurate with the benefit of holding the license.

#### **Average Cost Per Professional Staff Hour**

The average cost per professional staff hour has been proposed at \$144 per hour (Fiscal Year 2001-proposed - Nuclear Materials and Nuclear Waste Program) which is an increase from the level of \$143 per hour (Fiscal Year 2000). The WMA does not support this increase.

#### **Project Manager Charges**

Beginning in Fiscal Year 2000, the Nuclear Regulatory Commission (NRC) began invoicing licensees for hourly charges for the licensees' Project Manager (PM), other than for work directly related to the license, such as training and general administrative work. In the case of a Project Manager (PM) who managed several licenses, the charges not directly related to license work were split among the licensees the Project Manager (PM) managed. These charges have become a significant additional expense that uranium recovery licensees, given the current state of the industry, can ill afford. This problem is further exacerbated when a PM "manages" few (only one or two licensees) with the result that the given licensee(s) must pay all of the overhead costs associated with this individual. The WMA supports the redesignation of Project Managers (PMs) assigned to uranium recovery licenses as Points of Contact (PCs) to avoid these charges. At the very least, this change should be made for those licensees who are currently not operating.

#### **Invoicing Procedures**

The WMA believes that the NRC should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by NRC staff and NRC Contractors. With hourly rates as high as \$144 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to its clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified.

#### **Status of the Uranium Recovery Industry**

Uranium prices are low. The current price is \$8.25 per pound (Uranium Exchange (UX) - April 23, 2001). The issue of fees was discussed in depth at the Commissioner's Briefing provided by the

National Mining Association (NMA) in Rockville, Maryland on April 10, 2001. At this briefing, the potential for regulatory relief from fees through a petition for rule making and/or legislative relief from fees in the form of a suspension of fees pending an improvement in the uranium market was discussed. The association would support an industry wide effort through the NMA to obtain some form of relief from licensee fees. In spite of the depressed uranium prices, fees charged to licensees have risen steadily since 1998 as shown in the chart entitled NRC Fees vs. Price U3O8 presented at the Commissioners Briefing on April 10, 2001. In addition, agency fees have increased steadily since 1998 in spite of declining uranium production.

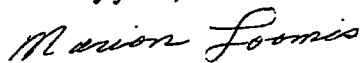
The uranium recovery industry is vital to the long term energy security of the United States especially given the recent renewed consideration of the nuclear option by utilities. Senate File 472 – A Bill to ensure that nuclear energy continues to contribute to the supply of electricity in the United States raises this issue stating, "... the United States must ensure that the domestic uranium mining, conversion and enrichment service industries remain viable." The fees levied against uranium recovery licensees threaten the viability of this vital industry. Licensees need relief from fees in order to survive to the time when the industry as a whole recovers.

Licensee fees, hourly charges, review charges, inspection costs, and PM costs have increased dramatically through the years. These charges have become a significant portion of operating costs as shown in the table entitled Rio Algom Mining Corporation – NRC Costs September 26, 1999 to December 30, 2000 prepared by Rio Algom Mining Corporation (RAMC) for its licensed facilities and presented at the Commissioners Briefing on April 10, 2001.

In summary, WMA supports the reduction in licensee fees proposed by NRC, but does not believe that the reduction goes far enough in providing the relief required by the industry. The uranium recovery industry is vital to the energy security of the United States especially given the current U.S. electricity situation. The industry should not be driven to extinction by excessive fees. The WMA believes that the hourly rate charged by the agency is excessive. In addition, the association believes that the PM charges invoiced by the agency have become an increasing burden on the industry and are especially unfair to those licensees who have a PM assigned solely to them. The WMA believes that current PMs could be redesignated as PCs at least for some (inactive or standby) licensees with a savings in PM charges for those licensees. The association believes that the agency should continue its efforts to produce invoices containing more meaningful descriptions of work performed.

WMA appreciates the opportunity to comment on this critical rule making. If you have any questions please do not hesitate to contact me.

Sincerely yours,



Marion Loomis  
Executive Director

Cc: Katie Sweeney – National Mining Association (NMA)

PR 170 AND 171  
(77FR15530)

Physical Address  
2601 Central Avenue  
Cheyenne, WY 82002

Ph 307.635.0331



## WYOMING MINING ASSOCIATION

Mailing Address  
PO Box 866  
Cheyenne, WY 82003

Fx 307.778.6240

DOCKETED  
USNRC

April 19, 2012 (9:35 am)

April 9, 2012  
Secretary  
U.S. Nuclear Regulatory Commission,  
Washington, DC 20555-0001  
Attn: Rulemakings and Adjudications Staff

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**Subject: Wyoming Mining Association (WMA) Comments on the Proposed Rule -  
Revision of Fee Schedules; Fee Recovery for FY 2012- (Federal Register Volume 77,  
Number 51 - Thursday, March 15, 2012 - Proposed Rules)**

Gentlemen:

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 in-situ and conventional uranium recovery operators, several companies planning new uranium recovery operations and several companies conducting final reclamation/restoration operations. WMA has reviewed the **Proposed Rule Revision of Fee Schedules; Fee Recovery for FY 2012** and has the following comments:

### Changes in Uranium Recovery Fees (Proposed 2012 versus Final 2011 Fees)

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

License Type	Fiscal Year 2011 Annual Fee	Proposed Fiscal Year 2012 Annual Fee	Percentage Change
Conventional and heap leach mills	\$32,300	\$23,600	-26.9%
Basic <i>in situ</i> recovery facilities	\$30,700	\$29,900	-2.6%
Expanded <i>in situ</i> recovery facilities	\$34,800	\$33,800	-2.9%
<i>In situ</i> recovery resin facilities	\$29,100	\$28,300	-2.8%
11e.(2) disposal incidental to existing tailings sites	\$10,500	\$10,200	-2.9%
Uranium water treatment	\$7,300	\$7,100	-2.7%

### Comments on the Proposed Fee Reductions

- WMA supports these fee reductions as they are beneficial to the uranium recovery industry. However, WMA remains very concerned with the tremendous costs and burdensome delays associated with the review of new license applications, license renewal applications and license amendments.

The Commission also proposed an increase in the hourly rate from \$273.00 per hour to \$274.00 per hour. This is a small 0.4% increase. The primary issue that the uranium recovery industry has with the hourly rate is the large number of hours expended by Commission staff on reviews. The high hourly rate combined with a large number of hours results in very large invoices.

www.wma-minelife.com

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DS 10

## Comments on the Hourly Rate

Uranium recovery licensees have been impacted during the license application and submittal review process by this high hourly rate in the form of very large invoices for staff time. Licensees and applicants in Wyoming hoped to see more streamlining and efficiency in the regulatory process in the form of less NRC time spent reviewing license submittals. This would lead to decreased review costs and more timely approval of all submittals to the NRC. This has not occurred and the situation appears to be getting worse. The following NRC actions were proposed to streamline the regulatory process, reduce staff time spent on reviews and reduce the costs of licensing actions:

- **NUREG-1910 - Generic Environmental Impact Statement (GEIS) for *In Situ* Leach Uranium Milling Facilities" (GEIS)**
  - A Commission press release stated, "*The GEIS will improve the efficiency of the agency's environmental reviews of these applications by serving as a starting point for site-specific environmental reviews of these applications. The agency expects to complete most licensing reviews within two years, subject to available resources.*"
  - This document addresses common environmental impacts associated with the construction, operation, and decommissioning of in-situ uranium recovery facilities including groundwater restoration.
  - This document should have resulted in less NRC staff time spent on licensing review actions and associated costs; however these benefits have yet to be realized.
- **Memorandum of Understanding (MOU) between the Commission and the Bureau of Land Management (BLM)**
  - This agreement concerns interagency cooperation on environmental analyses. It outlines how the agencies will coordinate on environmental analyses related to development of uranium resources on public lands. It was strongly supported by the National Mining Association (NMA) and WMA as a means to promote more timely and cost effective licensing actions on public lands. Benefits from this agreement have yet to be realized.
- **Performance Based Licensing**
  - This policy was instituted for uranium recovery licensees over a decade ago. Licensees have yet to realize substantial benefits from this policy as NRC has made too many operational activities at licensed sites subject to license conditions. Therefore, licensees are required to submit relatively minor changes to NRC for approval, thereby subjecting the action to NRC review, time delays and excessive fees.

These above listed NRC actions have not achieved desired reductions in review fees or the met the industry's need for timely regulatory agency approvals.

The WMA believes that the following steps should be considered to reduce the burden of excessive review costs:

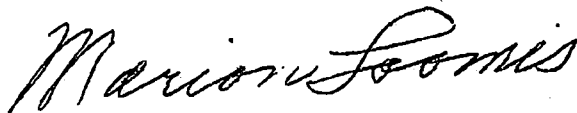
- **Provision for Cost Estimates for the NRC Review of License Submittals**
  - Licensing submittals are given an acceptance review by NRC staff prior to the initiation of detailed technical review work in order to determine if the submittal contains the requisite information for acceptance. Private industry expects and requires consultants to prepare budgetary estimates before work is begun. With NRC reviews, industry is expected to write a

blank check. It is very difficult to explain to company management and shareholders the uncertainty involved with the time it takes to complete licensing actions and the associated exorbitant costs related to NRC reviews.. NRC staff should be able upon completion of the Acceptance Review to provide the licensee or applicant with an estimate of the approximate number of man hours and review costs required to review the submittal.

- **Creation of a Schedule of Costs for Common Tasks**
  - The NRC should provide licensees with a schedule of approximate costs (or a cost range) for performing common tasks such as a reviewing and approving a surety, reviewing and approving a standby trust agreement, approving a change of control or other similar tasks. With this information, licensees would be able to more effectively budget for reviews by NRC staff.
- **Preparation of More Detailed Invoices**
  - The WMA believes that NRC staff should provide invoices containing a similar level of detail to that which is provided in invoices from industry consultants, including the names of the NRC staff members or contractors that incurred the billable hours. In this manner, licensees would at least be able to better understand how staff time is allocated and what specific activities may cost.
- **Rigorous Internal Review of Manpower Applied to Different Tasks**
  - The NRC should review the manpower levels assigned to different activities and compare them to the relative risk to public health and the environment. For example, expending over \$150,000 and considerable staff time for the initial phase of a preoperational inspection for an existing licensed facility appears excessive.
- **Broaden the Use of Performance Based Licensing**
  - Expansion of Performance Based Licensing and the increased use of Safety and Environmental Review Panels (SERPs) would help in reducing review costs. Expansion of the use of Performance Based Licensing is justified due to the very low risks posed by uranium recovery licensees considering the low specific activity of the materials that they handle. Contrary to this approach, staff has restricted actions that can be approved by a SERP in recent draft licenses.

