

# WYOMING MINING ASSOCIATION

HITCHING POST INN  
P.O. Box 866  
Cheyenne, Wyoming 82003

~~DOCKET NUMBER~~  
~~PROPOSED RULE~~ PR 170-171  
(70 FR 08678)

March 20, 2005

DOCKETED  
USNRC

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Attn: Rulemakings and Adjudications Staff.

March 24, 2005 (4:15pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Gentlemen:

**Subject: Wyoming Mining Association (WMA) - Comments on  
Revision of Fee Schedules; Fee Recovery for FY 2005; Proposed Rule**

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 an in-situ uranium recovery operator, the state's remaining conventional uranium mill and several companies conducting final reclamation/restoration operations. The Wyoming Mining Association (WMA) has reviewed the proposed 2005 fees and has the following comments:

### Magnitude of the Increase

The table below from the Proposed Fee Rules (2004 and 2005) shows the Fiscal Year 2005 proposed fees compared to the Fiscal Year 2004 fees:

**Proposed Fiscal Year 205 Fees versus Current Fiscal Year 2004 Fees**

Facility type	Proposed FY 2005 annual fee	FY 2004 annual fee
Class I (conventional mills)	\$27,700	\$14,600
Class II (solution mining)	27,700	12,900
11e.(2) disposal	N/A	12,900
11e.(2) disposal incidental to existing tailings sites	27,700	12,900

Annual fees for conventional mills have increased by 90 percent. Fees for in-situ uranium recovery operations have increased by 115 percent. These are very large percentage increases for a single year.

## Loss of Licensees

The proposed fee document discusses the fact that Utah has become an Agreement State by stating:

*On August 10, 2004, the NRC approved an Agreement with the State of Utah under Section 274 of the Atomic Energy Act (AEA) of 1954, as amended. This Agreement transferred to the State the Commission's regulatory responsibility for uranium mills and mill tailings sites. This Agreement became effective August 16, 2004. Utah previously had become an Agreement State for certain other categories of materials, effective April 1, 1984. This Agreement was amended to include commercial low-level waste disposal responsibilities, effective May 9, 1990.*

*As a result of this Agreement, four former NRC uranium recovery licensees are now Utah licensees, two of which are uranium mills that are in decommissioning and reclamation. Because NRC does not charge fees to Agreement States or their licensees, the NRC will not collect fees in FY or thereafter for these four former NRC licensees. (The NRC did not collect annual fees for the mills in decommissioning while under the NRC's regulatory authority, because licensees in decommissioning are exempt from annual fees.) The costs of Agreement State regulatory support and oversight activities for Utah, as for any other Agreement State, would be recovered through the surcharge, consistent with existing fee policy.*

It would appear that with the loss of four (4) licensees, the workload related to uranium recovery should be less and the fees should decrease due to less personnel being required for the regulation of uranium recovery operations.

The fact that fees increase while the number of licensees decrease due to a state becoming an Agreement State is a dangerous precedent. If this trend continues and only a single state remains as a non-agreement state for uranium recovery, does this mean that the uranium recovery licenses in that single state will be forced to shoulder the entire cost of the uranium recovery program? This concern has been voiced numerous times in the past by industry, WMA and NMA.

It is very unfair to burden a decreasing pool of licensees with the costs of running an entire agency.

### Hourly Rates

The proposed 2005 fee document states:

*The proposed rate for the materials program (nuclear materials and nuclear waste programs) is \$198 per hour (\$285,944 per direct FTE).*

This hourly rate is very high. The current (Fiscal Year 2004) rate is \$156.00 per hour. This increase is a 27% increase.

