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# PUBLIC SUBMISSION

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Revision of Fee Schedules; Fee Recovery for FY 2013

**Comment On:** NRC-2012-0211-0001  
Revision of Fee Schedules; Fee Recovery for Fiscal Year 2013

**Document:** NRC-2012-0211-DRAFT-0008  
Comment on FR Doc # 2013-05172

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RULEMAKINGS AND  
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## Submitter Information

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Cheyenne, WY, 82003  
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## General Comment

Wyoming Mining Association (WMA) Comments on the Proposed Rule-Revision of Fee Schedules; Fee Recovery for FY 2013-(Federal Register Volume 78,Number 45-Thursdays, March 7, 2013-Proposed Rules)

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## Attachments

wma\_nrcfee\_comments2013



**WYOMING MINING  
ASSOCIATION**

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Cheyenne, WY 82001

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April 8, 2013  
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 2013- (Federal Register Volume 78, Number 45 - Thursday, March 7, 2013 - 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 2013** and has the following comments:

**Changes in Uranium Recovery Fees (Proposed 2013 versus Fiscal Year 2012 Fees)**

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

License Type	Fiscal Year 2012 Annual Fee	Proposed Fiscal Year 2013 Annual Fee	Percentage Change
Conventional and heap leach mills	\$23,600	\$28,600	+21.2%
Basic <i>in situ</i> recovery facilities	\$29,900	\$36,300	+21.4%
Expanded <i>in situ</i> recovery facilities	\$33,800	\$41,000	+21.3%
Resin toll milling facilities	N/A	N/A	N/A
11e.(2) disposal incidental to existing tailings sites	\$10,200	\$16,200	+58.8%
Uranium water treatment	\$7,100	\$4,800	-32.4%

## Comments on the Proposed Fee Increases and Invoicing Practices

- The proposed rule states:  
*The annual fee for most uranium recovery licensees increases due to licensing board activities and rulemaking activities.*

The WMA questions how proposed rulemaking activities can contribute to these increases. The uranium recovery industry has not seen much rulemaking activity in the past twelve (12) months. The WMA requests that estimates of future rulemaking costs related to uranium recovery projects be provided to the industry. The proposed fee structure includes a very large percentage increase for 11e.(2) disposal incidental to existing tailings sites. This increase is not in proportion to increases for conventional and heap leach mills, basic *in situ* recovery facilities or expanded *in situ* recovery facilities all of which slightly exceed 21%.

The question of fees and invoicing practices has been the subject of discussion during 2012 and 2013. In a letter dated January 7, 2013 to Chairman Macfarlane, Ms. Katie Sweeney, General Counsel to the National Mining Association (NMA), stated:

*(3) Third, there are several process-related issues that require some detailed discussion with the Commission. NRC billing practices have long been a difficult issue for industry. For several years, industry has been dissatisfied with the level of detail contained in NRC's billing invoices, especially when it relates to time and fees charged by NRC-retained independent contractors. NRC invoices have been wholly lacking in standard detail that every consultant, law or accounting firm in the private sector must provide and NRC's hourly rates exceed those of many of these organizations in the Western part of the country. Accordingly, NRC's invoices do not offer industry any opportunity to gauge the reasonableness of fees incurred for different phases of the licensing process which, in turn, makes a lessons learned approach for future licensing actions virtually impossible to implement. NMA has met with and communicated in writing with NRC's Chief Financial Officer (See Attached Letter) and has received no reply to date. NMA would like to explore this issue in more depth with the Commission.*

The WMA concurs with the comments regarding invoicing, fees and hourly rates above. The letter to the NRC's Chief Financial Officer described above is attached in Appendix 1.

A reply dated February 11, 2013 was received from the NRC's Chief Financial Officer and is attached in Appendix 2 to this letter. The WMA looks forward to the discussion regarding invoicing to be presented at the May 2013 National Mining Association (NMA)/Nuclear Regulatory Commission (NRC) Uranium Recovery Workshop.

In the Friday, June 15, 2012 *Revision of Fee Schedules; Fee Recovery for Fiscal Year 2012* (Federal Register Volume 77, Number 116) in *Section II Response to Comments*, the NRC responded to uranium recovery industry comments regarding the proposed 2012 fee structure. In the response, the following suggestion was made:

*Finally, the NRC believes that the uranium recovery industry also plays a role in streamlining reviews. First, submitting applications that contain all the relevant information speeds up the NRC's review process. Second, the uranium recovery industry could submit design certification requests in the form of petitions for rulemaking with designs for certain common features such as central plants, satellite plants, wells, header houses, and ponds. In this manner, an applicant can merely incorporate by reference certain approved designs instead of reproducing these designs in an application. Third, the industry can maximize the effectiveness of the RAI process by providing prompt and complete answers to the NRC staff requests. Efficient and streamlined regulation requires a team-effort. Working together, both the NRC and the industry can continue to make improvements to our regulatory processes.*

The WMA requests that information regarding the subject of design certification requests, in the form of petitions for rulemaking with designs for certain common features such as central plants, satellite plants, wells, header houses, and ponds, be provided to the uranium recovery industry. When this information is provided, the WMA requests that the time and costs related to these requests be described. In other nations, standardized designs for key features of in-situ uranium recovery plants are being used. Use of standardized and pre-approved designs may streamline the licensing process.

