

(a) Developing a set of checklists to be used by a competent person in conducting weekly inspections of hyperbaric equipment and work areas; and

(b) Ensuring that a competent person conducts daily visual checks and weekly inspections of the TBM.

2. Remove from service any equipment that constitutes a safety hazard until it corrects the hazardous condition and has the correction approved by a qualified person.

3. SUNDTJV would have to maintain records of all tests and inspections of the TBM, as well as associated corrective actions and repairs, at the job site for the duration of the tunneling project and for 90 days after the final project report is submitted to OSHA.

#### *I. Compression and Decompression*

SUNDTJV would have to consult with its attending physician concerning the need for special compression or decompression exposures appropriate for CAWs not acclimated to hyperbaric exposure.

#### *J. Recordkeeping*

In addition to completing OSHA Form 301 Injury and Illness Incident Report and OSHA Form 300 Log of Work-Related Injuries and Illnesses, SUNDTJV would have to maintain records of:

1. The date, times (*e.g.*, time compression started, time spent compressing, time performing intervention, time spent decompressing), and pressure for each hyperbaric intervention.

2. The names of all supervisors and DMTs involved for each intervention.

3. The name of each individual worker exposed to hyperbaric pressure and the decompression protocols and results for each worker.

4. The total number of interventions and the amount of hyperbaric work time at each pressure.

5. The results of the post-intervention physical assessment of each CAW for signs and symptoms of decompression illness, barotrauma, nitrogen narcosis, oxygen toxicity or other health effects associated with work in compressed air for each hyperbaric intervention.

#### *K. Notifications*

1. To assist OSHA in administering the conditions specified herein, SUNDTJV would have to:

(a) Notify the OTPCA and the OSHA Area Office in Dallas, Texas at [www.osha.gov/contactus/byoffice](http://www.osha.gov/contactus/byoffice) of any recordable injury, illness, or fatality (by submitting the completed OSHA Form 301 Injuries and Illness Incident Report) resulting from exposure of an employee

to hyperbaric conditions, including those that do not require recompression treatment (*e.g.*, nitrogen narcosis, oxygen toxicity, barotrauma), but still meet the recordable injury or illness criteria of 29 CFR 1904. The notification would have to be made within 8 hours of the incident or 8 hours after becoming aware of a recordable injury, illness, or fatality; a copy of the incident investigation (OSHA Form 301 Injuries and Illness Incident Report) must be submitted to OSHA within 24 hours of the incident or 24 hours after becoming aware of a recordable injury, illness, or fatality. In addition to the information required by OSHA Form 301 Injuries and Illness Incident Report, the incident-investigation report would have to include a root-cause determination, and the preventive and corrective actions identified and implemented.

(b) Provide certification to the OSHA Area Office in Dallas, Texas within 15 working days of the incident that SUNDTJV informed affected workers of the incident and the results of the incident investigation (including the root-cause determination and preventive and corrective actions identified and implemented).

(c) Notify the OTPCA and the OSHA Area Office in Dallas, Texas within 15 working days and in writing, of any change in the compressed-air operations that affects SUNDTJV's ability to comply with the proposed conditions specified herein.

(d) Upon completion of the Integrated Pipeline Tunnel Project, evaluate the effectiveness of the decompression tables used throughout the project, and provide a written report of this evaluation to the OTPCA and the OSHA Area Office in Dallas, Texas within 30 days after the workers final day onsite.

**Note:** The evaluation report would have to contain summaries of: (1) The number, dates, durations, and pressures of the hyperbaric interventions completed; (2) decompression protocols implemented (including composition of gas mixtures (air and/or oxygen), and the results achieved; (3) the total number of interventions and the number of hyperbaric incidents (decompression illnesses and/or health effects associated with hyperbaric interventions as recorded on OSHA Form 301 Injuries and Illness Incident Report and OSHA Form 300 Log of Work-Related Injuries and Illnesses, and relevant medical diagnoses, and treating physicians' opinions); and (4) root causes of any hyperbaric incidents, and preventive and corrective actions identified and implemented.

(e) To assist OSHA in administering the proposed conditions specified herein, inform the OTPCA and the OSHA Area Office in Dallas, Texas as

soon as possible, but no later than seven (7) days, after it has knowledge that it will:

(i) Cease doing business;  
 (ii) Change the location and address of the main office for managing the tunneling operations specified herein;  
 or  
 (iii) Transfer the operations specified herein to a successor company.

(f) Notify all affected employees of this proposed modified permanent variance by the same means required to inform them of its application for a modified permanent variance.

2. OSHA would have to approve the transfer of the proposed modified permanent variance to a successor company through a new application for a modified variance.

#### **VII. Authority and Signature**

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020), and 29 CFR 1905.11.

Signed at Washington, DC, on April 24, 2023.