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,



Marion Loomis  
Executive Director

Cc: Katie Sweeney – National Mining Association (NMA)

## Wyoming Mining Association

---

**From:** Oscar Paulson <oscar.paulson@bresnan.net>  
**Sent:** Monday, April 09, 2012 9:12 PM  
**To:** Wyoming Mining Association  
**Cc:** Oscar Paulson; Marion Loomis; Travis Deti  
**Subject:** Comments - Proposed Fiscal Year 2012 Nuclear Regulatory Commission (NRC) Fees  
**Attachments:** wma\_nrc\_fee\_comments\_2012.doc

Pat:

Attached please find the Microsoft Word (\*.doc) file *wma\_nrc\_fee\_comments\_2012.doc*. Please distribute this attached file and the message beneath the horizontal line to the Uranium Industry Committee and to:

Katie Sweeney

Stuart Sanderson

Tony Thompson

Chris Pugsley

Comments on the proposed fee structure are due by Monday, April 16, 2012. You may submit comments by the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2011-0207. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov)
- *Email comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic email reply confirming receipt, then contact us at 301-415-1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

Thanks!

Oscar

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Uranium Industry Committee Members

Attached please find the Microsoft Word (\*.doc) file *wma\_nrc\_fee\_comments\_2012.doc* that contain draft Association comments on the proposed Fiscal Year 2012 Nuclear Regulatory Commission (NRC) fees. Please review these draft comments and provide any proposed revisions to me by 5:00 p.m. on Thursday, April 12, 2012. They are due on Monday, April 16, 2012.

Thank you!

Oscar Paulson  
Chairman



# PUBLIC SUBMISSION

<b>As of:</b> April 19, 2012
<b>Received:</b> April 16, 2012
<b>Status:</b> Pending_Post
<b>Tracking No.</b> 80ff19ca
<b>Comments Due:</b> April 16, 2012
<b>Submission Type:</b> Web

**Docket:** NRC-2011-0207  
Revision of Fee Schedules; Fee Recovery for FY 2012

**Comment On:** NRC-2011-0207-0001  
Revision of Fee Schedules; Fee Recovery for Fiscal Year 2012

**Document:** NRC-2011-0207-DRAFT-0005  
Comment on FR Doc # 2012-06153

---

## Submitter Information

**Name:** Marion Loomis  
**Address:**  
P.O. Box 866  
Cheyenne,, WY, 82003  
**Organization:** Wyoming Mining Association

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## General Comment

Wyoming Mining Association's comments on NRC Fee 2012

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## Attachments

wma\_nrc\_fee\_comments\_2012

## **Rulemaking Comments**

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**From:** Gallagher, Carol  
**Sent:** Thursday, April 19, 2012 9:13 AM  
**To:** Rulemaking Comments  
**Subject:** Comment on Revision of Fee Schedules  
**Attachments:** NRC-2011-0207-DRAFT-0005.pdf

Attached for docketing is a comment from Marion Loomis on the above noted proposed rule (77 FR 15530; 3/15/12) that I received via the regulations.gov website on 4/16/12.

Thanks,  
Carol

**Physical Address**  
2601 Central Avenue  
Cheyenne, WY 82001

**Phone:** 307.635.0331



**Mailing Address**  
PO Box 866  
Cheyenne, WY 82003

**Fax:** 307.778.6240

April 22, 2015

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**

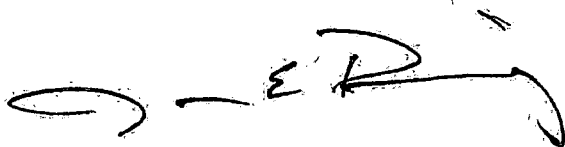
WMA continues to be concerned about the agency's invoicing process. In her January 7, 2013 letter, Katie Sweeney stated:

*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 black ink, appearing to read 'J. Downing', with a stylized flourish at the end.

Jonathan Downing  
Executive Director

Cc: Katie Sweeney – National Mining Association (NMA)

DOCKET NUMBER  
PROPOSED RULE NO. 150.170 + 171  
(66FR 16982)

DOCKETED  
USNRC

6

01 APR 27 P1:54

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

April 26, 2001

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
ATTN: Rulemakings and Adjudications Staff

Gentlemen:

**Subject: Kennecott Uranium Company – Comments on the Proposed Revisions to 10 CFR Parts 170 and 171 on License, Inspection and Annual Fees for FY 2001**

Kennecott Uranium Company is the operator and manager of the Sweetwater Uranium Project located in Sweetwater County, Wyoming and licensed under Source Material License SUA-1350. The Sweetwater Uranium Project contains a conventional uranium mill that is currently on standby and a tailings impoundment. Kennecott Uranium Company has the following comments on the *Proposed Revisions to 10 CFR Parts 170 and 171 on License, Inspection and Annual Fees for FY 2001*:

#### **Annual Fee for Class I Facilities**

Kennecott Uranium Company supports the proposed reduction in the Annual Fee for Class I facilities from \$132,000.00 per year (Fiscal Year 2000) to \$94,300.00 per year (Fiscal Year 2001). This is a positive step for the uranium recovery industry however it does not go far enough given the current state of the industry and its importance to the energy security of the United States. In addition, Kennecott Uranium Company supports the use of a quarterly billing schedule for Class I and Class II licenses.

#### **Average Cost Per Professional Staff Hour**

The average cost per professional staff hour has been proposed at \$144.00 per hour (Fiscal Year 2001 proposed – Nuclear Materials and Nuclear Waste Program) which is an increase from the level of \$143.00 per hour (Fiscal Year 2000). Kennecott Uranium Company does not support this increase because the hourly rate being charged per professional staff hour is already far in excess of the hourly rates per professional staff hour charged by major national consulting firms. In addition to the hourly charges, the Nuclear Regulatory Commission (NRC) also collects license fees. Consulting organizations can only collect hourly charges plus reimbursement for expenses. Thus, given the fact that the Nuclear Regulatory Commission (NRC) is collecting

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hourly charges above and beyond annual license fees, an hourly rate of \$144.00 per hour is not justified, and should be substantially reduced, not increased.

#### **Project Manager Charges**

Beginning in Fiscal Year 2000, the Nuclear Regulatory Commission (NRC) began invoicing licensees for hourly charges for the licensees' Project Manager (PM), other than for work directly related to the license, such as training and general administrative work. In the case of a Project Manager (PM) who managed several licenses, these charges not directly related to license work were split among the licensees the Project Manager (PM) managed. These charges have become a significant additional expense that uranium recovery licensees, given the current state of the industry can ill afford. This problem is further exacerbated when a Project Manager (PM) "manages" only one licensee, with the result that the given licensee must pay all of the overhead costs associated with this individual. Kennecott Uranium Company supports the redesignation of Project Managers (PMs) assigned to uranium recovery licenses as Points of Contact (PC) to avoid these charges. At the very least, this change should be made for those licensees who are currently not operating.

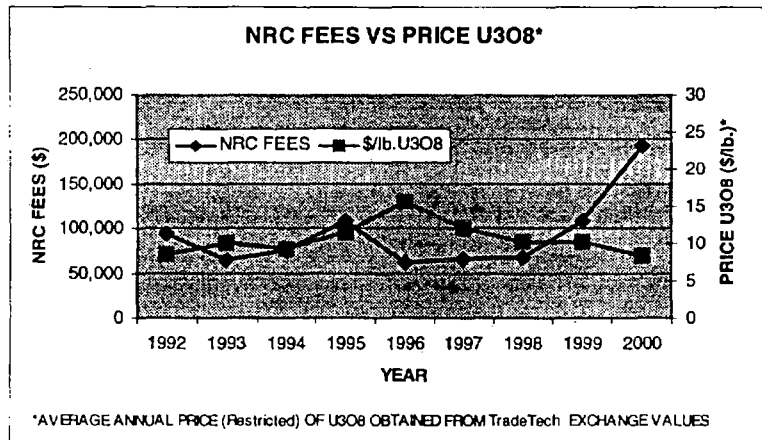
#### **Invoicing Procedures**

Kennecott Uranium Company believes that Nuclear Regulatory Commission (NRC) should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by NRC staff and NRC Contractors. With hourly rates as high as \$144.00 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to his clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified.

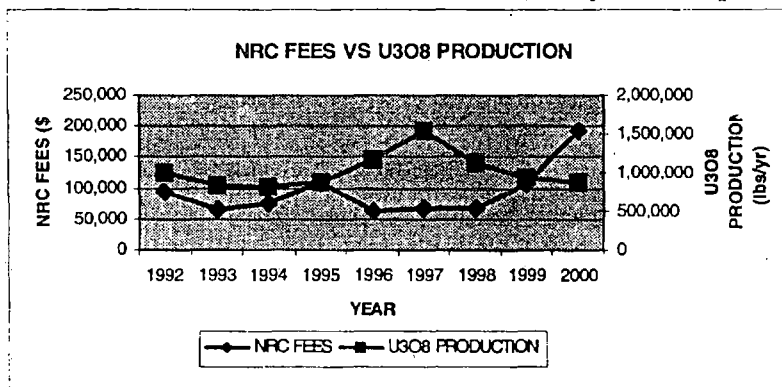
#### **Status of the Uranium Recovery Industry**

Uranium prices are low. The current price is \$8.25 per pound (Uranium Exchange (UX) - April 23, 2001). In spite of the depressed uranium prices fees charged to licensees have risen steadily since 1998 as shown in the chart below.





Note: Chart courtesy of the National Mining Association (NMA) and presented at a briefing of the Commissioners in Rockville, Maryland on April 10, 2001.



In addition, fees have increased steadily since 1998 in spite of declining production since 1997, as shown in the chart below.

Note: Chart courtesy of the National Mining Association (NMA) and presented at a briefing of the Commissioners in Rockville, Maryland on April 10, 2001.

The issue of fees was discussed in depth at the Commissioner's briefing provided by the National Mining Association (NMA) in Rockville, Maryland on April 10, 2001. At this briefing, the potential for regulatory relief from fees through a petition for rule making and/or legislative relief from fees in the form of a suspension of fees pending an improvement in the uranium market was discussed. Kennecott Uranium Company would support an industry wide effort through the National Mining Association (NMA) or other organization to obtain some form of relief from licensee fees.

The uranium recovery industry is vital to the long term energy security of the United States especially given the recent renewed consideration of the nuclear option by utilities. Senate File 472 – A Bill to ensure that nuclear energy continues to contribute to the supply of electricity in

*the United States* raises this issue stating, "... the United States must ensure that the domestic uranium mining, conversion and enrichment service industries remain viable." The fees levied against uranium recovery licensees threaten the viability of this vital industry. Licensees need relief from fees in order to survive to the time when the industry as a whole recovers.

