materials licensees, causing the NRC materials licensees' annual fees to increase substantially. For example, if the four States who have expressed interest in becoming Agreement States do so within the next few years, then the remaining NRC materials licensees' annual fees would increase by about 30 percent from current levels.

Therefore, the NRC is changing the current policy for allocating the costs for activities which have raised fairness and equity concerns among many NRC licensees. The changes are based on the premise that these costs should be borne by all NRC licensees, because while the activities are necessary for the NRC to carry out its responsibilities, in most instances, they go beyond the regulation of those licensees or applicants that pay fees. Thus, the NRC has allocated the costs in question to the broadest base of NRC licensees that pay annual fees. The allocation is based on the amount of the budget directly attributable to a class of licensees and results in, for instance, operating power reactors paying 89 percent of the cost of these activities, compared to approximately 50 percent of these costs in the FY 1994 rule.

This change is consistent with the guidance in the Conference Committee Report that accompanied OBRA-90. First, by allocating these costs to the broadest base of NRC licensees, this change is consistent with the Conference Report guidance that: "The Commission should assess the charge for these activities as broadly as practicable in order to minimize the burden for these costs on any licensee or class of licensees so as to establish as fair and equitable a system as is feasible." Second, allocating a higher percentage of these costs to operating power reactors as opposed to other

classes of licensees is also consistent with the Conference Report guidance that: "These expenses may be recovered from such licensees as the Commission, in its discretion, determines can fairly, equitable and practicably contribute to their payment." Allocating these costs to the universe of NRC licenses will minimize the impact of the declining numbers of licenses in any specific class, because the costs will be allocated over the maximum number of licensees. It will also put in place both a policy that will help mitigate future fee concerns associated with declining number of licenses, and a single methodology for allocating these types of costs, something that has been requested in comments submitted on previous proposed fee rules.

The annual additional charge for each operating power reactor is determined as follows:

	Generic LLW Cost Allocated = $.74 \times 6,972$ K = $5,159$ K Other Activities Allocated = $.89 \times 56,229$ K = $50,044$ K		
	Subtotal Budgeted Costs	\$55,203K	
	Less Amount to be Assessed		
	to Small Older Reactors	- 206K	
	Total Budgeted Costs	\$54,997K	
	Total budgeted costs allocated	$\frac{1}{2}$ costs allocated = $\frac{$54,997K}{$}$ = \$509,000 per operating power	
	Total number of operating reactors	108 \$\$\$\$\$,000 per	operating power reactor

With respect to Big Rock Point, a smaller older reactor, the NRC hereby grants a partial exemption from the FY 1995 annual fees similar to FY 1994 based on a request filed with the NRC in accordance with § 171.11. The total amount of \$0.2 million to be paid by Big Rock Point has been subtracted from the total amount assessed operating reactors as a surcharge.

Based on the information in Tables IV and V, each operating power reactor, except Big Rock Point, will pay a base annual fee of \$2,427,000 and an additional charge of \$509,000 for a total FY 1995 annual fee of \$2,936,000. The annual fee in this final rule is less than the annual fee shown in the proposed rule because of higher estimated collections anticipated in FY 1995 from 10 CFR Part 170 fees.

Paragraph (d) is revised to show the amount of the total FY 1995 uniform annual fee, including the surcharge, to be assessed to each operating power reactor.

Paragraph (e) is revised to show the amount of the FY 1995 annual fee for

nonpower (test and research) reactors. In FY 1995, \$339,000 in costs are attributable to those commercial and non-exempt Federal government organizations that are licensed to operate test and research reactors. Applying these costs uniformly to those nonpower reactors subject to fees results in an annual fee of \$56,500 per operating license. The Energy Policy Act of 1992 established an exemption for certain Federally-owned research reactors that are used primarily for educational training and academic research purposes, where the design of the reactor satisfies certain technical specifications set forth in the legislation. Consistent with this legislative requirement, the NRC granted an exemption from annual fees for FY 1992 and FY 1993 to the Veterans Administration Medical Center in Omaha, Nebraska, the U.S. Geological Survey for its reactor in Denver, Colorado, and the Armed Forces Radiobiological Institute in Bethesda, Maryland, for its research reactor. This

exemption was initially codified in the July 20, 1993 (58 FR 38695) final fee rule at § 171.11(a) and more recently in the March 17, 1994 (59 FR 12543) final rule at § 171.11(a)(2). The NRC amended § 171.11(a)(2) on July 20, 1994 (59 FR 36895) to exempt from annual fees the research reactor owned by the Rhode Island Atomic Energy Commission. The NRC will continue to grant exemptions from the annual fee to those Federallyowned and State owned research and test reactors who meet the exemption criteria specified in § 171.11.

Section 171.16 Annual fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC

Section 171.16(c) covers the fees assessed for those licensees that can qualify as small entities under NRC size standards. On April 7, 1994 (59 FR 16513), the Small Business Administration (SBA) issued a final rule