**James S. Frederick,**  
*Deputy Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2023–09118 Filed 4–28–23; 8:45 am]

**BILLING CODE 4510–26–P**

#### **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50–0320; NRC–2023–0042]**

#### **TMI–2 Solutions, LLC; Three Mile Island Nuclear Station, Unit No. 2**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Environmental assessment and finding of no significant impact; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is considering an exemption for license no. DPR–73, issued on February 8, 1978, and held by TMI–2 Solutions, LLC for the operation of Three Mile Island Nuclear Station, Unit No. 2, located in Dauphin County, Commonwealth of Pennsylvania. The NRC is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) associated with the proposed action.

**DATES:** The EA and FONSI referenced in this document are available on April 24, 2023.

**ADDRESSES:** Please refer to Docket ID NRC-2023-0042 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2023-0042. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: [Stacy.Schumann@nrc.gov](mailto:Stacy.Schumann@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *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, 301-415-4737, or by email 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, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Amy M. Snyder, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-6822; email: [Amy.Snyder@nrc.gov](mailto:Amy.Snyder@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The NRC is considering issuance of an exemption for license no. DPR-73, issued to TMI-2 Solutions, LLC (TMI-2 Solutions, the licensee), from section 70.24 of title 10 of the *Code of Federal Regulations* (CFR), "Criticality accident requirements." The proposed action would exempt TMI-2 Solutions from the requirement to maintain a radiation monitoring system in each area where licensed special nuclear material (SNM) is handled, used, or stored that will

energize clearly audible alarm signals if accidental criticality occurs during decommissioning.

As required by 10 CFR part 51, "Domestic Licensing of Production and Utilization Facilities," the NRC prepared an EA documenting its environmental review (ADAMS Accession No. ML23026A348). Based on the results of the EA and the summary that follows, the NRC has determined not to prepare an environmental impact statement (EIS) for the exemption and is issuing a FONSI in accordance with 10 CFR 51.32 "Finding of no significant impact."

TMI-2 Solutions requested an exemption from 10 CFR 70.24 requirements. In its exemption application, TMI-2 Solutions states that criticality is not credible at TMI-2, and therefore it considers an exemption to 10 CFR 70.24 for a criticality monitoring system to be appropriate under the decommissioning licensing basis. The licensee stated that this is because of its updated Spent Fuel Mass Limit (SFML). Specifically, TMI-2 Solutions asserts that it arrived at this updated SFML by taking credit for impurities and actual enrichment based on the results of physical samples taken during the defueling effort in 1993. In its application, TMI-2 Solutions also asserts that administrative controls for geometric spacing are not necessary to further preclude a criticality accident because there is not enough Uranium Oxide (UO<sub>2</sub>) at TMI-2 to assemble an optimal critical configuration. Regardless, TMI-2 Solutions states that, as part of its Fuel Bearing Material Management Program, it will be implementing local administrative controls for the purpose of defense in depth of the activities which will handle the highest quantities of fuel bearing material.

**II. Summary of Environmental Assessment**

*Description of the Proposed Action*

The proposed action that is being considered by the Commission is an exemption during decommissioning from the requirements of 10 CFR 70.24 for a monitoring system capable of detecting a criticality accident.

The proposed action is in accordance with the licensee's application dated September 29, 2022 (ADAMS Accession No. ML22276A024).

*Need for the Proposed Action*

The proposed action would exempt the licensee from the requirements of 10 CFR 70.24, which, in relevant part, requires that each licensee authorized to

possess SNM in certain quantities maintain a monitoring system that will energize clear audible alarms if accidental criticality occurs in each area in which SNM is handled, used, or stored. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed SNM is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

*Environmental Impacts of the Proposed Action*

The NRC staff assessed the impacts of the proposed action on land use; visual and scenic resources/aesthetics; climatology; meteorology; air quality; noise; geology and soil; water; ecological resources; historical and cultural resources; socioeconomics; transportation and traffic; waste generation; and public and occupational health and safety. Approval of the proposed action would not result in an increased radiological risk to public health or the environment.

*Environmental Impacts of the Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Under the No-Action Alternative, the NRC would deny the requested action. Denying the action would have a larger environmental impact because occupational radiation exposure would increase due to personnel using radiation sources to calibrate criticality monitors during decommissioning.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in Supplement 3 to the Programmatic Environmental Impact Statement for TMI-2, dated August 1989, NUREG-0683. Additionally, the proposed action does not involve any environmental resources beyond those previously considered in the exemption for the 1992 Criticality Monitoring (57 FR 26668).

*Agencies and Persons Consulted*

On April 4, 2023, the NRC staff consulted with Commonwealth of Pennsylvania regarding the environmental impact of the proposed

action. On April 14, 2023 (ADAMS Accession No. ML23107A223), the state official concurred with the draft environmental assessment and finding of no significant impact.

### III. Finding of No Significant Impact

On the basis of the EA referenced in Section II of this notice and incorporated by reference in this finding, the NRC finds that the proposed action will not have a significant environmental impact and that preparation of EIS is not warranted. Accordingly, the NRC has determined that a FONSI (ADAMS Accession No. ML23026A348) is appropriate.