In the WMA's letter of comment on the proposed 2012 fee structure, *NUREG-1910 - Generic Environmental Impact Statement (GEIS) for In Situ Leach Uranium Milling Facilities* (GEIS) was discussed. The NRC addressed this comment and stated in part:

*Additionally, the GEIS eliminated the need for public scoping. However, the Section 106 Tribal consultation process remains extensive for many NRC reviews due to many uranium recovery facilities located on or near land deemed important by many Indian tribes. The NRC is currently in the process of developing high level, agency-wide Section 106 guidance, which will eventually be made available to the public in the near future.*

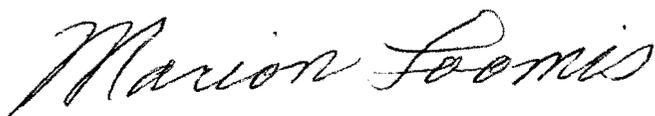
As noted this response was published in the Federal Register on June 15, 2012. To date the NRC has not issued the high-level, agency-wide Section 106 guidance promised in the response to comments. In the Federal Register Vol. 77, No. 198 published on October 12, 2012 NRC requested public comment on a Draft Tribal Protocol Manual and scoping for a proposed policy statement. The request for comment allowed a six month comment period ending April 1, 2013 despite the fact that the draft Tribal Protocol Manual is simply an internal protocol for interactions with Native American tribal governments. While acknowledging that the Section 106 consultation process has become an extensive (and expensive) process for some licensing actions, NRC has made little progress in addressing this issue.

WMA would like to note that a new Memorandum of Understanding (MOU) between the Nuclear Regulatory Commission (NRC) and the Bureau of Land Management (BLM) was filed with the Federal Register on Friday, March 29, 2013. This document "...includes provisions that cover compliance with NEPA and Section 106 of the NHPA." The WMA hopes that this new document will result in greater efficiencies and cost savings to licensees and applicants.

The Commission also proposed an increase in the hourly rate from \$274.00 per hour to \$277.00 per hour. This is a small 1.1% increase. The primary issue that the uranium recovery industry has with the hourly rate is the large number of hours expended by Commission staff on reviews, especially environmental reviews. The high hourly rate combined with a large number of hours results in very large invoices. This issue is discussed in detail in the letter from Ms. Katie Sweeney in Appendix 1.

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,



Marion Loomis  
Executive Director

Cc: Katie Sweeney – National Mining Association (NMA)

# Appendix 1



KATIE SWEENEY  
*General Counsel*

August 3, 2012

Mr. James Dyer, Chief Financial Officer  
U.S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852-2738

Dear Mr. Dyer:

Recently, Christopher Pugsley and I met with you, Michael Weber, and Mark Satorius on behalf of the National Mining Association (NMA) regarding a variety of uranium recovery industry regulatory issues. One key issue discussed relates to the format and content of the Nuclear Regulatory Commission's (NRC) invoices to uranium recovery licensees and license applicants. This letter is directed specifically at our members' issues and concerns with such invoices.

Over the years, NMA members have expressed significant concerns regarding the lack of adequate information on invoices received from NRC. After much discussion and a key meeting in October 1994, NRC modified the format and content of its invoices in a manner that licensees and license applicants considered to be an improvement. Unfortunately, over time, this progress has eroded away and the current invoice format and content lacks sufficient detail and explanation to provide licensees and license applicants with little more than a simple dollar amount to be paid.

At our June 2012 meeting, you indicated that your office had sent inquiries to licensees seeking feedback on invoice format and content with the most recent billing statement. NMA has been unable to identify any uranium recovery member company that received such inquiry. You noted at our meeting that an opportunity for comment and feedback was still available if a letter was prepared and submitted by NMA to your office. Accordingly, by this letter, NMA hereby provides the following comments:

- (1) NRC invoices should identify the specific NRC Staff member(s) by name charging a particular uranium recovery company for time spent on licensee/license applicant matters;
- (2) NRC invoices should provide an explanation of the nature and subject of the work performed;
- (3) NRC invoices should provide a numerical total of the time spent on a particular date on such work;

Name of Recipient

Date

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- (4) NRC invoices should break down work done on specific reviews of licensing action into subsets (e.g., time spent on the National Historic Preservation Act (NHPA) Section 106 Tribal Consultation process under the ambit of NRC Staff's environmental review);
- (5) NRC invoices should provide any relevant explanation of unusual or abnormally large amounts of time/dollars spent on any project or subset thereof.

