determine the FY 1995 annual fees for both fuel facility and uranium recovery licensees. The use of the revised methodologies results in an annual fee that more accurately reflects the cost of providing regulatory services to each fuel facility and uranium recovery licensee. The revised methodologies are explained in more detail in Section IV—Section-by-Section Analysis.

Seventh, the NRC is modifying the lower-tier size standard for those licensees that qualify as a small entity under the NRC's size standards. On April 7, 1994 (59 FR 16513), the Small Business Administration (SBA) issued a final rule changing its size standards. The SBA adjusted its receipts-based size standard levels to mitigate the effects of inflation from 1984 to 1994. On April 11, 1995 (60 FR 18344), the NRC published a final rule amending the NRC's size standards. The NRC adjusted its receipts-based size standards from \$3.5 million to \$5 million to accommodate inflation and to conform to the SBA final rule. The NRC also eliminated the separate \$1 million size standard for private practice physicians and applied the receipts-based size standard of \$5 million to this class of licensees. This mirrors the revised SBA standard of \$5 million for medical practitioners. The NRC also established a size standard of 500 or fewer employees for business concerns that are manufacturing entities. This standard is the most commonly used SBA employee standard and applies to the types of manufacturing industries that hold an NRC license.

The NRC has used the revised standards in the final FY 1995 fee rule. The small entity fee categories in § 171.16(c) of this final fee rule have been modified to reflect the changes in the NRC's size standards. The existing maximum small entity annual fee of \$1800 is continued for all small entities except those defined as lower-tier small entities in this rule. The existing lowertier small entity fee of \$400 will be assessed for those manufacturing industries and educational institutions not State or publicly supported with less than 35 employees, small governmental jurisdictions with a population of less than 20,000, and nonmanufacturing entities with gross receipts of less than \$350,000, a higher threshold than the current lower-tier level of \$250,000 in gross receipts.

Eighth, Footnote 1 of 10 CFR 171.16(d) is amended to provide for a waiver of the FY 1995 annual fees for those materials licensees, and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for

possession only/storage licenses prior to October 1, 1994, and permanently ceased licensed activities entirely by September 30, 1994. All other licensees and approval holders who held a license or approval on October 1, 1994, are subject to FY 1995 annual fees. This change is in recognition of the fact that since the final FY 1994 rule was published in July 1994, licensees have continued to file requests for termination of their licenses or certificates with the NRC. Other licensees have either called or written to the NRC since the FY 1994 final rule became effective requesting further clarification and information concerning the annual fees assessed. The NRC is responding to these requests as quickly as possible. However, the NRC was unable to respond and take action on all of the requests before the end of the fiscal year on September 30, 1994. Similar situations existed after the FY 1991, FY 1992, and FY 1993 rules were published, and in those cases, NRC provided an exemption from the requirement that the annual fee is waived only when a license is terminated before October 1 of each

Ninth, § 171.17 is amended to add a proration provision for materials licenses that are downgraded during the year to a lower fee category. This provision would permit those materials licensees who filed applications to downgrade their licenses to a lower fee category during the period October 1 through March 31 of a fiscal year to pay reduced annual fees.

Tenth, § 171.19 is amended to credit the quarterly partial annual fee payments and "flat" inspection fee payments for FY 1995 inspections already made by certain licensees in FY 1995 either toward their total annual fee to be assessed or to make refunds, if necessary.

The amounts to be collected through annual fees in the amendments to 10 CFR part 171 are based on the two revised professional hourly rates discussed previously in the summary of the changes to 10 CFR part 170. The amendments to 10 CFR part 171 do not change the underlying basis for 10 CFR part 171; that is, charging a class of licensees for NRC costs attributable to that class of licensees. The changes are consistent with the Congressional guidance in the Conference Committee Report on OBRA-90, which states that the "conferees contemplate that the NRC will continue to allocate generic costs that are attributable to a given class of licensees to such class" and the "conferees intend that the NRC assess the annual charge under the principle

that licensees who require the greatest expenditures of the agency's resources should pay the greatest annual fee" (136 Cong. Rec. at H12692–93). For those NRC costs not attributable to a class of licensees, the amendments to 10 CFR part 171 follow the conferees' guidance which states that "the Commission should assess the charges for these costs as broadly as practicable in order to minimize the burden for these costs on any licensee or class of licensees * * *" (136 Cong. Rec. at H12692–3).

C. FY 1995 Budgeted Costs

The FY 1995 budgeted costs, by major activity, that will be recovered through 10 CFR parts 170 and 171 fees are shown in Table I.

TABLE I.—RECOVERY OF NRC'S FY 1995 BUDGET AUTHORITY

[Dollars in millions]

| Recovery method | Estimated amount |
|-------------------------------|-------------------|
| Nuclear waste fund | \$22.0 |
| Part 170 (license and inspec- | |
| tion fees) | 141.1 |
| Other receipts | .1 |
| Part 171 (annual fees): | |
| Power Reactors | 262.2 |
| Nonpower Reactors | .3 |
| Fuel Facilities | 10.1 |
| Spent Fuel Storage | 1.6 |
| Uranium Recovery | 1.8 |
| Transportation | 4.2 |
| Material Users | ¹ 24.7 |
| Rare Earth Facilities | .1 |
| Subtotal Part 171 | \$305.0 |
| Costs remaining to be recov- | |
| ered not identified above | 57.4 |
| Total | \$525.6 |
| | ψ323.0 |

¹Includes \$5.8 million that will not be recovered from small materials licensees because of the reduced small entity fees.

In addition to the \$57.4 million remaining to be recovered in Table I, approximately \$5.8 million must be collected as a result of continuing the \$1,800 maximum fee for small entities and the lower-tier small entity fee of \$400 for certain licensees. The composition of the \$63.2 million is as follows:

TABLE II.—ACTIVITIES TO BE RECOV-ERED THROUGH ASSESSMENT OF A SURCHARGE

| Activities | Dollars in millions |
|---|---------------------|
| Federal Agency Exemption Nonprofit Educational Exemp- | \$1.6 |
| tion | 6.1 |
| International Activities | 10.5 |
| Small Entity Subsidy | 5.8 |