### Conclusions

Kennecott Uranium Company supports the reduction in licensee fees proposed by the Nuclear Regulatory Commission (NRC) but does not believe that the reduction goes far enough in providing the relief required by the industry in order to survive. The uranium recovery industry is vital to the energy security of the United States given the increased interest in nuclear power expressed by some utilities. The industry should not be driven to extinction by excessive fees. Kennecott Uranium Company believes that the hourly rate charged by the agency is excessive and greatly exceeds the rates charged by major national consulting firms. The rate should be substantially reduced, not increased. In addition, Kennecott Uranium Company believes that the Project Manager (PM) charges invoiced by the agency have become an increasing burden on the industry and are especially unfair to those licensees who have a Project Manager (PM) assigned solely to them. Kennecott Uranium Company believes that current Project Managers (PMs) should be redesignated as Points of Contact (PCs), for at least some (inactive or standby) licensees, with a savings in Project Manager (PM) charges for those licensees. Kennecott Uranium Company believes that the agency should continue its efforts to produce invoices containing more meaningful descriptions of work performed.

If you have any questions please do not hesitate to contact me.

Sincerely yours,

Oscar Paulson  
Facility Supervisor

cc: Katie Sweeney – National Mining Association (NMA)  
Marion Loomis – Wyoming Mining Association (WMA)  
Rich Atkinson – Kennecott Energy Company

DOCKET NUMBER  
PROPOSED RULES 170+171  
(71FR 07349)

①

March 6, 2006

DOCKETED  
USNRC

March 6, 2006 (12:15pm)

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

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Gentlemen:

**Subject: Kennecott Uranium Company - Comments on 10 CFR Parts 170 and 171 Revision of Fee Schedules; Fee Recovery for FY 2006; Proposed Rule - Friday, February 10, 2006**

Kennecott Uranium Company is the operator and manager of the Sweetwater Uranium Project (the only remaining conventional uranium mill in Wyoming) which is licensed under Source Material License SUA-1350 and is located in Sweetwater County, Wyoming approximately 42 miles Northwest of Rawlins, Wyoming. Kennecott Uranium Company has reviewed the proposed 2006 fees and has the following comments:

**Magnitude of the Increase**

The table below shows the 2006 proposed fees:

**TABLE IX—ANNUAL FEES FOR TITLE II SPECIFIC LICENSES**

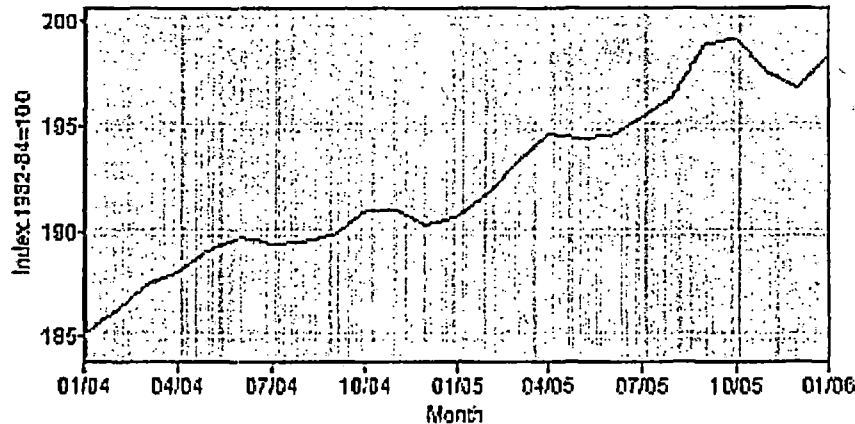
Facility type	FY 2004 Annual Fee	FY 2005 Annual Fee	FY 2006 Proposed Annual Fee	Percent Increase Since 2004
<b>Class I (conventional mills)</b>	\$14,500.	\$30,200.	\$66,400.	458%
<b>Class II (solution mining)</b>	\$12,900.	\$30,200.	\$66,400.	515%
<b>11e.(2) disposal</b>	\$12,800.	N/A	N/A	N/A
<b>11e.(2) disposal incidental to existing tailings sites</b>	\$12,900.	\$30,200.	\$66,400.	515%

These proposed 2006 fees represent a 400% to over 500% increase in fees over three (3) years. This rapid fluctuation is far in excess of increases in the rates of inflation or the Consumer Price Index (CPI) for All Urban Consumers which licensees are required to use to increase their surety amounts. A graph of this index for 2004 to 2006 is shown below along with the associated data:

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SECY-02

Consumer Price Index - All Urban Consumers 2004 to 2006



Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2004	185.2	186.2	187.4	188.0	189.1	189.7	189.4	189.5	189.9	190.9	191.0	190.3	188.9	187.6	190.2
2005	190.7	191.8	193.3	194.6	194.4	194.5	195.4	196.4	198.8	199.2	197.6	196.8	195.3	193.2	197.4
2006	198.3														

The document 10 CFR Parts 170 and 171 Revision of Fee Schedules; Fee Recovery for FY 2006; Proposed Rule states:

*Rebaselining fees in FY 2006 would result in increased annual fees compared to FY 2005 for all licensees, with the exception of certain fuel facilities. The proposed increases in annual fees range from less than one percent for certain fuel facilities to approximately 120 percent for uranium recovery facilities. However, most of the annual fee increases are of similar magnitude to the percentage increase in total required fee recovery of approximately 15 percent.*

The very language of the document indicates that the uranium recovery industry has been targeted for the highest percentage increase in fees of all segments of the licensed community. In addition, the Commission is proposing elimination of quarterly invoicing for uranium recovery licensees stating:

*As discussed in section 2. "Eliminating the Existing Fee Payment Exception for Uranium Recovery Licensees," the NRC is proposing that all Title II facilities be subject to the billing provisions of § 171.19(c), which state that annual fees that are less than \$100,000 are billed on the anniversary date of the license.*

Kennecott Uranium Company requests that if an increase in fees for uranium recovery licensees is required, any increase would be in keeping with increases in the fees for other classes of licensees, and that the quarterly fee payment provisions remain.

#### Facilities in the Public Interest

In a letter dated July 17, 2001, the Commission in granting a request for the postponement of the initiation of the requirements for timeliness in decommissioning for the Sweetwater Uranium Project stated:

*The continued existence of this facility is in the public interest.*

This statement was made at a time when there were six (6) remaining uranium mills in the United States. There are now four (4) such facilities remaining, the Sweetwater Uranium Project, the Canon City Mill, the White Mesa Mill and the Shootaring Mill. The continued existence of these remaining conventional uranium milling facilities should be even more

in the public interest today than in 2001 because there are fewer facilities and there is at present a strong renewed interest in nuclear energy in the United States and the world for numerous reasons. Given that the continued existence of the Sweetwater Uranium Project was declared in 2001 to be in the public interest and by extension the continued existence of the other three (3) conventional uranium mills is in the public interest as well, it appears unfair that the fees being imposed on them are being increased so dramatically.

#### **Dual Jurisdiction of In-Situ Wellfields/Performance Based Licensing**

The Commission needs to investigate ways to reduce fees by streamlining the regulatory process. Completion of Memorandums of Understanding (MOUs) between the Commission and non-agreement states such as Wyoming or Nebraska regarding regulation of in-situ wellfields would help substantially to reduce costs to licensees.

Expansion of performance based licensing and the increased use of Safety and Environmental Review Panels (SERPs) would also help in reducing costs. Implementation of the much delayed Memorandums of Understanding (MOUs) and expansion of the use of Performance Based Licensing is justified due to the very low risks posed by uranium recovery licensees due to the relatively low activities of the materials that they handle.

#### **Agreement States**

In 2004 the State of Utah became an agreement state for uranium recovery and 11e.(2) byproduct material. The problem of the lack of reasonable relationship between annual fees and services rendered by the Commission is exacerbated as more states become Agreement States and existing sites are decommissioned, leaving fewer licensees to bear an even greater share of the burden. The Commission needs to continue to search for an equitable way of dealing with the scenario that could result in the last licensee having to pay for the entire program. This scenario unfortunately occurred in the uranium recovery arena when the State of Utah achieved Agreement State status, leaving only two (2) producing ISL facilities and one conventional mill licensed by the Commission. This is a serious situation that needs to be carefully reviewed and addressed.

As noted in the final FY 2002 rule, *"a decreasing licensee base . . . presents a clear dilemma for both the uranium recovery group in its efforts to maintain a viable industry and the NRC which must recoup its budgeted costs from the licensees it regulates."* (67 Fed. Reg. 42617). Some of the possible solutions that were discussed in the FY 2002 rule were establishing arbitrary fee caps or thresholds for certain classes of licensees or combining fee categories. If the uranium recovery licensee base continues to decrease, the Commission may have to revisit the fee cap issue or the other potential solutions discussed in the FY 2002 rule.

#### **Hourly Charges**

The proposed rule increases hourly charges from \$197 to \$215 per hour. This is a 9% increase, which also exceeds the rate of inflation as shown in the table and chart above. The Commission should consider a more balanced approach to uranium recovery regulation. A more balanced approach would result in less regulatory oversight and lower costs. This is especially reasonable in light of the very low risks posed by uranium extraction operations and uranium mill tailings impoundments. The Commission should continue its efforts to provide invoices that contain more meaningful descriptions of the work done by staff and Contractors. With proposed hourly rates at \$215.00 per hour, the agency should be held to at least the same standard of accountability to its licensees as a private sector consultant is to his clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified.

Hourly fees are also much more unpredictable, and difficult to incorporate into a licensee's financial plan than the annual fee, since the total charges are not predefined but depend upon the amount of staff time expended on a particular item or submittal. Hourly charges represent a substantial amount of uncertainty in a given licensee's annual costs.

## Conclusions

Kennecott Uranium Company does not support the proposed 2006 annual fees and hourly charges and provides the following conclusions:

1. The proposed fee increase for uranium recovery is the highest percentage fee increase for any class of licensee and the proposed 2006 fee structure appears to unfairly discriminate against the uranium recovery sector by imposing a 120% increase in annual fees. Kennecott Uranium Company requests that if fees for the uranium recovery licensees are to be raised, any increases be in keeping with increases in fees for other classes of licensees.
2. The continued existence of the remaining uranium recovery facilities in the United States is in the public interest given the renewed interest in nuclear power. The continued existence of one particular facility in Wyoming, the Sweetwater Uranium Project, was declared to be in the public interest by the Commission in 2001. Exorbitant fee increases for uranium recovery licensees are contrary to the public interest.
3. The proposed fee increases and increases in hourly rates exceed the current rates of inflation as expressed by the Consumer Price Index for All Urban Consumers.
4. Fees and hourly charges could be controlled by regulatory streamlining of the uranium recovery industry by increased use of Performance Based Licensing and by execution of Memorandums of Understanding (MOUS) with non-agreement states regarding dual jurisdiction of in-situ wellfields.
5. The proposed increase in the hourly rate to \$215.00 per hour is very large and large invoices for hourly fees represent an increasingly unpredictable expense for uranium recovery licensees.
6. Kennecott Uranium Company requests that the quarterly fee payment provisions for uranium recovery licensees remain.

