

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 171**

**[Docket No. PRM-171-1; NRC-2019-0084]**

**Nuclear Power Plant License Fees Upon Commencing Commercial Operation**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of docketing and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking from Michael D. Meier on behalf of Southern Nuclear Operating Company, dated February 28, 2019, requesting that the NRC revise its regulations related to the start of assessment of annual fees for certain nuclear power plants to align with commencement of their commercial operation. The petition was docketed by the NRC on March 21, 2019, and has been assigned Docket No. PRM-171-1. The NRC is examining the issues raised in PRM-171-1 to determine whether they should be considered in rulemaking. The NRC is requesting public comment on this petition at this time.

**DATES:** Submit comments by July 10, 2019. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2019-0084. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **E-mail comments to:** [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.

- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

**FOR FURTHER INFORMATION CONTACT:** Victoria Huckabay, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-5183; e-mail: [Victoria.Huckabay@nrc.gov](mailto:Victoria.Huckabay@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Obtaining Information and Submitting Comments**

## A. Obtaining Information

Please refer to Docket ID NRC-2019-0084 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2019-0084.

- **NRC's Agencywide Documents Access and Management System**

**(ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

## B. Submitting Comments

Please include Docket ID NRC-2019-0084 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## **II. The Petitioner**

The petition was submitted by Michael D. Meier on behalf of Southern Nuclear Operating Company. Michael D. Meier is the Vice President of Regulatory Affairs for Southern Nuclear Operating Company, a nuclear energy facility operator.

## **III. The Petition**

The petitioner is requesting that the NRC revise part 171 of title 10 of the *Code of Federal Regulations* (10 CFR), “Annual fees for reactor 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 the NRC.” Specifically, the petitioner is requesting that the NRC revise the timing of when annual license fees for holders of a combined license under 10 CFR part 52, “Licenses, certifications, and approvals for nuclear power plants,” commence, to coincide with a licensee’s commercial operation, rather than upon a 10 CFR 52.103(g) finding. The petition may be found in ADAMS under Accession No. ML19081A015.

#### **IV. Discussion of the Petition**

The petitioner requests that the NRC change the start date of assessment of annual fees for combined license holders under part 52 to align with the date when a reactor is declared available for commercial operation, instead of the current requirement in 10 CFR 171.15(a) to commence at the date when the Commission has made the finding under § 52.103(g) that all inspections, tests, analyses, and acceptance criteria are met. The petitioner observes that a startup period of time is required, after the licensee receives NRC's authorization to operate, to complete the remaining tasks necessary to operate the power reactor commercially. The petitioner asserts that at the time of a 10 CFR 52.103(g) finding, the power reactor has not yet been loaded with fuel, undergone startup testing, power ascension, commissioning, or other actions necessary to reliably generate energy for the production of revenue. The petitioner states that (1) a licensee may not complete these startup activities and achieve commercial operation until several months after the § 52.103(g) finding is made, and (2) the licensee should not be subject to the annual fee required under § 171.15, "Annual fees: Reactor licenses and independent spent fuel storage licenses," until the nuclear power plant receives financial benefit from commercial operation beyond minimal amounts of revenue derived from test energy. The petitioner also raises an issue regarding the fairness of charging an annual license fee before commercial operations commence.

#### **V. Conclusion**

The NRC has determined that the petition meets the threshold sufficiency requirements for docketing a petition for rulemaking under 10 CFR 2.803. The NRC is

examining the issues raised in PRM-171-1 to determine whether they should be considered in rulemaking.

Dated at Rockville, Maryland, this 4<sup>th</sup> day of June, 2019.

For the Nuclear Regulatory Commission.

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Annette L. Vietti-Cook,  
Secretary of the Commission.