

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440; NRC–2023–0136]

Notice of Intent To Conduct Scoping Process and Prepare Environmental Impact Statement; Energy Harbor Corp.; Energy Harbor Generation LLC.; Energy Harbor Nuclear Corp.; Perry Nuclear Power Plant, Unit 1**AGENCY:** Nuclear Regulatory Commission.**ACTION:** Intent to conduct scoping process and prepare environmental impact statement; public scoping meeting and request for comment.**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) will conduct a scoping process to gather information necessary to prepare an environmental impact statement (EIS) to evaluate the environmental impacts for the license renewal of the Facility Operating License No. NPF–58 for Perry Nuclear Power Plant, Unit 1. The NRC is seeking public comment on this action and has scheduled an in-person public scoping meeting, followed by a virtual one.**DATES:** The NRC will hold two public scoping meetings, one through online webinar and teleconference call and one in-person near the facility, including a presentation on the license renewal process and a transcribed public comment session. The virtual meeting will be held October 19, 2023, at 2 p.m. eastern time (ET). The in-person meeting will be held October 25, 2023, at 6:30 p.m. ET at the Perry Public Library, 3753 Main St., Perry, OH 44081. Details on both meetings can be found on the NRC's Public Meeting Schedule at: <https://www.nrc.gov/pmns/mtg>. Submit comments on the scope of the EIS by November 9, 2023. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. See section IV, "Public Scoping Meeting," of this notice for additional information.**ADDRESSES:** You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to <https://regulations.gov> and search for Docket ID NRC–2023–0136. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email:* Comments may be submitted to the NRC electronically using the email address PerryEnvironmental@nrc.gov.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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:**Lance Rakovan, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2589, email: Lance.Rakovan@nrc.gov.**SUPPLEMENTARY INFORMATION:****I. Obtaining Information and Submitting Comments***A. Obtaining Information*

Please refer to Docket ID NRC–2023–0136 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 Website:* Go to <https://regulations.gov> and search for Docket ID NRC–2023–0136.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://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, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if it is available in ADAMS) is provided the first time that it is referenced.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. ET, Monday through Friday, except Federal holidays.

- *Public Library:* A copy of the license renewal application for Perry, including the environmental report (ER), will be available for public review

at the following public library location: Perry Public Library, 3753 Main St., Perry, OH 44081.

*B. Submitting Comments*The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2023–0136 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 <https://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. DiscussionBy letter dated July 3, 2023 (ADAMS Accession No. ML23184A081), Energy Harbor Nuclear Corp. (Energy Harbor or the applicant), doing business as Energy Harbor Nuclear Generation LLC., submitted to the NRC an application for license renewal of Facility Operating License No. NPF–58 for Perry Nuclear Power Plant, Unit 1, for an additional 20 years of operation. This submission initiated the NRC's proposed action of determining whether to grant the license renewal application. Perry is a boiling water reactor designed by General Electric and is located 35 miles NE of Cleveland, OH on the banks of Lake Erie. The current facility operating license for Unit 1 expires at midnight on November 7, 2026. The license renewal application was submitted pursuant to part 54 of title 10 of the *Code of Federal Regulations* (10 CFR), "Requirements for Renewal of Operating Licenses for Nuclear Power Plants," and seeks to extend the renewed facility operating license for Unit 1 to midnight on November 7, 2046. A notice of receipt and availability of the application was published in the **Federal Register** on August 9, 2023 (88 FR 53933). A notice of acceptance for docketing of the application and of opportunity to

request a hearing was published in the **Federal Register** on September 29, 2023 (88 FR 67373) and is available on the Federal rulemaking website (<https://www.regulations.gov>) by searching for Docket ID NRC–2023–0136.

III. Request for Comment

This notice informs the public of the NRC's intention to conduct environmental scoping and prepare an EIS related to the license renewal application for Perry, and to provide the public an opportunity to participate in the environmental scoping process, as defined in 10 CFR 51.29, "Scoping-environmental impact statement and supplement to environmental impact statement," and 10 CFR 51.116 "Notice of Intent."

