class. It also represents a fee decrease compared to the proposed rule because of higher estimated collections anticipated in FY 1995 from 10 CFR part 170 fees.

Materials Licenses

To equitably and fairly allocate the \$24.7 million directly attributable to the approximately 6,200 diverse material users and registrants plus the materials share (\$2.8 million) of the surcharge, the NRC has continued to base the annual fee on the 10 CFR Part 170 application fees and an estimated cost for inspections. Because the application fees and inspection costs are indicative of the complexity of the license, this approach continues to provide a proxy for allocating the generic and other regulatory costs to the diverse categories of licensees based on how much it costs NRC to regulate each category. The fee calculation also continues to consider the inspection frequency, which is indicative of the safety risk and resulting regulatory costs associated with the categories of licensees. In summary, the annual fee for these categories of licenses is developed as follows:

Annual Fee=(Application Fee+Average Inspection Cost/Inspection Priority)×Constant+(Unique Category Costs).

The constant is the multiple necessary to recover \$24.7 million and is 1.7 for FY 1995. The unique costs are any special costs that the NRC has budgeted for a specific category of licensees. For FY 1995, unique costs of approximately \$1.0 million were identified for the medical improvement program which is attributable to medical licensees.

For the first time, the NRC is combining the "flat" material inspection fees in 10 CFR part 170 with the annual fees in 10 CFR part 171. This is being done to recognize 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 "flat" fee inspections but also research, rulemaking, orders, enforcement actions, responses to allegations, incident investigations and other activities necessary to regulate classes of licensees. In addition to being consistent with the regulatory service concept in OBRA-90, the NRC believes that materials licensees' "flat' inspection fees can be combined with their annual fees without creating any significant questions of fairness. This is because the concept of the annual fee, including the inspection fee, has, in

effect, already been implemented for most materials licensees. First, materials licensees currently pay a "flat fee" per inspection based on the average cost of an inspection for their fee category, and second, the routine inspection frequency is identical for most licensees in the same fee category. Furthermore, past experience suggests that less than 10 percent of the materials inspections for these licensees are nonroutine. Thus, licensees in the same materials license fee category currently pay essentially the same average annual cost for inspections. Therefore, combining inspection and annual fees results in essentially the same average cost per license over time. Additionally, this approach will provide materials licensees with simpler and more predictable NRC fee charges as there will be no additional fees paid for periodic inspections. Because certain materials FY 1995 annual fees include inspection costs, those materials licensees who paid a "flat" 10 CFR part 170 inspection fee for inspections conducted in FY 1995 will receive a credit for those payments towards their FY 1995 annual fee assessed under 10 CFR part 171. Those Agreement state licensees who paid an inspection fee for inspections conducted in FY 1995 will not receive a credit-refund because they pay no annual fee.

Materials annual fees for FY 1995 have decreased compared to the FY 1994 annual fees. There are two basic reasons for this. First, the FY 1995 budgeted amount attributable to materials licensees is about 35 percent lower than the comparable FY 1994 amount, based on the reallocation of certain materials budgeted costs to the broadest base of NRC licensees rather than to materials licensees as discussed earlier. Second, the professional hourly rate for the materials program has decreased from \$133 per hour to \$116 per hour, due to the use of cost center concepts in allocating NRC budgeted costs. These decreases are partially offset by a decrease in the number of licensees to be assessed annual fees in FY 1995 (from about 6,500 to about 6,200) and the inclusion of the average annual inspection costs with the annual fee. The annual fees for some categories in this final rule have decreased compared to the proposed rule because of higher estimated collections anticipated in FY 1995 from 10 CFR part 170 fees.

A materials licensee may pay a reduced annual fee if the licensee qualifies as a small entity under the NRC's size standards and certifies that it is a small entity using NRC Form 526.

Transportation

To recover the \$4.7 million attributable to the transportation class of licensees, \$1.2 will be assessed to the Department of Energy (DOE) to cover all of its transportation casks under Category 18. The remaining transportation costs for generic activities (\$3.5 million) are allocated to holders of approved QA plans. The annual fee for approved QA plans is \$77,800 for users and fabricators and \$1,000 for users only.

The amount or range of the FY 1995 annual fees for all materials licensees is summarized as follows:

MATERIALS LICENSES—ANNUAL FEE RANGES

Category of license	Annual fees
Part 70—High enriched fuel.	\$2,569,000.
Part 70—Low enriched fuel.	1,261,000.
Part 40—UF ₆ conversion.	639,200.
Part 40—Uranium re- covery.	22,000 to 60,900.
Part 30—Byproduct Material.	480 to 23,200.1
Part 71—Transportation of Radioactive Material.	1,000 to 77,800.
Part 72—Independent Storage of Spent Nu- clear Fuel.	279,000.

¹ Excludes the annual fee for a few military "master" materials licenses of broad-scope issued to Government agencies, which is \$415,300.

Surcharge

Section 171.16(e) is amended to establish the additional charge which is included in the annual fees shown in § 171.16(d) of this final rule. The Commission is continuing the approach established in FY 1993 to assess the budgeted low-level waste (LLW) costs to two broad categories of licensees (large LLW generators and small LLW generators) based on historical disposal data. This surcharge is included in the annual fees for the applicable categories in § 171.16(d). Although these NRC LLW disposal regulatory activities are not directly attributable to regulation of NRC materials licensees, the costs nevertheless must be recovered in order to comply with the requirements of OBRA-90. For FY 1995, the additional charge recovers approximately 18 percent of the NRC budgeted costs of \$7.0 million relating to LLW disposal generic activities from small generators, which are comprised of materials licensees that dispose of LLW. The percentage distribution reflects the