Kennecott Uranium Company appreciates the opportunity to comment on this proposed fee rule. If you have any questions please do not hesitate to contact me.

Sincerely yours,

Oscar Paulson  
Facility Supervisor

cc: Katie Sweeney - National Mining Association (NMA)

**From:** "Shelley Schutterle" <shelley@tribcsp.com>  
**To:** "Katie Sweeney - NMA" <ksweeney@nma.org>, <SECY@nrc.gov>  
**Date:** Mon, Mar 6, 2006 11:52 AM  
**Subject:** NRC Fees 2006 comments.doc

**Subject:** Comments on 10 CFR Parts 170 and 171 Revision of Fee Schedules; Fee Recovery for FY 2006; Proposed Rule.

Comments from:  
Kennecott Uranium Company  
PO Box 1500  
Rawlins, WY 82301

Shelley Schutterle  
Administrative Coordinator  
Kennecott Uranium Company  
shelley@tribcsp.com  
(307) 328-1476

**CC:** "Oscar Paulson" <paulson@tribcsp.com>

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**Creation Date:** Mon, Mar 6, 2006 12:52 PM  
**From:** "Shelley Schutterle" <[shelley@tribcsp.com](mailto:shelley@tribcsp.com)>

**Created By:** [shelley@tribcsp.com](mailto:shelley@tribcsp.com)

**Recipients**

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SECY (SECY)

tribcsp.com  
paulson CC (Oscar Paulson)

nma.org  
ksweeney (Katie Sweeney - NMA)

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Monday, March 6, 2006 12:52 PM

**Options**

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**Return Notification:** None

**Concealed Subject:** No  
**Security:** Standard



Kennecott Uranium Company  
42 Miles NW of Rawlins  
P.O. Box 1500  
Rawlins, WY 82301-1500  
USA  
T +1 (307) 328 1476  
F +1 (307) 324 4925

PR 170 and 171  
(77FR15530)

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USNRC

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April 13, 2012 (10:15 am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

12 April 2012

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

**Subject: Kennecott Uranium Company Comments on the Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2012- (Federal Register Volume 77, Number 51 - Thursday, March 15, 2012 - Proposed Rules)**

Gentlemen:

Kennecott Uranium Company is a uranium recovery licensee that owns the Sweetwater Uranium Project (NRC License SUA-1350) located in Sweetwater County, Wyoming which is the sole remaining conventional uranium mill in Wyoming. Kennecott Uranium Company has reviewed the **Proposed Rule Revision of Fee Schedules; Fee Recovery for FY 2012** and has the following comments:

**Changes in Uranium Recovery Fees (Proposed 2012 versus Final 2011 Fees)**

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

License Type	Fiscal Year 2011 Annual Fee	Proposed Fiscal Year 2012 Annual Fee	Percentage Change
Conventional and heap leach mills	\$32,300	\$23,600	26.9%
Basic <i>in situ</i> recovery facilities	\$30,700	\$29,900	2.6%
Expanded <i>in situ</i> recovery facilities	\$34,800	\$33,800	2.9%
<i>In situ</i> recovery resin facilities	\$29,100	\$28,300	2.8%
11e.(2) disposal incidental to existing tailings sites	\$10,500	\$10,200	2.9%
Uranium water treatment	\$7,300	\$7,100	2.7%

**Comments on the Proposed Fee Reductions**

- Kennecott Uranium Company supports these fee reductions as they are beneficial to the uranium recovery industry.

The Commission also proposed an increase in the hourly rate from \$273.00 per hour to \$274.00 per hour. While this is a small 0.4% increase, the over all rate far exceeds private consultant hourly rates and the NRC should make every effort to reduce this rate in future rulemakings.

**Comments on the Hourly Rate**

Uranium recovery licensees have been impacted during the license application and submittal review process by this high hourly rate in the form of very large invoices for staff time. Kennecott Uranium Company paid slightly over \$75,000 in hourly charges in 2010 and slightly over \$65,000 in hourly charges in 2011. Some of these charges were related to a review of a completion report related to a soil remediation project while others were related to an application for the postponement of the requirements of timeliness in decommissioning. Other charges were for recurring items such as reviews of surety language and routine (consumer price index based) surety increases. Licensees and applicants in NRC

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states such as Wyoming hoped to see more streamlining and efficiency in the regulatory process in the form of less time spent on submittals and consequently lower invoices over time. This has not occurred.

For example, performance based licensing was instituted for uranium recovery licensees over a decade ago. This was intended in part as a streamlining measure. Licensees have yet to realize large benefits in the form of reduced review costs from it. Licensees are able, under a performance based license, to approve certain actions via their Safety and Environmental Review Panel (SERP), subject to review during routine inspections. Kennecott Uranium Company possesses such a performance based license. Increased latitude as to the items that the SERP could address would be a direct benefit to Kennecott Uranium Company and result in cost savings.

This lack of latitude is especially troubling in light of the low inherent risk of uranium recovery operations such as the Sweetwater Uranium Project. It appears that excessive amounts of time are utilized for reviews that results in both delays and very high costs, especially given the very high hourly rate. Increased latitude regarding performance based licensing could alleviate some of these delays and high costs.

Kennecott Uranium Company believes that the following steps should be considered in order to reduce hourly charges:

- **Provision of Cost Estimates for Submittal Reviews**  
Licensing submittals are given a completeness review by NRC staff prior to the initiation of detailed technical review work in order to determine if the submittal contains the requisite information for acceptance. Private industry expects consultants to prepare budgetary estimates before work is begun. With NRC reviews, industry is expected to write a blank check. In a global industry such as the uranium recovery industry, it is very difficult to explain to company executives and shareholders the uncertainty involved with licensing actions. In the case of Kennecott Uranium Company, an estimate of the cost to review the Catchment Basin Completion Report submitted on May 6, 2008 would have been very useful in the budgeting process. Commission staff should be able upon completion of the Completeness Review to provide the licensee or applicant with an estimate of the approximate number of man hours required to review the submittal.
- **Creation of a Schedule of Costs for Common Tasks**  
The Commission should provide licensees with a schedule of approximate costs (or a cost range) for performing common tasks such as a reviewing and approving a surety, reviewing and approving a standby trust agreement or other tasks. With this information licensees would be able to more effectively budget for reviews by Commission staff. This would be very useful for Kennecott Uranium Company for such items as the review of annual consumer price index changes to sureties, reviews of standby trust agreements, reviews of surety language and reviews of standard annual reports.
- **Preparation of More Detailed Invoices**  
Kennecott Uranium Company believes that Commission staff should provide invoices containing a similar level of detail that is provided in invoices from industry consultants. In this manner, licensees would at least be able to better understand how staff time is allocated.

Kennecott Uranium Company appreciates the opportunity to comment on this proposed rule. If you have any questions please do not hesitate to contact me.

Sincerely yours,

*Oscar A. Paulson*

Oscar Paulson  
Facility Supervisor

cc: Katie Sweeney – National Mining Association (NMA)  
Rich Atkinson

## **Rulemaking Comments**

---

**From:** Schutterle, Shelley (RTE) [Shelley.Schutterle@riotinto.com]  
**Sent:** Thursday, April 12, 2012 5:12 PM  
**To:** Rulemaking Comments  
**Cc:** Atkinson, Rich (Cedar Mountain Ventures); Rich Atkinson  
**Subject:** Comments on Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2012  
**Attachments:** KUC-NRC Fee Comments.pdf

Attached is Kennecott Uranium Company's comments on the "Proposed Rule – Revision of Fee Schedules; Fee Recovery for FY 2012 (Federal Register Vol. 77, No. 51 – Thursday, March 15, 2012).

Shelley Schutterle  
Administrative Coordinator  
Kennecott Uranium Company

**Rio Tinto**  
42 Miles Northwest of Rawlins  
PO Box 1500, Rawlins, WY 82301-1500  
T: 307-328-1476 F: 307-324-4925  
[Shelley.Schutterle@riotinto.com](mailto:Shelley.Schutterle@riotinto.com) [www.riotinto.com](http://www.riotinto.com)

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PR-170 and 171  
80 FR 15476

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## PUBLIC SUBMISSION

<b>As of:</b> 4/28/15 10:27 AM <b>Received:</b> April 22, 2015 <b>Status:</b> Pending_Post <b>Tracking No.</b> ljz-8ifz-qo9h <b>Comments Due:</b> April 22, 2015 <b>Submission Type:</b> Web
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**Docket:** NRC-2014-0200  
Revision of Fee Schedules; Fee Recovery for FY 2015

**Comment On:** NRC-2014-0200-0001  
Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015

**Document:** NRC-2014-0200-DRAFT-0004  
Comment on FR Doc # 2015-06377

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### Submitter Information

**Name:** Oscar Paulson

---

### General Comment

To whom it may concern:

Attached please find the Adobe Acrobat Portable Document Format (\*.pdf) file `kuc_nrc_fee_comments_2015_03.pdf` that contains the comments of Kennecott Uranium Company regarding the Nuclear Regulatory Commission (NRC) Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2015 (Federal Register Volume 80, Number 55 - Monday, March 23, 2015 - Proposed Rules).

Kennecott Uranium Company appreciates the opportunity to comment on this rulemaking.

Oscar Paulson

Facility Supervisor  
Kennecott Uranium Company  
Sweetwater Uranium Project  
P.O. Box 1500  
42 Miles Northwest of Rawlins  
Rawlins, Wyoming 82301-1500

Telephone: (307)-324-4924  
Fax: (307)-324-4925  
Cellular: (307)-320-8758  
E-mail: [oscar.paulson@riotinto.com](mailto:oscar.paulson@riotinto.com)

---

### Attachments

kuc\_nrc\_fee\_comments\_2015\_03

Kennecott Uranium Company  
42 Miles NW of Rawlins  
P.O. Box 1500  
Rawlins, WY 82301-1500  
USA  
T +1 (307) 328 1476  
F +1 (307) 324 4925

April 17, 2015

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

**Subject: Kennecott Uranium Company 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)**

Gentlemen:

Kennecott Uranium Company is a uranium recovery licensee (Source Materials License SUA-1350) and the operator and manager of the Sweetwater Uranium Project located in the Great Divide Basin in Sweetwater County, Wyoming. This facility is one of the three (3) remaining conventional uranium mills in the United States and is currently on standby. Kennecott Uranium Company has reviewed the **Proposed Rule Revision of Fee Schedules; Fee Recovery for FY 2015** and has the following comments:

#### **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 approach of deriving government fees by backing into the budgeted amount is a disservice to licensees. The NRC should provide an estimate of the specific work that will be completed under 10CFR 170 for each licensee. Licensees must be able to provide a budget to management, and under this

situation it is essentially not possible. The process must be changed to provide a degree of certainty for licensees.