The regulations in 36 CFR 800.8, "Coordination with the National Environmental Policy Act," allow agencies to use their National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) (NEPA) process to fulfill the requirements of Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 300101, *et seq.*) (NHPA). Therefore, pursuant to 36 CFR 800.8(c), the NRC intends to use its process and documentation required for the preparation of the EIS on the proposed action to comply with Section 106 of the NHPA in lieu of the procedures set forth at 36 CFR 800.3 through 800.6.

In accordance with 10 CFR 51.53(c) and 10 CFR 54.23, Perry submitted an ER as part of the license renewal application. The ER was prepared pursuant to 10 CFR part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," and is publicly available in ADAMS under Accession No. ML23184A081. The ER will also be available for viewing at <https://www.nrc.gov/reactors/operating/licensing/renewal/applications.html>. In addition, the license renewal application, including the ER, will be available for public review at the Perry Public Library, 3753 Main St., Perry, OH 44081.

The NRC intends to gather the information necessary to prepare a plant-specific supplement to NUREG–1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (ADAMS Package Accession No. ML13107A023) (GEIS), related to the license renewal application for Perry. The NRC is required by 10 CFR 51.95 to prepare a plant-specific supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with NEPA

and the NRC's regulations at 10 CFR part 51.

The supplement to the GEIS will evaluate the environmental impacts of license renewal for Perry, and reasonable alternatives thereto. Possible alternatives to the proposed action include the no action alternative and reasonable alternative energy sources.

As part of its environmental review, the NRC will first conduct a scoping process for the plant-specific supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in this scoping process by members of the public and local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

- a. Define the proposed action that is to be the subject of the supplement to the GEIS;
- b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth;
- c. Identify and eliminate from detailed study those issues that are peripheral or are not significant or that have been covered by prior environmental review;
- d. Identify any environmental assessments and other EISs that are being or will be prepared that are related to, but are not part of, the scope of the supplement to the GEIS under consideration;
- e. Identify other environmental review and consultation requirements related to the proposed action;
- f. Indicate the relationship between the timing of the preparation of the environmental analyses and the NRC's tentative planning and decision-making schedule;

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies; and

h. Describe how the supplement to the GEIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in scoping:

- a. The applicant, Energy Harbor Nuclear Corp. (Energy Harbor or the applicant), doing business as Energy Harbor Nuclear Generation LLC.;
- b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or that is authorized to develop and enforce relevant environmental standards;

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards;

d. Any affected Indian Tribe;

e. Any person who requests or has requested an opportunity to participate in the scoping process; and

f. Any person who has petitioned or intends to petition for leave to intervene under 10 CFR 2.309.

IV. Public Scoping Meeting

In accordance with 10 CFR 51.26(b), the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to the proposed action and to determine the scope of issues to be addressed in the EIS.

The NRC is announcing that it will hold an online webinar and teleconference call and an in-person near the facility, including a presentation on the license renewal process and a transcribed public comment session. The virtual meeting will be held October 19, 2023, at 2 p.m. ET. The in-person meeting will be held October 25, 2023, at 6:30 p.m. ET at the Perry Public Library, 3753 Main St., Perry, OH 44081. Details on both meetings can be found on the NRC's Public Meeting Schedule at: <https://www.nrc.gov/pmns/mtg>. A court reporter will transcribe all comments received during each public scoping meeting. To be considered, comments must be provided either at a transcribed public meeting or in writing, as discussed in the **ADDRESSES** section of this notice. Persons interested in attending these meetings should monitor the NRC's Public Meeting Schedule website at <https://www.nrc.gov/pmns/mtg> for additional information, agenda for the meetings, and access additional information. Please contact Mr. Lance Rakovan no later than October 18, 2023, if accommodations or special equipment is needed to attend or to provide comments, so that the NRC staff can determine whether the request can be accommodated.

The public scoping meetings will include: (1) an overview by the NRC staff of the environmental and safety review processes, the proposed scope of the supplement to the GEIS, and the proposed review schedule; and (2) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on environmental issues or the proposed scope of the Perry license renewal supplement to the GEIS.

Participation in the scoping process for the Perry license renewal

supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

Dated: October 4, 2023.

For the Nuclear Regulatory Commission.

