



WYOMING MINING ASSOCIATION

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

March 31, 2009

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

Gentlemen:

Subject: Wyoming Mining Association - Comments on 10 CFR Parts 170 and 171 Revision of Fee Schedules; Fee Recovery for FY 2009; Proposed Rule Federal Register / Vol. 74, No. 39 / Monday, March 2, 2009 / Proposed Rules - RIN 3150-A152

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 2009 fees and has the following comments:

Proposed Fee Schedule

The proposed fee schedule is as follows:

(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.

(a) Conventional and Heap Leach facilities [Program Code(s): 11100] ... 32,200

(b) Basic In Situ Recovery facilities [Program Code(s): 11500] ... 30,600

(c) Expanded In Situ Recovery facilities [Program Code(s): 11500] ... 34,700

(d) In Situ Recovery resin facilities ... N/A¹

(e) Resin Toll milling facilities ... N/A¹

(f) Other facilities 4 [Program Code(s): 11700] ... N/A⁵

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(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600] N/A⁵

(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) 10,500

(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water 7,300

This proposed fee schedule represents a substantial increase from the \$10,900 per year for in-situ recovery operations and conventional mills charged for Fiscal Year 2008.

WMA questions the validity of this fee increase. The Federal Register notice contains the following explanation of the proposed fees:

TABLE IX—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES
[Dollars in millions]

Summary fee calculations	FY 2008 Final	FY 2009 Proposed
Total budgeted resources	\$2.56	\$6.97
Less estimated part 170 receipts	-2.02	-6.38
Net part 171 resources	\$0.54	\$0.59
Allocated generic transportation	+N/A	+N/A
Allocated fee relief	-0.03	-0.02
Billing adjustments	-0.06	-0.05
Total required annual fee recovery	0.46	0.52

The document states, “The increase in the total required annual fee recovery is mainly due to an increase in uranium recovery licensing and inspection resources for the existing licensees.” The WMA does not believe the NRC has adequately defended why they need a nearly 300% increase in these fees when the majority of uranium recovery licensing and inspections are paid for with hourly rates.

The Nuclear Regulatory Commission (NRC) is currently preparing a Generic Environmental Impact Statement (GEIS) for in-situ uranium recovery. This document is being prepared with substantial input and support from the uranium recovery industry. One reason that the industry strongly supported the preparation of this document was the belief that it would streamline the review of in-situ uranium recovery license applications resulting in less NRC staff time spent on application review and by extension lower costs. All of the pending license applications are for in-situ uranium recovery operations. The benefits of this document as related to streamlining of the review process should be expressed as lower as opposed to higher fees.

To the dismay of industry, fees for basic in-situ recovery operations have increased 281% and fees for conventional mills have increased 295%. WMA is not pleased with the fee increases and hopes that NRC stays on track to finalize the GEIS, which should help to reduce these costs. The Commission should consider the impact of the Generic Environmental Impact Statement (GEIS) on the staff's workload and consider whether its completion would reduce the amount of staff resources required by the uranium recovery industry.

As the nuclear industry grows in the U.S. it would seem that the NRC would be able to take advantage of economies of scale and therefore reduce costs for licenses. In fact, the opposite seems to be happening with the NRC claiming that fees need to be raised to account for additional work load. While overall costs for the agency will escalate with additional activity, the hourly rates and annual fees should remain relatively stable since the work load for a specific licensee will not change significantly.

Hourly Rates

The proposed hourly rates are \$257 per hour which while more than the \$238 per hour charged in Fiscal Year 2008 is still less than the \$258 per hour charged for Fiscal Year 2007. WMA believes that since the proposed 2009 rate is less than the 2007 rate it is fair in that respect, however it remains significantly in excess of consulting rates charged by senior staff at major national consulting firms performing work for the uranium recovery industry. The fact that NRC's hourly rates have always been in excess of consulting rates charged by senior staff at major national consulting firms performing work for the uranium recovery industry has always made them appear excessive to WMA.

New Categories of Licensees

NRC also proposes the following three (3) new classes of uranium recovery licensees:

The revised fee category, 2.A.(2)(b), would be for an ISR yellowcake facility with zero to three satellites. These facilities include a central processing plant (CPP) that includes all the equipment necessary to collect uranium on resin, strip uranium from the resin, and process the uranium into a yellowcake slurry or dried yellowcake powder. These facilities may also receive resins from up to three satellite facilities operated by the same company for further processing of the contained uranium into yellowcake.

The new 2.A.(2)(c) fee category would be for an ISR yellowcake facility with more than three satellites. These facilities have a CPP with the same equipment as the fee category as stated previously, but have four or more satellite facilities, which necessitates a correspondingly greater allocation of the staff's generic resources.

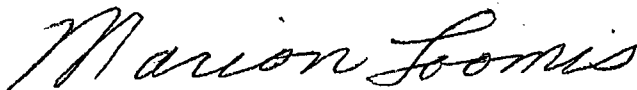
The new 2.A.(2)(d) fee category would be for a stand-alone ISR Resin facility which performs ISR recovery operations and includes equipment for the collection of dissolved uranium from onsite underground ore bodies onto ion exchange resins. The resins are then transported to another company's facility for further processing of the collected uranium into yellowcake.

The new fee category, 2.A.(2)(e), would be for a Resin Toll Milling Facility. These facilities do not conduct any onsite recovery of uranium but consist of a CPP for the purpose of processing resins from other ISR facilities into yellowcake. Allocation of generic resources for these facilities would be less than that allocated for the other categories of ISR facilities.

WMA supports this approach (creation of different categories of in-situ uranium recovery licensees) since it is not a "one size fits all approach" but rather one that tailors license fees to the magnitude of the operation. WMA requests that in the final rule a statement be included regarding conventional uranium mills which states that conventional mills will not be double-billed as a Resin Toll Milling Facility under 2.A.(2)(e) if their license allows them to process uranium bearing resins from other sites and sources.

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

Sincerely yours,
WYOMING MINING ASSOCIATION



Marion Loomis
Executive Director

Cc: Katie Sweeney – National Mining Association (NMA)

Rulemaking Comments

From: Wyoming Mining Association [wma@vcn.com]
Sent: Wednesday, April 01, 2009 10:58 AM
To: Rulemaking Comments
Subject: Fw: Scanned image from MX-2600N
Attachments: wma@vcn.com_20090401_075649.pdf

Attached please find the Wyoming Mining Association's comments regarding 2009 Nuclear Regulatory Commission (NRC) Fees.

Thank you
Pat Morran
Office Manager
Wyoming Mining Association
307-635-0331

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