The increases for each category of uranium recovery license over the 2014 annual fees exceed twenty (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. If every supplier increased costs 20% in a single year, it would create a substantial and possibly fatal economic hardship. Kennecott Uranium Company 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 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.*

Kennecott Uranium Company 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 uranium recovery industry has very limited opportunities to increase revenue to pay for these increased costs.

Kennecott Uranium Company 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.

Kennecott Uranium Company 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 Kennecott Uranium Company 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.

### **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 Kennecott Uranium Company 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 fuel cycle results in huge regulatory costs that have become an existential threat to some operators.

The NRC must provide a system that ensures that high quality work will be completed for each hour charged. \$277/hour equates to \$544,000 per 2,000 hour working year.

### **Comments on Invoicing**

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



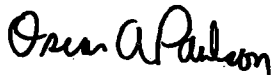
*NRC invoices have been wholly lacking in standard detail that every consultant, law or accounting firm in the private sector must provide and NRC's hourly rates exceed those of many of these organizations in the Western part of the country. Accordingly, NRC's invoices do not offer industry any opportunity 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.*

Lack of invoice detail 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 invoices must provide specific detail regarding the work to be completed under both 10 CFR parts 170 and 171.

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 but non-binding estimate of cost to complete the review of a given submittal it would be very helpful to uranium recovery operators.

Kennecott Uranium Company appreciates the opportunity to comment on this proposed rule. If you have any questions please do not hesitate to contact me.

Sincerely yours,



Oscar Paulson  
Facility Supervisor

Cc: Rich Atkinson  
Katie Sweeney – National Mining Association (NMA)

DOCKET NUMBER  
PROPOSED RULE150-170-171  
(66 FR 16982)DOCKETED  
USNRC

01 APR 30 P2:48

William Paul Goranson, P.E.  
Manager, Radiation Safety, Regulatory  
Compliance and Licensing  
Rio Algom Mining Corp.  
6305 Waterford Blvd.  
Suite 325  
Oklahoma City, OK 73118  
USA  
tel 405.858.4807  
fax 405.810.2860



Rio Algom

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF  
Electronically Submitted  
April 23, 2001

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
ATTN: Rulemakings and Adjudication Staff

**Subject: NRC's Proposed FY 2001 Fee Rule**

Dear Sir or Madam:

Rio Algom Mining Corp. is providing comments to the proposed NRC Fee Rule for FY 2001. Rio Algom currently holds three source material licenses for uranium recovery facilities that fall under the proposed fee rule. In the calendar year, 2000, the cumulative fees paid by Rio Algom total \$567,674, and relative to the current state of the uranium recovery industry, these fees have become a significant burden to the cost of operating these facilities. Additionally, given the relatively low risk of the nature of operations at these facilities, Rio Algom believes that these fees, including the current proposed fees, are unrealistic in their application.

#### Hourly Fees

Of the fees proposed in the new rule, the hourly (Part 170) charges are of greatest concern to Rio Algom. In 2000, hourly fees represented 61% of the annual and hourly fees assessed for all three facilities. As provided in the bills for these hourly fees, the charges are split into two general categories, (a) inspection and review costs and (b) project manager costs. The costs classified as inspection and review costs represent staff time spent directly on actions related to the facility license. Some of those review charges are initiated by Rio Algom's licensing actions, but NRC staff initiates many with Rio Algom having no input or control over the time charged for the actions. These hourly charges by their nature of review development, subsidizes NRC's other non-revenue operations.

However, the charges classified as project manager costs are the most alarming to Rio Algom. These charges represent generic administrative charges assessed to the licensee that may or may not be directly related to that licensee's operations. Examples of typical project manager costs include being charged for project manager training, rulemaking, work performed to other government agencies, etc. The proposed FY 2001 fee rule remains silent on the assessment of project manager charges, and Rio Algom is left to assume that the previous two class billing structure remains. For all three of Rio Algom's facilities, the Part 170 fees for 2000 were assessed at \$345,674, and \$159,741 or 46% of the hourly charges were assessed as project manager fees. The project manager fees are of particular concern to Rio Algom since there is no way to control the costs associated with them since these charges are simply allocated evenly amongst the licensees for that project manager.

NRC staff has been working with the uranium recovery industry to help control the project manager costs. This effort has yet to be manifested on any of the Part 170 bills to Rio Algom, and as a result, there is no means to determine if that effort has resulted in any cost reduction for the licensee. However, Rio Algom believes that the application of this method of using two categories of assessing fees for hourly charges is unfair and inappropriate, and, as a minimum, NRC should revert to the former method of billing strictly for review time. This approach would alleviate some

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SECY-02

of the concerns by the uranium recovery industry as a whole and make the bills more understandable by the licensees.

#### Annual Fees

Rio Algom's primary concern with the fee system continues to be the lack of a reasonable relationship between the cost to uranium recovery licensees of NRC's regulatory oversight program and the benefit derived from those services. Rio Algom believes and has commented in the past, that it is that there must be a reasonable relationship between the cost to licensees of a regulatory program and the benefit derived from regulatory services.

Rio Algom does acknowledge that the reduction in the annual fees for in-situ uranium recovery facilities from \$111,000 in FY 2000 fee rule to \$79,000 in the proposed FY 2001 fee rule is a welcome change. However, that reduction does not make up for the dramatic increases in the total actual charges to uranium recovery licensees over the last two years as the result in the restructuring of the assessment of the hourly charges. Using the total annual and hourly fees assessed in 2000 to Rio Algom's operations, the proposed annual fee reduction would result in only an 11% reduction in the total fees assessed for 2001. That assumes the hourly charges remain at 2000 levels. The total hourly and annual fees remain at levels that significantly impact the cost of doing business at Rio Algom's operations.

Too heavy a burden is falling on uranium recovery facilities, particularly those sites awaiting NRC approval of reclamation plans or those on "standby." Given the complex regulatory scheme and numerous license conditions imposed on these sites, it is rarely a matter of licensee discretion when to operate or finalize closure of a site. Indeed, the realities of the uranium market are a large determinant in whether a licensee ceases operations, goes on standby or begins decommissioning. Sites that are on standby or awaiting approval of reclamation plans require minimal oversight yet must continue to pay an annual fee that is clearly not commensurate with the benefit of holding the license. In addition, NRC needs to determine an equitable way of dealing with the scenario that could result in the last licensee having to pay for the entire program that is beginning to play out in the uranium recovery area.

#### Invoicing

Rio Algom requests that NRC continue its efforts to provide invoices that contain more meaningful descriptions of the work done by NRC staff and NRC Contractors. With hourly rates as high as \$144, NRC should be held to at least the same standard of accountability to its licensees as the private sector is to its clients. In the private sector, adequate explanations and dates are provided to clients in order for clients to fully understand what was done and when it was done. This type of billing system allows costs to be specifically identified. Rio Algom recognizes that implementing such a system would require major revisions to NRC's entire computer billing program, but it is a change that would serve NRC, licensees and the public well.

Rio Algom believes that the Commission must revise the project manager cost recovery system because that system is creating unexpected additional inequities and places the ability for a licensee to control or predict costs in jeopardy. Given the current state of the domestic uranium recovery industry, the new inequities posed by the project manager cost recovery system could be the deciding factor on the financial viability of a licensed operation. If you have any questions please call me at (405) 858-4807.

Sincerely,

William Paul Goranson, P.E  
Manager, Radiation Safety,  
Regulatory Compliance and Licensing

Cc: Marvin Freeman, RAMC  
Katie Sweeney, NMA

June 5, 2012

NOTE TO COMMISSIONERS' ASSISTANTS

OCM/GBJ

☒ Angela Coggins  
☐ Anna Bradford  
☐ Laura Pearson  
☐ Lisa Clark  
☐ Tom Hipschman  
☐ Nathan Sanfilippo  
cc ☐ Neha Dhir  
☐ Melody Fopma  
☐ Susan Loyd  
☐ Richard Barkley  
☐ Andy Imboden  
☐ Patti Pace  
☐ Herald Speiser  
☐ Catina Gibbs

OCM/KLS

☒ Jeffry Sharkey  
☐ Darani Reddick  
☐ Patrick Castleman  
☐ Alan Frazier  
☐ Janet Lepre  
☐ Nicole Riddick

OCM/WDM

☒ Patrice Bubar  
☐ Bill Orders  
☐ Rebecca Tadesse  
☐ Margaret Bupp  
☐ Carrie Crawford

OCM/GEA

☒ Belkys Sosa  
☐ Roger Davis  
☐ Nanette Gilles  
☐ Steve Baggett  
☐ Kathleen Blake  
☐ Carmel Savoy

OCM/WCO

☒ John Tappert  
☐ Michael Franovich  
☐ Andrea Kock  
☐ Kimberly Sexton  
☐ Linda Herr  
☐ Sunny Bozin

FROM: J. E. Dyer **/RA/**  
Chief Financial Officer

SUBJECT: PUBLIC COMMENTS ON THE FISCAL YEAR 2012 PROPOSED FEE RULE

Enclosed is a summary of the eight comments we received on the Fiscal Year (FY) 2012 Proposed Fee Rule. The U.S. Nuclear Regulatory Commission's (NRC) response to these comments will be included in a separate section of the FY 2012 Final Fee Rule estimated to be published in the Federal Register in June. I will send an information copy of the final rule to the Commission before it is sent to the Federal Register for publication.

The complete comments are posted on <http://www.regulations.gov> and can be found by entering the FY 2012 fee rule Docket ID, NRC-2011-0207, in the search field.

Enclosure: As stated

cc: EDO  
SECY  
OGC  
OCA  
OPA  
OIP  
OIS

June 5, 2012

NOTE TO COMMISSIONERS' ASSISTANTS

OCM/GBJ

☒ Angela Coggins  
☐ Anna Bradford  
☐ Laura Pearson  
☐ Lisa Clark  
☐ Tom Hipschman  
☐ Nathan Sanfilippo  
☐ cc Neha Dhir  
☐ Melody Fopma  
☐ Susan Loyd  
☐ Richard Barkley  
☐ Andy Imboden  
☐ Patti Pace  
☐ Herald Speiser  
☐ Catina Gibbs

OCM/KLS

☒ Jeffry Sharkey  
☐ Darani Reddick  
☐ Patrick Castleman  
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OCM/GEA

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The complete comments are posted on <http://www.regulations.gov> and can be found by entering the FY 2012 fee rule Docket ID, NRC-2011-0207, in the search field.

