



WYOMING MINING ASSOCIATION

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April 8, 2010

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USNRC

April 12, 2010 (9:10am)

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

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Gentlemen:

Subject: Wyoming Mining Association (WMA) Comments on the Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2010 – (Federal Register Volume 75, Number. 46 - Wednesday, March 10, 2010 - Proposed Rules)

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. The Association has reviewed the *Proposed Rule Revision of Fee Schedules; Fee Recovery for FY 2010* and has the following comments:

Changes in Uranium Recovery Fees (Proposed 2010 versus Final 2009 Fees)

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

2010 Nuclear Regulatory Commission (NRC) Fees

Fee Class/Fee Category	FY 2009 Final Fee Rule	FY 2010 Proposed Fee Rule	Change from FY 09
URANIUM RECOVERY			
2.A.(2)(a) Conventional & Heap Leach Mills	\$31,200	\$38,300	22.8%
2.A.(2)(b) Basic In-situ Recovery Facilities	\$29,700	\$36,300	22.2%
2.A.(2)(c) Expanded In-situ Recovery Facilities	\$33,600	\$41,100	22.3%
2.A.(2)(d) In-situ Recovery Resin (facilities)	N/A	\$34,400	N/A
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.	\$10,100	\$12,400	22.8%
2.A.(5) Uranium Water Treatment Facility	\$7,000	\$8,600	22.9%

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Comments on the Fee Increases

- **Materials Users versus Power Reactors**

The proposed changes to the uranium recovery fees are increases of between 22% and 23%. These changes are in keeping with fee increases for other materials users. The change for uranium recovery and other material licensees however, is not in keeping with the proposed change of only 1.6% for power reactors. The proposed fee structure favors power reactors at the expense of other licensees and in that sense unfairly discriminates against uranium recovery and other material licensees.

- **Increases are Inconsistent with Current Economic Realities and the Consumer Price Index (CPI)**

Fee increases in excess of 20% are being sought for uranium recovery and materials licensees across the board. These increases are being sought in spite of the fact that the United States is in the worst economic downturn since the Great Depression and across the United States, businesses including Commission licensees are struggling to survive. These economic hardships are felt more severely by smaller entities often represented by various materials licenses, as opposed to the larger entities that comprise power reactor licensees. These fee increases along with the extremely high (\$259. per hour) hourly rate result in ever increasing costs to licensees in these difficult economic times. These high hourly rates when coupled with the large amounts of time spent by Commission staff reviewing submittals result in high and unpredictable invoices from the Commission. Licensees are unable to predict the amounts of these invoices and thus unable to adequately budget for them.

These increases far exceed the annual rate of inflation. These proposed fees were released on March 10, 2010 and represent proposed changes for Fiscal Year 2010. The following pertains to changes in the Consumer Price Index for All Urban Consumers from January 1, 2009 to January 1, 2010:

Month/Year	Consumer Price Index (CPI)
January 2009	211.959
January 2010	217.587

This equates to an increase in the Consumer Price Index (CPI) of 2.65% as per the formula below:

$$(((217.587)-(211.959))/(211.959))*100\% = 2.65\%$$

It is interesting to note that this increase in the Consumer Price Index (CPI) at 2.65% is closer to the fee increase for operating power reactors of 1.6% than it is to the increases for uranium recovery licensees of between 22% and 23%.

- **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 scenario which could ultimately result in the last licensee having to pay for the entire program.

- **Performance Based Licensing**

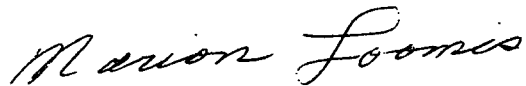
Expansion of performance based licensing and the increased use of Safety and Environmental Review Panels (SERPs) would help in reducing review costs/hourly charges. Expansion of the use of Performance Based Licensing is justified due to the very low risks posed by uranium recovery licensees due to the low activities of the materials that they handle. Additional changes to uranium recovery operations could be addressed through the Safety and Environmental Review Panel (SERP) as opposed to being addressed as license amendments subject to lengthy and costly staff review as they are now.

- **NRC Should Revise this Proposed Rule**

NRC should significantly revise this rulemaking and adjust the proposed fees to be in line with inflation. Fee increases for Material Users should be consistent with those for Power Reactors. Many Material User licensees including Kennecott Uranium Company are in difficult economic times and the NRC should not be unduly adding to that burden by imposing fee increases that are nearly ten (10) times the rate of inflation.

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,
WYOMING MINING ASSOCIATION

A handwritten signature in cursive script that reads "Marion Loomis".

Marion Loomis
Executive Director

Cc: Katie Sweeney – National Mining Association (NMA)

Rulemaking Comments

From: Wyoming Mining Association [wma@vcn.com]
Sent: Friday, April 09, 2010 2:31 PM
To: Rulemaking Comments
Subject: Wyoming Mining Association (WMA) Comments on the Proposed Rule - Revision of Fee Schedules; Fee Recovery for FY 2010 - (Federal Register Volume 75, Number. 46 - Wednesday, March 10, 2010 - Proposed Rules)
Attachments: final_wma_nrc_fee_2010.doc

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Thank you.

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From: Wyoming Mining Association <wma@vcn.com>

To: <Rulemaking.Comments@nrc.gov>

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