Dated: April 26, 2023.

For the Nuclear Regulatory Commission.

**Shaun M. Anderson,**

*Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2023-09154 Filed 4-28-23; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97375; File No. SR-NYSEARCA-2023-33]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade Shares of the Veridien Climate Action ETF Under Rule 8.900-E (Managed Portfolio Shares)

April 25, 2023.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on April 18, 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 list and trade shares of the following under Rule 8.900-E (Managed Portfolio Shares): Veridien Climate Action ETF. The

proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### 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

NYSE Arca Rule 8.900-E permits the listing and trading, or trading pursuant to unlisted trading privileges, of Managed Portfolio Shares, which are securities issued by an actively managed open-end investment management company.<sup>4</sup> Rule 8.900-E(b)(1) requires the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Managed Portfolio Shares on the Exchange. Therefore, the Exchange is submitting this proposal in order to list and trade Managed Portfolio Shares of the Veridien Climate Action ETF (the “Fund”), a series of the Tidal Trust II (the “Trust”), under Rule 8.900-E.

The Commission has previously approved or noticed for immediate

<sup>4</sup> Rule 8.900-E(c)(1) provides that the term “Managed Portfolio Share” means a security that (a) represents an interest in an investment company registered under the Investment Company Act of 1940 (“Investment Company”) organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies; (b) is issued in a Creation Unit, or multiples thereof, in return for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value and delivered to the Authorized Participant (as defined in the Investment Company’s Form N-1A filed with the Commission) through a Confidential Account; (c) when aggregated into a Redemption Unit, or multiples thereof, may be redeemed for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value delivered to the Confidential Account for the benefit of the Authorized Participant; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

effectiveness the listing and trading on the Exchange of Managed Portfolio Shares under NYSE Arca Rule 8.900-E.<sup>5</sup>

##### Description of the Fund and the Trust

The shares of the Fund (the “Shares”) will be issued by the Trust, a statutory trust organized under the laws of the state of Delaware and registered with the Commission as an open-end management investment company.<sup>6</sup> The investment adviser to the Fund will be Toroso Investments, LLC (the “Adviser”). Veridien Global Investors LLC will be the sub-adviser (the “Sub-Adviser”) for the Fund. Foreside Fund Services, LLC (the “Distributor”) will serve as the distributor for the Fund’s Shares. U.S. Bank Global Fund Services will serve as the transfer agent for the Fund (the “Transfer Agent”). U.S. Bank National Association will be the Fund’s custodian (the “Custodian”). All statements and representations made in this filing regarding (a) the description

<sup>5</sup> See Securities Exchange Act Release Nos. 89663 (August 25, 2020), 85 FR 53868 (August 31, 2020) (SR-NYSEArca-2020-48) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of Gabelli ETFs Under Rule 8.900-E, Managed Portfolio Shares); 90528 (November 30, 2020), 85 FR 78389 (December 4, 2020) (SR-NYSEArca-2020-80) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of Alger Mid Cap 40 ETF and Alger 25 ETF Under Rule 8.900-E); 90683 (December 16, 2020), 85 FR 83665 (December 22, 2020) (SR-NYSEArca-2020-94) (Order Approving a Proposed Rule Change, as Modified by Amendments No. 1 and No. 2, To List and Trade Shares of the AdvisorShares Q Portfolio Blended Allocation ETF and AdvisorShares Q Dynamic Growth ETF Under NYSE Arca Rule 8.900-E); 92349 (July 19, 2021), 86 FR 39084 (July 23, 2021) (SR-NYSEArca-2021-54) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to List and Trade Shares of the Cambiar Large Cap ETF, Cambiar Small Cap ETF and Cambiar SMID ETF) (the “Cambiar Notice”); 94629 (April 7, 2022), 87 FR 21993 (April 13, 2022) (SR-NYSEArca-2022-17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to List and Trade Shares of the FMC Excelsior Focus Equity ETF under Rule 8.900-E (Managed Portfolio Shares)) (the “FMC Notice”).

<sup>6</sup> The Trust is registered under the Investment Company Act of 1940 (the “1940 Act”). On October 14, 2022, the Trust filed a registration statement on Form N-1A under the Securities Act of 1933 (the “1933 Act”) and the 1940 Act for the Fund (File Nos. 333-264478 and 811-23793) (“Registration Statement”). The Trust subsequently filed Post-Effective Amendment No. 74 to the Registration Statement. See Post-Effective Amendment No. 74 to Registration Statement on Form N-1A for the Trust, dated April 21, 2023 (File Nos. 333-264478 and 811-23793). The Commission issued an order granting exemptive relief to the Trust (“Exemptive Order”) under the 1940 Act on March 21, 2023 (Investment Company Act Release No. 34863). The Exemptive Order was granted in response to the Trust’s application for exemptive relief (the “Exemptive Application”) (File No. 812-15411). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. The Exchange will not commence trading in Shares of the Fund until the Registration Statement is effective.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.