

May 23, 2011

NOTE TO COMMISSIONERS' ASSISTANTS

OCM/GBJ

Josh Batkin
 John Monninger
 Angela Coggins
 Lisa Clark
 Tom Hipschman
 Michael Marshall
 Anna Bradford

cc Neha Dhir
 Roberta Warren
 Melody Fopma
 Susan Loyd
 David Montes
 Patti Pace
 Herald Speiser
 Catina Gibbs

OCM/KLS

Jeffrey Sharkey
 Darani Reddick
 Patrick Castleman
 John Thoma
 Janet Lepre
 Carolyn Harves

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Patrice Bubar
 Bill Orders
 Rebecca Tadesse
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Belkys Sosa
 Roger Davis
 Michael Snodderly
 Steve Baggett
 Kathleen Blake
 Carmel Savoy

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Ho Nieh
 Michael Franovich
 Andrea Kock
 Jason Zorn
 Linda Herr
 Sunny Bozin

FROM: J. E. Dyer */RA/ original signed by M. Brown (for)*
Chief Financial Officer

SUBJECT: PUBLIC COMMENTS ON THE FISCAL YEAR 2011 PROPOSED FEE RULE

Enclosed is a summary of the seven comments we received on the Fiscal Year (FY) 2011 Proposed Fee Rule. The U.S. Nuclear Regulatory Commission's (NRC) response to these comments will be included in a separate section in the FY 2011 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 the <http://www.regulations.gov> and can be found by entering the FY 2011 fee rule Docket ID, NRC-2011-0016, in the search field.

Enclosure:
As stated

cc: EDO
SECY
OGC
OCA
OPA

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SUMMARY OF COMMENTS ON FY 2011 PROPOSED FEE RULE

1. **Delaware Cardiovascular Associates:** Annual fees are already excessive for a small healthcare entity and continue to increase. The NRC should consider changing the small entity definition so small healthcare entities that have less than 100 employees and a small portion of their activities related to nuclear isotopes can qualify for the small entity fees.
2. **GE-Hitachi:**
 - a. The “Scrap/Waste” effort factor for a hot cell facility should be lowered and the annual fee reduced accordingly;
 - b. Supports the change implemented to bill inspection costs quarterly;
 - c. Consider whether a portion of the budgeted resources for the regulatory framework for reprocessing currently allocated to the fuel facilities fee class should be spread over other fee classes that could benefit from a reprocessing facility; and
 - d. Encourages the NRC’s efforts to further streamline costs and more efficiently manage resources.
3. **National Mining Association (NMA):**
 - a. Supports efforts that assist in streamlining costs and making more efficient use of resources however having difficulty making the connection between the new budget structure and fees;
 - b. Supports the decrease in annual fees for all uranium recovery fee categories but note these costs pale in comparison to the hourly rate;
 - c. Revise the proposed rule to require more efficient processing of services subject to hourly fees in light of the 5.4% hourly rate increase, which is more than double the current rate of inflation;
 - d. Establish flat fees for routine activities;
 - e. NRC needs to maximize its efficiency efforts by fully utilizing streamline processes such as Generic Environmental Impact Statement and a Memorandum of Understanding with the Bureau of Land Management; and
 - f. While it is recognized that improvements have been made, continued efforts are needed to provide more meaningful descriptions of work on the invoices.
4. **Nuclear Energy Institute (NEI):**
 - a. Welcomes the leveling out of the NRC budget;
 - b. Fee recovery and fee-relief sources of funds should be separate sources of funds in order to prevent comingling of funds;

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- c. Supports using fee-relief surplus funds for international activities related to the event at the Fukushima Daiichi plant in Japan;
- d. Supports the continued availability of \$15 million for scholarships and fellowships in FY 2011, not the proposed \$11.5 million;
- e. Requests NRC seek input from industry stakeholders if resources designated for domestic activities are diverted to activities related to Japan event;
- f. Any additional funds necessary to support Japan event activities should be obtained through congressional appropriations rather than user fees; and
- g. Appreciates the acknowledgement of the industry's variable annual fee proposal for small reactors and looks forward to the FY 2013 rulemaking.

5. Rio Tinto, Kennecott Uranium Co.:

- a. Supports the decrease in annual fees for all uranium recovery fee categories;
- b. Opposes the 5.4% hourly rate increase which exceeds the current rate of inflation;
- c. There are a number of concerns regarding excessive billing, specifically allocation of man power to uranium recovery licensees, lack of transparency in invoicing, and the licensee budgeting process. Rio suggests addressing these problems by:
 - 1. Provision of cost estimates for submittal reviews;
 - 2. Creation of a schedule of costs for common tasks;
 - 3. Rigorous internal review of manpower applied to different tasks;
 - 4. Broaden the use of performance based licensing;
 - 5. Complete reviews in a more timely manner; and
- d. Search for an equitable way of dealing with the lack of reasonable relationship between annual fees and services rendered by the Commission as more states become Agreement States leaving fewer licensees to bear an even greater share of the burden.

6. U.S. DOE, Office of Legacy Management:

- a. Requests additional documentation substantiating the proposed increases in the hourly rate especially the increase in overhead costs;
- b. Consider developing more than one hourly rate to account for more complex licensing tasks vs. routine tasks and that commercial operators bear a greater portion of the fee recovery burden;
- c. Requests additional documentation to explain the basis for the generic resources allocated for UMTRCA Title I;
- d. Requests clarification regarding the relationship between invoices for support provided under the Cooperative Agreement and annual fees; and

- e. Need to provide additional site-specific documentation of the scope and assumptions underlying the budgeted costs in the work papers.

7. Wyoming Mining Association (WMA):

- a. Supports the decrease in annual fees for all uranium recovery fee categories;
- b. Opposes a 5.4% hourly rate increase which exceeds the current rate of inflation;
- c. There are a number of concerns/issues regarding the hourly rate, specifically allocation of man power to uranium recovery licensees, allocation of reviews of submittals, and the licensee budgeting process. WMA suggests addressing these problems by:
 - 1. Complete the revision of NUREG-1569;
 - 2. Provision of cost estimates for submittal reviews;
 - 3. Creation of a schedule of costs for common tasks;
 - 4. Rigorous internal review of manpower applied to different tasks;
 - 5. Broaden the use of performance based licensing; and
- d. Search for an equitable way of dealing with the lack of reasonable relationship between annual fees and services rendered by the Commission as more states become Agreement States leaving fewer licensees to bear an even greater share of the burden.