NMA members also respectfully request that NRC contractors prepare and submit their invoices in the same format and with the same content as NRC invoices. NMA believes that adding such a requirement to the basic government contracts awarded to these entities should be a simple matter. While we recognize that this may need to be done via change order for projects under current review, it should be relatively straightforward to impose such a requirement on project reviews in the future.

The above-referenced invoicing practices are (and have been for decades) standard in the private sector for consultants, accountants, attorneys, etc. Given that NRC's hourly rates for its staff rival or exceed the rates for many of the service providers for NMA's members noted above, it is unreasonable for NRC to provide less detail for its oversight and the work of its contractors. Indeed, to the extent that NRC's contractors work with the private sector, they are providing the requisite detail. Without this detail, it makes developing budgets (which include estimates for regulatory review) difficult, if not impossible, for both licensees and license applicants and NRC Staff. It also makes it virtually impossible for a licensee or license applicant to dispute an invoice or part thereof as unreasonable which they can do with their consultants, accountants, and attorneys.

NRC expects and requires detailed and thorough license or license amendment applications which must pass initial acceptance review prior to detailed technical and environmental review. Licensees/license applicants should be able to expect the same quality and detail from NRC in its invoices which can range into the hundreds or thousands or millions of dollars. Indeed, given the very large numbers NMA uranium recovery members are experiencing in their invoices, anything significantly less than what is requested herein will be deemed unacceptable and likely will require NMA seeking solutions with other entities including potentially the Office of Management and Budget (OMB) and relevant Congressional delegations.

NMA's uranium recovery members appreciate your time and the opportunity to provide comments on the current status of NRC's invoicing practices, and we would be happy to discuss such matters with you in greater detail at your convenience. Thank you once again for your time and attention in this matter and please do not hesitate to contact me at 202/463-2627 to discuss these issues.

Sincerely,



Katie Sweeney

# Appendix 2



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

February 11, 2013

CHIEF FINANCIAL  
OFFICER

Ms. Katie Sweeney, General Counsel  
National Mining Association  
101 Constitution Avenue, NW, Suite 500 East  
Washington, DC 20001

Dear Ms. Sweeney:

This letter responds to your letter to me dated August 3, 2012, concerning licensee fees. The Nuclear Regulatory Commission (NRC) was not aware of your letter until you referenced it in your letter to Chairman Macfarlane dated January 7, 2013. In the August 2012 letter you identified concerns regarding the U.S. Nuclear Regulatory Commission (NRC) fee invoices for its uranium recovery licensees and applicants. All of your concerns involve providing licensees and applicants with a sufficient level of detail on their invoices.

As we discussed during our meeting last year, after the transition to the new accounting system in October 2010, NRC staff reached out to licensees to obtain their feedback on the layout and detail of fee invoices. Based upon the feedback provided to the NRC, a new invoice format was finalized and put into place during FY 2011. The overall goal for this new format was to balance the need to provide a sufficient level of detail without causing an undue burden for NRC licensees by providing voluminous details in the invoices. The NRC has received favorable feedback from some of its licensees on the new format. We regret that your concerns were not addressed through these changes.

The NRC is interested in improving the quality of its fee invoices provided to all its licensees and applicants. Our experience with other licensees and applicants has shown that NRC fees invoices can be tailored to meet industry needs when coordinated communications occur between the licensee or applicant, the NRC Program Office, and NRC Office of the Chief Financial Officer. My office will coordinate with the NRC Office of Federal and State Materials and Environmental Management Programs to include an agenda item on licensee fee invoices during a planned meeting between the NRC and the National Mining Association.

If you have any questions or require further clarification, please contact Mr. Seth Coplin at [Seth.Coplin@nrc.gov](mailto:Seth.Coplin@nrc.gov) or (301) 415-7554.

Sincerely,

A handwritten signature in cursive script that reads "J. E. Dyer".

J. E. Dyer  
Chief Financial Officer

## **RulemakingComments Resource**

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**From:** Gallagher, Carol  
**Sent:** Monday, April 08, 2013 2:45 PM  
**To:** RulemakingComments Resource  
**Subject:** Comment on Revision of Fee Schedules; Fee Recovery for Fiscal Year 2013  
**Attachments:** NRC-2012-0211-DRAFT-0008.pdf

Attached for docketing is a comment from Marion Loomis, Wyoming Mining Association, on the above noted proposed rule that I received via the regulations.gov website on April 8, 2013.

Thanks,  
Carol