Enclosure: As stated

cc: EDO  
SECY  
OGC  
OCA  
OPA  
OIP  
OIS

ADAMS ACCESSION NO.: ML12136A079

OFFICE	OCFO/DPB/BOB2	c	OCFO/DPB/BOB2	c	OCFO/DPB/BOB2	c	OCFO/DPB/BOB2	c
NAME	AHoward*		RSuri*		CGalster*		JMattingley*	
DATE	5/9/2012		5/10/2012		5/9/2012		5/14/2012	
OFFICE	OCFO/DPB	c	OCFO/DPB	c	DCFO	c	CFO	c
NAME	DPelton*		JGolder*		MBrown		JEDyer	
DATE	5/16/2012		5/17/2012		5/ /2012		6/5/2012	

## **SUMMARY OF COMMENTS ON FY 2012 PROPOSED FEE RULE**

### **1. RIA-JMTC Radiation Laboratory RSO**

- a. Annual fees, unfortunately, increase for some licensees yet the FY 2012 NRC budget increased by one percent from FY 2011. Lab expenses continue to rise as result of fewer paying customers which could result in the closing of our lab, hence, no fees collected by the NRC. All changes in annual fees should be based on an equal percentage change spread amongst all licensees.

### **2. Rendezvous Engineering, P.C.**

- a. Gross annual receipts range for small entities favors larger firms while burdening smaller entities.
- b. The existing gross annual receipts range does not distinguish annual fees for firms whose gross receipts are greater than \$450,000 compared to firms with relatively low gross receipts or lower than \$450,000 who qualify as small entities.
- c. NRC should consider establishing additional tiers of annual license fees within the current range of fees to reduce the license fee burden on some small entities.

### **3. Mid-America Isotopes, Inc.**

- a. NRC should use the Small Business Administration's "Table of Small Business Size Standards" to define a small business with relation to the assignment fees by NRC.
- b. The government should be in uniformity in the assignment of definitions as it pertains to a business, be it size, type of industry, and other means of categorization.

### **4. Nuclear Energy Institute (NEI)**

- a. Supports the NRC efforts over the past 7 years to level the budget resulting in an increase in total fee recovery by approximately 58 percent or \$540.7 million since 2005.
- b. Applauds NRC's proposal to reduce all licensees' annual fees by allocating the \$10 million fee-relief surplus amongst the licensees.
- c. NRC should continue to achieve greater transparency in its budgeting to reveal planned staffing and resource needs by individual divisions, defense and national interest programs.
- d. Encourages the NRC to fully explain decreased budgeted resources for FY 2012 and if these reductions will continue in the future.
- e. Requests NRC use \$32 million in unobligated balances to reduce licensee fees in future years if the Agency does fund additional Fukushima-related work with these resources.
- f. Commends NRC for increasing funds available for educational programs from \$11.5 to \$16.8 million.

ENCLOSURE

- g. Requests the NRC direct \$15 million of the funds budgeted in FY 2012 to support the congressionally-authorized Integrated University Program trade school, scholarship, fellowship and faculty development grants. Recommends the remaining funds be utilized for curriculum development and to support nuclear technology programs at minority serving institutions.

#### **5. Wyoming Mining Association (WMA)**

- a. Supports the decrease in uranium recovery annual fees which benefit the industry.
- b. Concerned the higher hourly rates leads to higher licensing application review costs resulting in delays yet the NRC's regulatory process remains inefficient and unimproved as promised with the implementation of NUREG-1910 – Generic Environment Impact Statement (GEIS) for In Situ Leach Uranium Milling Facilities, Memorandum of Understanding (MOU) between the Commission and the Bureau of Land Management (BLM) and Performance Based Licensing. Recommends the following steps be taken to reduce the burden of excessive review costs:
  - 1. Provision for cost estimates for the NRC review of license submittals.
  - 2. Creation of a schedule of costs for common tasks.
  - 3. Preparation of more detailed invoices.
  - 4. Rigorous internal review of manpower applied to different tasks.
  - 5. Broaden the use of performance based licensing.

#### **6. National Mining Association (NMA)**

- a. Supports the decrease in the annual fee category.
- b. Concerned increase in the hourly rates over last decades is not justified considering the NRC's regulatory process has not improved as promised with the implementation of NUREG-1910 – Generic Environment Impact Statement (GEIS) for In Situ Leach Uranium Milling Facilities, Memorandum of Understanding (MOU) between the Commission and the Bureau of Land Management (BLM) and Performance Based Licensing. Recommends the following steps be taken to improve the regulatory process and reduce review costs:
  - 1. NRC should redouble its efforts to capitalize on GEIS, review licensing actions expeditiously and better allocate its time and resources.
  - 2. Become more proactive and assertive in its implementation of the NRC/BLM MOU.
  - 3. Expand performance based licensing and increase Safety and Environmental Review Panels (SERPs).
  - 4. Urges the NRC to move forward to provide a draft for public comment concerning the National Historic Preservation Act section 106 process.
  - 5. NRC should look to other federal agencies, such as BLM, for best practices in the processing of 106 reviews.



6. Revise the proposed rule to require more efficient processing of services subject to hourly fees.
7. Establish more flat fees for activities at uranium recovery operations.
8. NRC managers should improve staff oversight to ensure resources are allocated efficiently.
9. Provide invoices that contain more meaningful descriptions of the work performed by staff and especially contractors, allowing the NRC to focus on cost-containment and establishment of more appropriate flat fees.
10. Ensure the agency is using resources effectively and considers alternative approaches that would maximize efficiencies, minimize costs, and establish accountability.

#### **7. Kennecott Uranium Company**

- a. Supports the decrease in uranium recovery fees for FY 2012.
- b. Encourages the NRC to streamline the regulatory process to make it more efficient in order to reduce time spent on submittals, consequently lowering invoices over time.  
Recommends the following actions to reduce hourly charges:
  1. Provision of cost estimates for submittal reviews.
  2. Creation of a schedule of costs for common tasks.
  3. Preparation of more detailed invoices.

#### **8. Cameco**

- a. Supports the proposed decrease in annual fees for uranium recovery facilities.
- b. Concerned about the increase in hourly rate and the inefficiency in the licensing review process which contribute to delays resulting in a significant assessment of fees to licensees.
- c. Believes the NRC should shift the focus from the lack of resources to improving the licensing review process to increase upkeep of existing licenses and the reviewing of additional expansion projects. The efficiency gains achieved can be passed to licensees in the form of decreased fees.
- d. Believes better NRC project management and more efficient review processes will reduce the cost of licenses, thus, effectively regulating recovery activities.

## Appendix 2



KATIE SWEENEY  
*General Counsel*

August 3, 2012

Mr. James Dyer, Chief Financial Officer  
U.S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852-2738

Dear Mr. Dyer:

Recently, Christopher Pugsley and I met with you, Michael Weber, and Mark Satorius on behalf of the National Mining Association (NMA) regarding a variety of uranium recovery industry regulatory issues. One key issue discussed relates to the format and content of the Nuclear Regulatory Commission's (NRC) invoices to uranium recovery licensees and license applicants. This letter is directed specifically at our members' issues and concerns with such invoices.

Over the years, NMA members have expressed significant concerns regarding the lack of adequate information on invoices received from NRC. After much discussion and a key meeting in October 1994, NRC modified the format and content of its invoices in a manner that licensees and license applicants considered to be an improvement. Unfortunately, over time, this progress has eroded away and the current invoice format and content lacks sufficient detail and explanation to provide licensees and license applicants with little more than a simple dollar amount to be paid.

At our June 2012 meeting, you indicated that your office had sent inquiries to licensees seeking feedback on invoice format and content with the most recent billing statement. NMA has been unable to identify any uranium recovery member company that received such inquiry. You noted at our meeting that an opportunity for comment and feedback was still available if a letter was prepared and submitted by NMA to your office. Accordingly, by this letter, NMA hereby provides the following comments:

- (1) NRC invoices should identify the specific NRC Staff member(s) by name charging a particular uranium recovery company for time spent on licensee/license applicant matters;
- (2) NRC invoices should provide an explanation of the nature and subject of the work performed;
- (3) NRC invoices should provide a numerical total of the time spent on a particular date on such work;

Name of Recipient

Date

Page Two

- (4) NRC invoices should break down work done on specific reviews of licensing action into subsets (e.g., time spent on the National Historic Preservation Act (NHPA) Section 106 Tribal Consultation process under the ambit of NRC Staff's environmental review);
- (5) NRC invoices should provide any relevant explanation of unusual or abnormally large amounts of time/dollars spent on any project or subset thereof.

NMA members also respectfully request that NRC contractors prepare and submit their invoices in the same format and with the same content as NRC invoices. NMA believes that adding such a requirement to the basic government contracts awarded to these entities should be a simple matter. While we recognize that this may need to be done via change order for projects under current review, it should be relatively straightforward to impose such a requirement on project reviews in the future.

The above-referenced invoicing practices are (and have been for decades) standard in the private sector for consultants, accountants, attorneys, etc. Given that NRC's hourly rates for its staff rival or exceed the rates for many of the service providers for NMA's members noted above, it is unreasonable for NRC to provide less detail for its oversight and the work of its contractors. Indeed, to the extent that NRC's contractors work with the private sector, they are providing the requisite detail. Without this detail, it makes developing budgets (which include estimates for regulatory review) difficult, if not impossible, for both licensees and license applicants and NRC Staff. It also makes it virtually impossible for a licensee or license applicant to dispute an invoice or part thereof as unreasonable which they can do with their consultants, accountants, and attorneys.

NRC expects and requires detailed and thorough license or license amendment applications which must pass initial acceptance review prior to detailed technical and environmental review. Licensees/license applicants should be able to expect the same quality and detail from NRC in its invoices which can range into the hundreds or thousands or millions of dollars. Indeed, given the very large numbers NMA uranium recovery members are experiencing in their invoices, anything significantly less than what is requested herein will be deemed unacceptable and likely will require NMA seeking solutions with other entities including potentially the Office of Management and Budget (OMB) and relevant Congressional delegations.

NMA's uranium recovery members appreciate your time and the opportunity to provide comments on the current status of NRC's invoicing practices, and we would be happy to discuss such matters with you in greater detail at your convenience. Thank you once again for your time and attention in this matter and please do not hesitate to contact me at 202/463-2627 to discuss these issues.

Sincerely,



Katie Sweeney



KATIE SWEENEY  
*General Counsel*

August 3, 2012

Mr. James Dyer, Chief Financial Officer  
U.S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852-2738

Dear Mr. Dyer:

Recently, Christopher Pugsley and I met with you, Michael Weber, and Mark Satorius on behalf of the National Mining Association (NMA) regarding a variety of uranium recovery industry regulatory issues. One key issue discussed relates to the format and content of the Nuclear Regulatory Commission's (NRC) invoices to uranium recovery licensees and license applicants. This letter is directed specifically at our members' issues and concerns with such invoices.

