

Wyoming Mineral
Corporation

REP-80-241

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A Subsidiary of
Westinghouse Electric
Corporation

April 29, 1980

DOCKET NUMBER
PROPOSED RULE PR-170 (5)
(45 FR 20899)

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Washington, DC 20555

Attention: Docketing and Service Branch

Subject: Proposed Revision of Materials Fee Schedule, 10CFR170



Gentlemen:

By notice published in the Federal Register of March 31, 1980, the Commission invited comments on a proposed revision of the materials fee schedules contained in Section 170.31 of Part 170, Title 10, Code of Federal Regulations.

In response to that invitation, the Wyoming Mineral Corporation (WMC) wishes to express its objections in the strongest possible terms to the license fee as proposed. Our objection is founded primarily on the fact that present license fees contain a stated maximum amount. If, in fact, the Commission staff's review costs a lesser amount, the difference is refunded to the applicant. In this proposal, the applicant is required to give the Commission a blank check. WMC considers this to be a dangerous and wholly undesirable precedent.

From the tone and content of the supplementary information contained in the notice, the reader gets the impression that this proposal is a "carrot and stick" attempt to induce the "many" persons who have failed (under present regulations) to submit their required QA programs to hasten to do so. WMC objects strenuously to such an approach.

Throughout the fee schedules published in §§10CFR170.21 and 170.31, if approval of an application involves the review and approval of a quality assurance program, an environmental protection program, a radiation protection program, a physical security program, or any other separate and identifiable program, the costs of conducting the review of such a unit were determined and were included in the stated fee demanded for such an application. Presumably, this is the situation with respect to fees presently assessed for shipping package approvals. Therefore, the proposed assessment is to apply to a subtask within the license review which has been subdivided with absolutely no justification and which presumably is covered by fees currently assessed.

Acknowledged by card. mdr 5/1/80

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The identification of a QA program separate and apart from the licensee's application for approval of a shipping package confers no benefits, even on a person making multiple applications. If the established fee schedule includes provision for the costs associated with the review and approval of his QA program, it will properly be expended during review of his first application. The refund provisions contained in the notes to the Schedule will assure that cost savings that occur during subsequent reviews are returned to the applicant in the form of refunds.

In view of the demonstrated facts that the proposed fee is pointless, redundant, of suspect motives, and most particularly is completely contrary to present practice, WMC urges that it be abandoned in toto. If, however, the Commission persists in its position that a separate QA program fee category is warranted, WMC pleads that the amount of the fee be established to reflect existing practice and that an upper limit be predetermined by publication, by consultation with the applicant, or by some specified mechanism. Furthermore, the existing fees published in Category 11 must be reduced to reflect the reduced scope of work that they would then include.

Sincerely,

Karl R. Schendel

Karl R. Schendel
Manager, Licensing Projects
Government and Environmental Affairs

cc: R. DiPiazza, MNC

KRS:ebh