

PUBLIC SUBMISSION

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Docket: MSHA-2014-0031
 Exposure of Underground Miners to Diesel Exhaust

Comment On: MSHA-2014-0031-0076
 Exposure of Underground Miners to Diesel Exhaust: Request for Information; Reopening of Rulemaking Record; Extension of Comment Period

Document: MSHA-2014-0031-0091
 Comment from anonymous anonymous, NA

Submitter Information

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Organization: NA

General Comment

U.S. Fish and Wildlife Service (FWS) often spends an excessive amount of time dealing with deadline lawsuits brought under the ESA and that the attorneys' fees collected by such litigants can be a significant drain on the agency. Endangered Species Act (ESA) Under the citizen suit provision , a court can award costs, including attorneys' and expert witness fees, to private parties. However, ESA's fee-shifting provision places no cap on hourly attorneys' fees and does not require a litigant to "prevail" in order to recover attorneys' fees. Special interest attorneys representing environmental groups argue that their expertise is "specialized" to justify substantial, uncapped fees.⁶ Some special interest attorneys have collected fees as high as \$750 taxpayer dollars per hour.⁷ According to records from the Department of Justice, at least two such attorneys have garnered more than \$2 million in attorneys' fees by filing ESA suits. The taxpayer-funded Judgment Fund serves as the source for ESA-related attorneys' fees payments. NEED to require ESA litigants to abide by the same rules as others bringing suit against the federal government, requiring plaintiffs to prevail in order to collect attorneys' fees, as well as impose the \$125 fee cap set by EAJA one case attorneys were granted \$650,000 in federal funds by the court. Similarly, in 2012 plaintiffs were awarded \$940,000 in legal fees for litigation another \$950,000 for litigation . relationship of uncapped attorneys' fees on revenue generation and ongoing litigious efforts of environmental groups. amount of resources the federal government must direct towards responding to lawsuits brought under ESA. remove one of the worst incentives for that very kind of litigation", where litigants are able to recover exorbitant sums in attorneys' fees due to the lack of a cap on fees under ESA. repeal the

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Equal Access to Justice Act (EAJA) of 1980 , subsection of EAJA, codified at 28 U.S.C. 2412 (d) section 2412(b). flaws must be addressed and the law must be modernized.