

PUBLIC SUBMISSION

As of: May 15, 2014
Received: May 13, 2014
Status: Pending_Post
Tracking No. 1jy-8c2e-v2x3
Comments Due: May 14, 2014
Submission Type: Web

Docket: NRC-2013-0276
Revision of Fee Schedules; Fee Recovery for FY 2014

Comment On: NRC-2013-0276-0001
Revision of Fee Schedules: Fee Recovery for Fiscal Year 2014

Document: NRC-2013-0276-DRAFT-0003
Comment on FR Doc # 2014-08221

Submitter Information

Name: WMA Anonymous

General Comment

To whom it may concern:

Attached please find comments from the Wyoming Mining Association on the NRC's proposed rule for the revision of fee schedules and fee recovery for FY 2014.

Thank you for your attention to this matter.

Travis Deti
Assistant Director
Wyoming Mining Association
307-635-0331
www.wyomingmining.org

Attachments

140513 WMA Comments onNRC Fee Schedules-Fee Recovery for FY2014



WYOMING MINING ASSOCIATION

Physical Address
2601 Central Avenue
Cheyenne, WY 82001

Phone: 307.635.0331

Mailing Address
PO Box 866
Cheyenne, WY 82003

Fax: 307.778.6240

May 7, 2014

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 2014– (Federal Register Volume 79, Number 71 - Monday, April 14, 2014 - 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 2014** and has the following comments:

Changes in Uranium Recovery Fees (Proposed 2014 versus Fiscal Year 2013 Fees)

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

License Type	Fiscal Year 2013 Annual Fee	Proposed Fiscal Year 2014 Annual Fee	Percentage Change
Conventional and heap leach mills	\$27,900	\$33,900	+21.5%
Basic <i>in situ</i> recovery facilities	\$35,400	\$42,900	+21.2%
Expanded <i>in situ</i> recovery facilities	\$40,000	\$48,600	+21.5%
Resin toll milling facilities	N/A	N/A	N/A
11e.(2) disposal incidental to existing tailings sites	\$15,800	\$19,200	+21.5%
Uranium water treatment	\$4,700	\$5,700	+21.3%

Comments on the Proposed Fee Increases and Regulatory Streamlining Issues

The increases for each category of uranium recovery license over the 2013 annual fees exceed 21 percent. NRC states that when “...compared with the FY 2013 annual fees, the FY 2014 proposed rebaselined fees decrease for three classes—spent fuel storage/reactor and decommissioning, fuel facilities, and U.S. Department of Energy (DOE) Transportation Activities. The annual fees increase for four fee classes— operating reactors, research and test reactors, materials users, and uranium recovery licensees. The notice does not provide any details regarding how the rebaselining effort resulted in a 21 percent increase in the annual fees for uranium recovery licensees. However, NRC should recognize that these increases are especially damaging to the uranium recovery industry at the present time because the spot market price for uranium oxide/U3O8 has dropped below USD30.00 per pound (*Uranium Exchange Monday, May 5, 2014*)

In the Federal Register Notice NRC also states that “*the annual fee for uranium recovery licensees would increase due to environmental reviews, inspections, and licensing actions*”. WMA would note that these are the three primary activities that NRC engages in for uranium recovery and this statement provides little detail to support this large increase. However, WMA believes that recent decisions made by the agency on their approach to regulating uranium recovery have not been risk-based and have directly resulted in the increased costs associated with these primary activities. Uranium recovery is the lowest risk sector of the nuclear fuel cycle and should require the least oversight. Increasingly it is clear that the uranium recovery industry is enduring more (and more costly) oversight.

The WMA is concerned that a number of actions taken by NRC over time to streamline the regulatory process and by extension reduce fees and hourly costs have not been effective. These actions include:

- Preparation of NUREG-1910 - *Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities* dated May 2009
- Performance Based Licensing for Uranium Recovery Licensees

It was believed that when implemented these two (2) actions would result in lower costs to licensees and a general streamlining of the regulatory process. Specifically NUREG-1910 was prepared in the belief that it would result in a faster and less costly license application process. Instead licensing a uranium recovery facility now takes longer and costs more in NRC fees than ever before. Performance based licensing was initiated in the belief that it would reduce the number of amendment requests and NRC review costs. In recent years NRC staff has restricted the use of Safety and Environmental Review Panels (SERPs) to perform routine reviews such as those associated with development of new wellfields, resulting in more amendment requests that result in additional costs. This has reached the point that the staff recently notified one licensee that they could provide no schedule estimate for when their amendment request may be completed.

NRC staff has suggested steps that the industry could take to reduce costs. 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.

WMA recognizes that industry plays a role in controlling the costs associated with licensing reviews and that providing robust licensing documents and responding to agency requests in a timely manner should assist in this effort. However, these efforts have been hamstrung by changing requirements made unilaterally by NRC staff without the benefit of industry or public input. NRC staff should work under existing Commission-approved guidance until staff prepares new guidance and solicits stakeholder comments. Regarding standardization WMA believes that some savings could be realized by standardized designs. However, the majority of the increased costs for licensing actions are not related to technical design reviews by NRC staff. The increases are clearly due to reinterpreted safety standards and huge increases in the costs of environmental and cultural resource reviews.

Related to reviews required under the National Historic Preservation Act (NHPA), the June 15, 2012 Federal Register Notice stated:

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.

WMA agrees that NRC inexperience with the Section the 106 process has resulted in significant costs and schedule delays for virtually every licensee. 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.

The Commission also proposed an increase in the hourly rate from \$272.00 per hour to \$279.00 per hour, or a 2.57% increase over 2013 rates. The primary issue that WMA has with the hourly rate is that the large number of hours expended by NRC staff on licensing reviews for the lowest risk sector in the nuclear power cycle results in huge regulatory costs that have become an existential threat to some operators.

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



Travis Deti
Assistant 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

Page Two

- (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



CHIEF FINANCIAL
OFFICER

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

February 11, 2013

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 or (301) 415-7554.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. E. Dyer".

J. E. Dyer
Chief Financial Officer