the direct FTEs that must be recovered through fees assessed for the hours expended by the direct FTEs. Additional details on the hourly rate are provided in the NRC workpapers located in the Public Document Room.

# 4. Modify NRC Small Entity and Lower-Tier Size Standards for Annual Fee Purposes

Comment. Two commenters addressed the changes proposed by the NRC for small entity fees. While generally supporting the changes, they believed additional changes should be made. One commenter stated that while he was relieved to see the dramatic reduction in materials annual fees, the company's well logging department of only six employees is still unable to qualify as a small entity even under the new standard because the overall gross annual receipts of the consulting company exceed \$7 million. The second commenter stated that the proposed rule that would raise the dollar threshold for a medical program from \$1 million to \$5 million will afford him great relief and ensures that service will continue to be provided to patients. The commenter, however, believes that a more equitable approach would be to base fees on the nuclear medicine activity levels or nuclear medicine billing-receipts levels rather than the total dollar volume of the entire company.

Response. The NRC uses the receiptsbased size standards established by the Small Business Administration (SBA) to establish its own small entity size standards. The SBA recently adjusted its receipts-based size standard levels to account for the effects of inflation. The NRC adjusted its receipts-based size standards in turn from \$3.5 million to \$5 million, to conform to the SBA rule (60 FR 18344; April 11, 1995). The NRC has also eliminated the separate \$1 million size standard for private practice physicians and will apply the receipts-based standard of \$5 million to this class of licensees. This mirrors the revised SBA standard of \$5 million for medical practitioners. The NRC believes that these actions will reduce the impact of annual fees on small businesses.

With respect to basing fees on the gross receipts for a department within a company, or on activity levels or nuclear medicine billing-receipts levels rather than the total dollar volume of the entire entity, the NRC's size standards are based on the SBA guidance which defines annual receipts as those which include "revenues from sales of products or services, interest, rent, fees, commissions and/or whatever sources derived." Moreover, as NRC has stated previously, it is impractical to

base fees on the criteria suggested by the commenter. See Regulatory Flexibility Analysis in Appendix A to the final rule published July 10, 1991 (56 FR 31511–31513).

## 5. Change the Methodology for Calculating Annual Fees for Power Reactors, Fuel Facilities, and Uranium Recovery Licensees

Comment. All the commenters representing the power reactor, fuel facility, and uranium recovery industries supported the simplification of annual fees and are encouraged that the annual fees have been reduced compared to FY 1994 levels. Commenters from the reactor industry favored a uniform fee for each operating power reactor. Commenters from the uranium recovery industry supported attempts to make the annual fees more accurately reflect the cost of providing regulatory services and agreed that the proposed fees are far more reasonable than in past years. However, these commenters believe that NRC needs to address a fundamental industry concern that, as the industry continues to shrink in size thereby decreasing the number of licensees being charged annual fees, the costs associated with regulatory services will continue to increase significantly for each remaining licensee. This trend will force more hardships on an industry that is already severely depressed. Other uranium recovery licensees commented that they are concerned with the NRC's proposed fee calculation matrix, which uses a qualitative estimation ranking of 'significant'', "some", "minor", or "none" to determine a factor used for establishing the annual fee amount for each license. Commenters suggest a more quantitative approach should be applied, using actual costs and resource time allocations, to determine a more accurate fee assessment schedule.

Response. In this final rule, the NRC has established a single uniform annual fee for each operating power reactor and has refined its method of calculating annual fees for fuel facilities and uranium recovery facilities. The NRC indicated in the final FY 1994 fee rule that given the questions raised at that time by B&W Fuel Company, General Atomics, and other fuel facilities, it would reexamine the fuel facility subclass categorizations, and include any restructuring resulting from this reexamination in the FY 1995 proposed rule for notice and comment (59 FR 36901; July 20, 1994). The NRC's revised methodologies for determining annual fees for fuel facility and uranium recovery licensees, described in the proposed rule, are based on this

reexamination. These revised methodologies have been used to determine the final FY 1995 annual fees. The use of the revised methodologies results in an annual fee that more accurately reflects the cost of providing regulatory services to the subclasses of fuel facility and uranium recovery licensees. The revised methodologies are explained in more detail in Section IV—Section-by-Section Analysis of this final rule.

With respect to the suggestion that a more quantitative approach be used to develop the annual fees, the NRC has corroborated the qualitative estimates with resource and time allocation data where such data exist. However, such data in some cases are not available at the level necessary to corroborate the qualitative determinations. The NRC believes that in such cases the approach to be used still results in a more fair and accurate annual fee being charged to fuel facility and uranium recovery licensees.

In response to the comment relative to annual fee increases as a result of the decrease in the number of licenses, the changes in this final rule to stabilize fees should minimize large fee changes as a result of decreases in licenses. See response to Comment A.1.

## B. Other Comments

### 1. Amendments to § 170.11

Comment. One commenter supported the proposal to amend § 170.11 to conform to section 161w. of the Atomic Energy Act which would permit charging 10 CFR Part 170 fees to not only power reactors operated by the Tennessee Valley Authority and other Federal government entities, but also to uranium enrichment facilities operated by the United States Enrichment Corporation (USEC).

Response. The NRC has been assessing the USEC 10 CFR Part 170 fees under the authority provided in 161w. of the Atomic Energy Act of 1954, as amended (AEA). The NRC is amending § 170.11 to conform its regulations to this statutory provision.

### 2. Low-Level Waste Costs

Comment. One commenter was concerned that the proposed fee schedule does not adequately reflect the long-term regulatory costs which are associated with power reactors. The commenter believed that the NRC's \$7 million in annual costs for generic low-level waste work is low in comparison to long-term costs associated with these activities. The commenter indicated that it might be prudent to assume that the long-term costs associated with low-