Over the years, NMA members have expressed significant concerns regarding the lack of adequate information on invoices received from NRC. After much discussion and a key meeting in October 1994, NRC modified the format and content of its invoices in a manner that licensees and license applicants considered to be an improvement. Unfortunately, over time, this progress has eroded away and the current invoice format and content lacks sufficient detail and explanation to provide licensees and license applicants with little more than a simple dollar amount to be paid.

At our June 2012 meeting, you indicated that your office had sent inquiries to licensees seeking feedback on invoice format and content with the most recent billing statement. NMA has been unable to identify any uranium recovery member company that received such inquiry. You noted at our meeting that an opportunity for comment and feedback was still available if a letter was prepared and submitted by NMA to your office. Accordingly, by this letter, NMA hereby provides the following comments:

- (1) NRC invoices should identify the specific NRC Staff member(s) by name charging a particular uranium recovery company for time spent on licensee/license applicant matters;
- (2) NRC invoices should provide an explanation of the nature and subject of the work performed;
- (3) NRC invoices should provide a numerical total of the time spent on a particular date on such work;

Name of Recipient

Date

Page Two

- (4) NRC invoices should break down work done on specific reviews of licensing action into subsets (e.g., time spent on the National Historic Preservation Act (NHPA) Section 106 Tribal Consultation process under the ambit of NRC Staff's environmental review);
- (5) NRC invoices should provide any relevant explanation of unusual or abnormally large amounts of time/dollars spent on any project or subset thereof.

NMA members also respectfully request that NRC contractors prepare and submit their invoices in the same format and with the same content as NRC invoices. NMA believes that adding such a requirement to the basic government contracts awarded to these entities should be a simple matter. While we recognize that this may need to be done via change order for projects under current review, it should be relatively straightforward to impose such a requirement on project reviews in the future.

The above-referenced invoicing practices are (and have been for decades) standard in the private sector for consultants, accountants, attorneys, etc. Given that NRC's hourly rates for its staff rival or exceed the rates for many of the service providers for NMA's members noted above, it is unreasonable for NRC to provide less detail for its oversight and the work of its contractors. Indeed, to the extent that NRC's contractors work with the private sector, they are providing the requisite detail. Without this detail, it makes developing budgets (which include estimates for regulatory review) difficult, if not impossible, for both licensees and license applicants and NRC Staff. It also makes it virtually impossible for a licensee or license applicant to dispute an invoice or part thereof as unreasonable which they can do with their consultants, accountants, and attorneys.

NRC expects and requires detailed and thorough license or license amendment applications which must pass initial acceptance review prior to detailed technical and environmental review. Licensees/license applicants should be able to expect the same quality and detail from NRC in its invoices which can range into the hundreds or thousands or millions of dollars. Indeed, given the very large numbers NMA uranium recovery members are experiencing in their invoices, anything significantly less than what is requested herein will be deemed unacceptable and likely will require NMA seeking solutions with other entities including potentially the Office of Management and Budget (OMB) and relevant Congressional delegations.

NMA's uranium recovery members appreciate your time and the opportunity to provide comments on the current status of NRC's invoicing practices, and we would be happy to discuss such matters with you in greater detail at your convenience. Thank you once again for your time and attention in this matter and please do not hesitate to contact me at 202/463-2627 to discuss these issues.

Sincerely,



Katie Sweeney



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

February 11, 2013

CHIEF FINANCIAL  
OFFICER

Ms. Katie Sweeney, General Counsel  
National Mining Association  
101 Constitution Avenue, NW, Suite 500 East  
Washington, DC 20001

Dear Ms. Sweeney:

This letter responds to your letter to me dated August 3, 2012, concerning licensee fees. The Nuclear Regulatory Commission (NRC) was not aware of your letter until you referenced it in your letter to Chairman Macfarlane dated January 7, 2013. In the August 2012 letter you identified concerns regarding the U.S. Nuclear Regulatory Commission (NRC) fee invoices for its uranium recovery licensees and applicants. All of your concerns involve providing licensees and applicants with a sufficient level of detail on their invoices.

As we discussed during our meeting last year, after the transition to the new accounting system in October 2010, NRC staff reached out to licensees to obtain their feedback on the layout and detail of fee invoices. Based upon the feedback provided to the NRC, a new invoice format was finalized and put into place during FY 2011. The overall goal for this new format was to balance the need to provide a sufficient level of detail without causing an undue burden for NRC licensees by providing voluminous details in the invoices. The NRC has received favorable feedback from some of its licensees on the new format. We regret that your concerns were not addressed through these changes.

The NRC is interested in improving the quality of its fee invoices provided to all its licensees and applicants. Our experience with other licensees and applicants has shown that NRC fees invoices can be tailored to meet industry needs when coordinated communications occur between the licensee or applicant, the NRC Program Office, and NRC Office of the Chief Financial Officer. My office will coordinate with the NRC Office of Federal and State Materials and Environmental Management Programs to include an agenda item on licensee fee invoices during a planned meeting between the NRC and the National Mining Association.

If you have any questions or require further clarification, please contact Mr. Seth Coplin at [Seth.Coplin@nrc.gov](mailto:Seth.Coplin@nrc.gov) or (301) 415-7554.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. E. Dyer", is written above the printed name.

J. E. Dyer  
Chief Financial Officer

## Appendix 3



PR 170 and 171  
(76FR14748)

Physical Address  
2601 Central Avenue  
Cheyenne, WY 82007

Ph 307.635.0331



## WYOMING MINING ASSOCIATION

Mailing Address  
PO Box 866  
Cheyenne, WY 82003

Fx 307.778.6240

3

DOCKETED  
USNRC

April 18, 2011

April 19, 2011 (9:05 am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Secretary  
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 2011 - (Federal Register Volume 76,  
Number 52 - Thursday, March 17, 2010 - Proposed Rules)**

Gentlemen:

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 in-situ and conventional uranium recovery operators, several companies planning new uranium recovery operations and several companies conducting final reclamation/restoration operations. WMA has reviewed the **Proposed Rule Revision of Fee Schedules; Fee Recovery for FY 2011** and has the following comments:

### Changes In Uranium Recovery Fees (Proposed 2011 versus Final 2010 Fees)

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

#### 2010 Nuclear Regulatory Commission (NRC) Fees

Fee Class/Fee Category	FY 2010 Final Fee Rule	FY 2011 Proposed Fee Rule	Change from FY 10
<b>URANIUM RECOVERY</b>			
2.A.(2)(a) Conventional & Heap Leach Mills	\$38,300	\$31,900	-16.7%
2.A.(2)(b) Basic In-situ Recovery Facilities	\$36,300	\$30,300	-16.5%
2.A.(2)(c) Expanded In-situ Recovery Facilities	\$41,100	\$34,300	-16.5%
2.A.(2)(d) In-situ Recovery Resin (facilities	\$34,400	28,800	
2.A.(2)(e) Resin Toll Milling	N/A	N/A	N/A
2.A.(3) Disposal of 11e(2) Materials	N/A	N/A	N/A
2.A.(4) 11 e(2) Disposal Incidental to Oper.	\$12,400	\$10,400	-16.1%
2.A.(5) Uranium Water Treatment Facility	\$8,600	\$7,200	-16.3%

www.wma-minelife.com

Template = SECY-067

DS10

### Comments on the Proposed Fee Reductions

- ♦ WMA supports these fee reductions as they are beneficial to the uranium recovery industry.

The Commission also proposed an increase in the hourly rate from \$259.00 per hour to \$273.00 per hour. This is a 5.4% increase.

### Comments on the Increase in the Hourly Rate

- ♦ WMA opposes this increase. The increase of 5.4% far exceeds the current rate of inflation. When this increase is coupled with the Commission's existing invoicing practices, it adds to regulatory costs that are already a significant burden to licensees and applicants.
- ♦ The problems with the increase in the hourly rate are tied not only to its magnitude but to how the Commission invoices licensees and include the following issues:
  - Allocation of Man Power to Work Related to Uranium Recovery Licensees
    - The Commission allocates and invoices far too many hours of time to uranium recovery licensees. In one recent case, the Commission charged in excess of \$125,000. for the *first phase* of a pre-operational inspection of an *existing* uranium recovery facility. This inspection involved 5 members of Commission staff. In a second case, the Commission charged between 1.5 and 2 millions dollars over a period of 3 ½ years for the review of a source material processing license application WMA believes that this level of man power is excessive and is not in proportion to the risk posed by uranium recovery facilities. The Commission should review its allocation of staff time to items such as inspections and should only allocate sufficient staff time to complete those tasks efficiently while protecting public health, safety and the environment.
  - Allocation of Man Power to Reviews of Submittals
    - The uranium recovery group is reviewing both new license applications and amendment requests from existing licensees. The invoices received for these reviews are excessive (some up to 2.5 million dollars over 3 ½ years) and still have not produced licenses for some applicants who have had their applications in for over three years. This further demonstrates that the Commission is expending far more manpower to perform these tasks than is justified when the risk posed by uranium recovery facilities is considered. Another example of this is the completion in May 2009 of NUREG-1910, Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities. NUREG-1910 was supposed to save licensees and applicants NRC costs related to environmental reviews of applications. The cost savings promised by the Commission with the completion of NUREG-1910 have not been realized by the regulated community. In addition, the Commission entered into a Memorandum of Understanding (MOU) with the Bureau of Land Management (BLM) regarding Environmental Impact Statements (EISs) on Federal lands managed by the Bureau. This agreement was intended to reduce duplication of effort by the two (2) agencies. To date, it has failed to yield the anticipated benefits.
    - Commission invoices consistently lack sufficient detail to allow the licensee to determine the precise nature of the work being invoiced. The uranium recovery industry has repeatedly asked that the Commission provide sufficient detail to allow licensees to analyze costs.
  - Licensee Budgeting Process
    - Licensees typically prepare their budgets approximately five (5) months prior to the start of the new calendar year. Review and inspection invoices are erratic and invoice amounts are impossible to predict, making it impossible for licensees to effectively budget for these items. Licensees need to be able to plan for future invoices from the Commission and require some information in order to effectively budget for these costs.
- ♦ The Association believes that the Commission should implement the following steps to address these problems:

