Section IV—Section-by-Section Analysis.

Third, the current part 170 licensing and inspection fees in §§ 170.21 and 170.31 for applicants and licensees are revised to reflect both the revised hourly rates and the results of the review required by the Chief Financial Officers (CFO) Act. To comply with the requirements of the CFO Act, the NRC has evaluated historical professional staff hours used to process a licensing action (new license, renewal, and amendment) for those materials licensees whose fees are based on the average cost method (flat fees).

Based on evaluation of the historical data related to the average number of professional staff hours needed to complete materials licensing actions, the NRC has increased the fees in some categories and decreased the fees in others to reflect the costs incurred in completing the licensing actions. Thus, the revised average professional staff hours reflect the changes in the NRC licensing review program that have occurred since FY 1993. The revised licensing fees are based on the new average professional staff hours needed to process the licensing actions multiplied by the nuclear materials professional hourly rate for FY 1995 of \$116 per hour. The data for the average number of professional staff hours needed to complete licensing actions were last updated in FY 1993 (58 FR 38666; July 20, 1993). For new licenses and amendments, the licensing fees for FY 1995 are reduced in approximately 50 percent of the cases, while the fees for renewals increase in over 70 percent of the cases.

Fourth, the NRC is streamlining the fee program and improving the predictability of fees by eliminating the materials "flat" inspection fees in §170.31 and including the cost of the inspections in 10 CFR part 171. Eliminating the 10 CFR part 170 materials "flat" fees recognizes that the "regulatory service" to licensees, referred to in OBRA-90, comprises the total regulatory activities that NRC determines are needed to regulate a class of licensees. These regulatory services include not only inspections, but also research, rulemaking, orders, enforcement actions, responses to allegations, incident investigations, and other activities necessary to regulate classes of licensees. This action does not result in any net fee increases for affected licensees and will provide those licensees with greater fee predictability, a frequent request made in licensees' comments on past fee rules. The materials annual fees, which include the cost of inspections, become

effective for FY 1995, and those materials licensees who paid a "flat" 10 CFR part 170 fee for inspections conducted in FY 1995 will receive a credit for those payments towards the FY 1995 annual fee assessed under 10 CFR part 171. Because there is no annual fee for licensees operating under reciprocity in non-Agreement States, the reciprocity inspection fee has been combined with the application fee.

In summary, the NRC is (1) establishing two 10 CFR part 170 hourly rates; (2) revising the licensing fees assessed under 10 CFR part 170 in order to comply with the CFO Act's requirement that fees be revised to reflect the cost to the agency of providing the service; and (3) eliminating the materials "flat" inspection fees in § 170.31 and including the costs of inspections with the materials annual fees in § 171.16(d), or with the reciprocity application fee in § 170.31, fee Category 16.

B. Amendments to 10 CFR Part 171: Annual Fees for Reactor Operating Licenses, and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by NRC

Ten amendments have been made to 10 CFR part 171. First, the NRC is modifying its method for recovering certain budgeted costs. The NRC's February 23, 1994, report to Congress in response to EPA-92 identified fairness and equity concerns regarding the fees charged to recover the cost of certain NRC activities. Many licensees believed it was unfair to charge them fees for activities and policies undertaken by the NRC that did not benefit them and were not requested by them. The NRC is modifying its current policies for allocating the budgeted costs for these and other activities that cause fairness and equity concerns, including international activities, the nonprofit educational exemption, the 10 CFR part 170 statutory exemption for Federal agencies, the small entity annual fee reduction resulting from implementing the Regulatory Flexibility Act, certain Site Decommissioning Management Program (SDMP), generic decommissioning and reclamation activities, and regulatory activities that support both NRC and Agreement State licensees. The budgeted costs of approximately \$56 million for these activities have been allocated to the broadest base of NRC licensees because the activities are necessary for the NRC to carry out its responsibilities but, in most instances, go beyond the

regulation of those licensees or applicants that pay fees. Thus, the NRC is allocating the approximately \$56 million in fees for activities that raise fairness and equity concerns to the broadest base of NRC licensees, based on the budgeted dollars for the class of licensees. By allocating the costs in this way, the entire population of NRC licensees pay the costs. The allocation is based on the amount of the budget directly attributable to a class of licensees. This results in operating power reactors paying approximately 89 percent of the costs of the activities in question with other classes of licensees paying their respective share of these costs as follows: 3 percent to fuel facilities, 5 percent to materials licensees, and 1 percent to each of the spent fuel, uranium recovery and transportation classes of licensees.

Second, 10 CFR 171.13 is amended to provide that the NRC will publish the proposed rule in the **Federal Register** as early as is practicable but no later than the third quarter of the fiscal year. Currently, the regulations provide for issuance of the proposed rule during the first quarter of the fiscal year.

Third, §§ 171.15 and 171.16 are amended to revise the annual fees for FY 1995 to recover approximately 100 percent of the FY 1995 budget authority, less fees collected under 10 CFR part 170 and funds appropriated from the NWF.

Fourth, the annual fees for operating power reactors in § 171.15(d) are revised to reflect a single uniform annual fee. The NRC is streamlining the fee program by assessing one uniform annual fee for all operating power reactors.

Fifth, as discussed earlier, the annual fees for materials licenses in § 171.16(d) include the budgeted costs for certain materials inspections which were previously recovered under 10 CFR 170.31.

Sixth, the NRC is refining the method for calculating the annual fees for fuel facilities and uranium recovery facilities. The NRC indicated in its 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