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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%

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Template = SECY-067

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## 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:

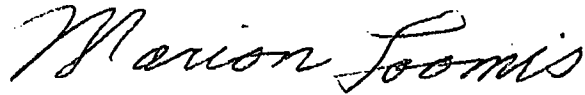
- Complete the revision of NUREG-1569
  - NRC staff has stated repeatedly in industry forums over the past few years that NUREG-1569, Standard Review Plan for In Situ Leach Uranium Extraction License Applications, is outdated and requires revision. Staff has admitted that NUREG-1569 requires Technical 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

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**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

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## Submitter Information

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

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## General Comment

See attached file(s)

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## Attachments

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

## **Rulemaking Comments**

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**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