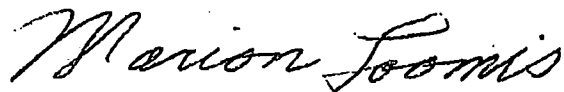
- Complete the revision of NUREG-1569
  - NRC staff has stated repeatedly in industry forums over the past few years that NUREG-1569, Standard Review Plan for In Situ Leach Uranium Extraction License Applications, is outdated and requires revision. Staff has admitted that NUREG-1569 requires Technical Reports to contain information that is duplicated in Environmental Reports submitted in accordance with NUREG-1748, Environmental Review Guidance for Licensing Actions Associated with NMSS Programs. It is clear from requests for additional information (RAI) produced from the safety and environmental reviews of recent applications that Commission reviews typically include a duplication of effort. In some cases staff has re-reviewed applications following initial RAIs and identified new issues, requiring significant resources for applicant responses and staff review. WMA encourages NRC staff to complete the promised revision of NUREG-1569 as soon as possible with an emphasis on minimizing duplication in the review process.
- Provision of Cost Estimates for Submittal reviews
  - Licensing submittals are given a completeness review by NRC staff prior to the initiation of detailed technical review work in order to determine if the submittal contains the requisite information for acceptance. Private industry expects consultants to prepare budgetary estimates before work is begun. With NRC reviews, industry is expected to write a blank check. In a global industry it is very difficult to explain to company executives and shareholders the uncertainty involved with licensing actions. Commission staff should be able upon completion of the Completeness Review to provide the licensee or applicant with an estimate of the approximate number of man hours required to review the submittal.
- Creation of a Schedule of Costs for Common tasks
  - The Commission should provide licensees with a schedule of approximate costs (or a cost range) for performing common tasks such as a reviewing and approving a surety, reviewing and approving a standby trust agreement or other tasks. With this information licensees would be able to more effectively budget for reviews by Commission staff.
- Rigorous Internal Review of Manpower Applied to Different Tasks
  - The Commission should review the manpower levels assigned to different activities and compare them to the relative risk to public health and the environment. For example, expending over \$150,000 for the initial phase of a preoperational inspection for an existing facility would seem excessive.
- Broaden the Use of Performance based Licensing
  - Expansion of performance based licensing and the increased use of Safety and Environmental Review Panels (SERPs) would help in reducing review costs. Expansion of the use of Performance Based Licensing is justified due to the very low risks posed by uranium recovery licensees considering the low specific activity of the materials that they handle. Contrary to this approach, staff has restricted actions that can be approved by a SERP in recent draft licenses.

### **Comments on Agreement States**

- ♦ On September 30, 2009, the State of New Jersey became the thirty-seventh agreement state. The problem of the lack of reasonable relationship between annual fees and services rendered by the Commission is exacerbated as more states become Agreement States, leaving fewer licensees to bear an even greater share of the burden. The Commission needs to continue to search for an equitable way of dealing with this situation or the ultimate scenario of the last licensee having to pay for the entire program could come to pass.

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 cursive script that reads "Marion Loomis".

Marion Loomis  
Executive Director

Cc: Katie Sweeney – National Mining Association (NMA)

# PUBLIC SUBMISSION

<b>As of:</b> April 18, 2011
<b>Received:</b> April 18, 2011
<b>Status:</b> Pending_Post
<b>Tracking No.</b> 80c2ec56
<b>Comments Due:</b> April 18, 2011
<b>Submission Type:</b> Web

**Docket:** NRC-2011-0016  
Revision of Fee Schedules; Fee Recovery for FY 2011

**Comment On:** NRC-2011-0016-0001  
Revision of Fee Schedules; Fee Recovery for Fiscal Year 2011

**Document:** NRC-2011-0016-DRAFT-0003  
Comment on FR Doc # 2011-05968

---

## Submitter Information

**Name:** Marion Loomis  
**Address:**  
P.O. Box 866  
Cheyenne, WY, 82003  
**Submitter's Representative:** Marion Loomis  
**Organization:** Wyoming Mining Association

---

## General Comment

See attached file(s)

---

## Attachments

**NRC-2011-0016-DRAFT-0003.1:** Comment on FR Doc # 2011-05968

## **Rulemaking Comments**

---

**From:** Gallagher, Carol  
**Sent:** Monday, April 18, 2011 5:02 PM  
**To:** Rulemaking Comments  
**Subject:** Comment letter on Proposed Fee Rule  
**Attachments:** NRC-2011-0016-DRAFT-0003.pdf

Van,

Attached for docketing is a comment letter from Marion Loomis on the above noted proposed rule (3150-AI93; 76 FR 14748) that I received via the regulations.gov website on 4/18/11.

Thanks,  
Carol

RioTinto

Kennecott Uranium Company  
42 Miles NW of Rawlins  
P.O. Box 1500  
Rawlins, WY 82301-1500  
USA  
T +1 (307) 328 1476  
F +1 (307) 324 4925

PR 170 and 171  
(76FR14748)

6

DOCKETED  
USNRC

April 19, 2011 (4:45 pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

April 14, 2011

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

**Subject: Kennecott Uranium Company Comments on the Proposed Rule – Revision of Fee Schedules; Fee Recovery for FY 2011 – (Federal Register Volume 76, Number 52 - Thursday, March 17, 2010 – Proposed Rules)**

Gentlemen:

Kennecott Uranium Company is a uranium recovery licensee and operator of the Sweetwater Uranium Project, a conventional uranium mill currently on standby located in Sweetwater County, Wyoming. Kennecott Uranium Company has reviewed the **Proposed Rule Revision of Fee Schedules; Fee Recovery for FY 2011** and has the following comments:

**Changes in Uranium Recovery Fees (Proposed 2011 versus Final 2010 Fees)**

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

**2010 Nuclear Regulatory Commission (NRC) Fees**

<u>Fee Class/Fee Category</u>	<u>FY 2010 Final Fee Rule</u>	<u>FY 2011 Proposed Fee Rule</u>	<u>Change from FY 10</u>
<b>URANIUM RECOVERY</b>			
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2.A.(5) Uranium Water Treatment Facility	\$8,600	\$7,200	-16.3%

**Comments on the Proposed Fee Reductions**

Kennecott Uranium Company supports these fee reductions as they are beneficial to the uranium recovery industry.

The Commission also proposed an increase in the hourly rate from \$259.00 per hour to \$273.00 per hour. This is a 5.4% increase.

Template = SECY-067

DS 10

**Comments on the Increase in the Hourly Rate**

Kennecott Uranium Company opposes this increase. The increase of 5.4% far exceeds the current rate of inflation. When this increase is coupled with the Commission's existing invoicing practices, it adds to regulatory costs that are already a significant financial burden to the company. This rate greatly exceeds the rate charged by industry consultants to the company. The number of hours in a working year for federal employees is 2,020 hours. At a rate of \$273. per hour this equates to \$551,460. This is an extremely are amount.

The problems with the increase in the hourly rate are tied not only to its magnitude but to how the Commission invoices licensees and include the following issues:

- **Allocation of Man Power to Work Related to Uranium Recovery Licensees**  
The Commission allocates and invoices far too many hours of time to the review of submittals and related documents. Kennecott Uranium Company believes that this level of man power is excessive and is not in proportion to the risk posed by uranium recovery facilities. The Commission should review its allocation of staff time to items such as inspections and should only allocate sufficient staff time to complete those tasks efficiently while protecting public health and the environment.
- **Lack of Transparency in Invoicing**  
Commission invoices consistently lack sufficient detail to allow the licensee to determine the precise nature of the work being invoiced. The uranium recovery industry has repeatedly asked that the Commission provide sufficient detail to allow licensees to analyze costs. Kennecott Uranium Company requests that invoices provided by the Commission contain no less detail than those submitted by consultants to the industry.
- **Licensee Budgeting Process**  
Licensees typically prepare their budgets approximately five (5) months prior to the start of the new calendar year. Review and inspection invoices are erratic and invoice amounts are impossible to predict, making it impossible for licensees to effectively budget for these items. Kennecott Uranium Company needs to be able to plan for future invoices from the Commission and requires information in order to effectively budget for these costs.

Kennecott Uranium Company believes that the Commission should implement the following steps to address these problems:

- **Provision of Cost Estimates for Submittal reviews**  
Licensing submittals are given a completeness review by NRC staff prior to the initiation of detailed technical review work in order to determine if the submittal contains the requisite information for acceptance. Private industry expects consultants to prepare budgetary estimates before work is begun. Commission staff should be able upon completion of the Completeness Review to provide the licensee or applicant with an estimate of the approximate number of man hours required to review the submittal.
- **Creation of a Schedule of Costs for Common tasks**  
The Commission should provide licensees with a schedule of approximate costs (or a cost range) for performing common tasks such as a reviewing and approving a surety, reviewing and approving a standby trust agreement or other tasks. With this information, licensees would be able to more effectively budget for reviews by Commission staff.
- **Rigorous Internal Review of Manpower Applied to Different Tasks**  
The Commission should review the manpower levels assigned to different activities and compare them to the relative risk to public health and the environment.



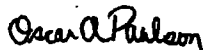
- **Broaden the Use of Performance based Licensing**  
Expansion of performance based licensing and the increased use of Safety and Environmental Review Panels (SERPs) would help in reducing review costs. Expansion of the use of Performance Based Licensing is justified due to the very low risks posed by uranium recovery licensees considering the low specific activity of the materials that they handle. Contrary to this approach, staff has restricted actions that can be approved by a SERP in recent draft licenses.
- **Complete Reviews in a More Timely Manner**  
Kennecott Uranium Company believes that delays in completing reviews ultimately results in more time being spent on them and higher costs.

#### **Comments on Agreement States**

On September 30, 2009, the State of New Jersey became the thirty-seventh agreement state. The problem of the lack of reasonable relationship between annual fees and services rendered by the Commission is exacerbated as more states become Agreement States, leaving fewer licensees to bear an even greater share of the burden. The Commission needs to continue to search for an equitable way of dealing with this situation or the ultimate scenario of the last licensee having to pay for the entire program could come to pass.

Kennecott Uranium Company appreciates the opportunity to comment on this proposed rule. If you have any questions please do not hesitate to contact me.

Sincerely yours,



Oscar Paulson  
Facility Supervisor

cc: Katie Sweeney – National Mining Association (NMA)

## Rulemaking Comments

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**From:** Haag, Kelly (RTEA-Temp) [Kelly.Haag@riotinto.com]  
**Sent:** Tuesday, April 19, 2011 12:42 PM  
**To:** Rulemaking Comments  
**Cc:** KSweeney@nma.org; Schutterle, Shelley (CCC)  
**Subject:** Comments on the Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2011  
**Attachments:** KUC-NRC fee comments 041811.pdf

Gentlemen:

Attached please find the Adobe Acrobat Portable Document Format (\*.pdf) file *KUC-NRC\_fee\_comments\_041811.pdf* that contains Kennecott Uranium Company's comments on the ***Proposed Rule – Revision of Fee Schedules; Fee Recovery for FY 2011***.

Thank you!

Oscar Paulson

Facility Supervisor  
Kennecott Uranium Company  
Sweetwater Uranium Project  
P.O. Box 1500  
42 Miles Northwest of Rawlins  
Rawlins, Wyoming 82301-1500

Telephone: (307)-324-4924  
Fax: (307)-324-4925  
Cellular: (307)-320-8758

E-mail: [oscar.paulson@riotinto.com](mailto:oscar.paulson@riotinto.com)