Theodore B. Smith,

Chief, Environmental Review License Renewal Branch, Division of Rulemaking, Environment, and Financial Support, Office of Nuclear Material Safety and Safeguards.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98676; File No. SR-NYSEARCA-2023-68]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule To Modify the Options Regulatory Fee

October 3, 2023.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on September 29, 2023, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (“Fee Schedule”) regarding the Options Regulatory Fee (“ORF”). The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to decrease the ORF from \$0.0055 per contract to \$0.0038 per contract, effective on January 1, 2024, and to provide for a temporary waiver of the ORF for the three months leading up to such change, from October 1, 2023 through December 31, 2023 (the “Waiver Period”).⁴

Background

As a general matter, the Exchange may only use regulatory funds such as the ORF “to fund the legal, regulatory, and surveillance operations” of the Exchange.⁵ More specifically, the ORF is designed to recover a material portion, but not all, of the Exchange’s costs for the supervision and regulation of OTP Holders and OTP Firms (collectively, “OTP Holders”), including the Exchange’s regulatory program and legal expenses associated with options regulation, such as the costs related to in-house staff, third-party service providers, and technology that facilitate regulatory functions such as surveillance, investigation, examinations and enforcement (collectively, the “ORF Costs”). ORF funds may also be used for indirect expenses such as human resources and other administrative costs. The Exchange monitors the amount of

⁴ See proposed Fee Schedule, NYSE Arca GENERAL OPTIONS and TRADING PERMIT (OTP) FEES, Regulatory Fees, Options Regulatory Fee (“ORF”). The Exchange proposes to modify the Fee Schedule to provide for a waiver of ORF from October 1, 2023 until December 31, 2023, and to provide that the ORF rate would be \$0.0038 when the Exchange resumes assessing ORF on January 1, 2024.

⁵ The Exchange considers surveillance operations part of regulatory operations. The limitation on the use of regulatory funds also provides that they shall not be distributed. See Bylaws of NYSE Arca, Inc., Art. II, Sec. 2.03.

revenue collected from the ORF to ensure that this revenue, in combination with other regulatory fees and fines, does not exceed regulatory costs.

The ORF is assessed on OTP Holders for options transactions that are cleared by the OTP Holder through the Options Clearing Corporation (“OCC”) in the Customer range regardless of the exchange on which the transaction occurs and is collected from OTP Holder clearing firms by the OCC on behalf of NYSE Arca.⁶ All options transactions must clear via a clearing firm and such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its customers, *i.e.*, the entering firms. The Exchange notes that the costs relating to monitoring OTP Holders with respect to Customer trading activity are generally higher than the costs associated with monitoring OTP Holders that do not engage in Customer trading activity, which tends to be more automated and less labor-intensive. By contrast, regulating OTP Holders that engage in Customer trading activity is generally more labor intensive and requires a greater expenditure of human and technical resources as the Exchange needs to review not only the trading activity on behalf of Customers, but also the OTP Holder’s relationship with its Customers via more labor-intensive exam-based programs.⁷ As a result, the costs associated with administering the customer component of the Exchange’s overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.*, OTP Holder proprietary transactions) of its regulatory program.

ORF Collections and Monitoring of ORF

Exchange rules establish that market participants must be notified of any

⁶ See Fee Schedule, NYSE Arca GENERAL OPTIONS and TRADING PERMIT (OTP) FEES, Regulatory Fees, Options Regulatory Fee (“ORF”). The Exchange uses reports from OCC when assessing and collecting the ORF. The ORF is not assessed on outbound linkage trades. An OTP Holder is not assessed the fee until it has satisfied applicable technological requirements necessary to commence operations on NYSE Arca. See *id.*

⁷ The Exchange notes that many of the Exchange’s market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, manipulation, front-running and contrary exercise advice violations/expiring exercise declarations. The Exchange and other options SROs are parties to a 17d-2 agreement allocating among the SROs regulatory responsibilities relating to compliance by the common members with rules for expiring exercise declarations, position limits, OCC trade adjustments, and Large Option Position Report reviews. See, *e.g.*, Securities Exchange Act Release No. 85097 (February 11, 2019), 84 FR 4871 (February 19, 2019).