### A Facility in the Public Interest

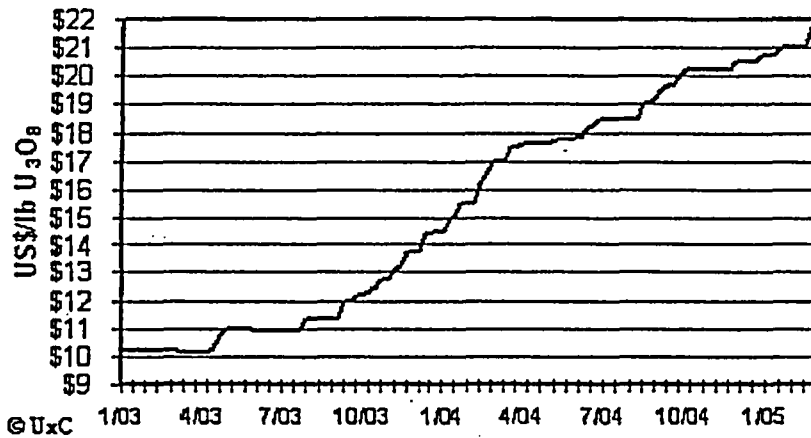
In a letter dated July 17, 2001, the Commission in granting a request for the postponement of the initiation of the requirements for timeliness in decommissioning for the Sweetwater uranium Project stated:

*"The continued existence of this facility is in the public interest as it is one of only six uranium mills remaining in the United States and only one remaining in Wyoming"*

This statement was made at a time when there were six (6) remaining uranium mills in the United States. There are now four (4) such facilities remaining, the Sweetwater Uranium Project, the Canon City Mill, the White Mesa Mill and the Shooting Mill. The continued existence of these remaining conventional uranium milling facilities should be even more in the public interest today than in 2001 because there are fewer of them and because there is

at present a strong renewed interest in nuclear energy in the United States and the world. Given that the continued existence of the Sweetwater Uranium Project was declared in 2001 to be in the public interest and by extension the continued existence of the other three (3) conventional uranium mills is in the public interest as well, it appears unfair that the fees being imposed on them is being increased by 90 percent

The price of uranium has shown a dramatic recovery over the last two- (2) years as evidenced by the graph below.



Source: The UX Consulting Company, LLC.

The price has more than doubled in two (2) years (from \$10.10 per pound on March 31, 2003 to \$21.75 per pound on March 14, 2005). The Association is concerned that the Commission may not possess sufficient experienced staff to process future license applications and amendment requests that this price increase will generate.

The Wyoming Mining Association (WMA) appreciates the opportunity to comment on this proposed fee rule. If you have any questions please do not hesitate to contact me.

Sincerely,  
WYOMING MINING ASSOCIATION

Marion Loomis  
Executive Director

cc: Katie Sweeney - National Mining Association (NMA)

**From:** "wma" <wma@vcn.com>  
**To:** "U.S. Nuclear Regulatory Commission" <SECY@nrc.gov>  
**Date:** Thu, Mar 24, 2005 11:46 AM  
**Subject:** Attn: Rulemakings and Adjudications Staff

Attached please find comments from the Wyoming Mining Association comments on Revision of Fee Schedules; Fee Recovery for FY 2005; Proposed Rule

**Mail Envelope Properties (4242EEBE.DF8 : 12 : 3576)**

**Subject:** Attn: Rulemakings and Adjudications Staff  
**Creation Date:** Thu, Mar 24, 2005 11:49 AM  
**From:** "wma" <wma@vcn.com>

**Created By:** wma@vcn.com

**Recipients**

nrc.gov  
owf5\_po.OWFN\_DO  
SECY (U.S. Nuclear Regulatory SECY)

**Post Office**  
owf5\_po.OWFN\_DO

**Route**  
nrc.gov

<b>Files</b>	<b>Size</b>	<b>Date &amp; Time</b>
MESSAGE	145	Thursday, March 24, 2005 11:49 AM
TEXT.htm	461	
nrcfee.05.pdf	159123	
Mime.822	220329	

**Options**

**Expiration Date:** None  
**Priority:** Standard  
**Reply Requested:** No  
**Return Notification:** None

**Concealed Subject:** No  
**Security:** Standard