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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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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 black ink that reads "Katie Sweeney". The signature is written in a cursive, flowing style.

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>>

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

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