

“Factors for Determination” in subsection (i)(4) of the AIM Act, EPA denied the two petitions.⁴

The petition submitted by Gebauer sought an “Acceptable Use Exemption” for HFC–245fa and HFC–134a for use as a “pain relief spray.” The petition noted these HFCs are currently used by Gebauer to formulate its FDA-cleared medical devices, which provide temporary pain relief or pain prevention by cooling tissue surfaces. EPA explained in its denial that after Gebauer’s submitted its petition, the Agency issued a proposed rule titled, “Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under Subsection (i) of the American Innovation and Manufacturing Act of 2020” (87 FR 76738, December 15, 2022). This rule proposed restrictions on the use of HFCs in aerosol products, among others, and specifically addressed the need for an exemption for HFC use in “pain relief sprays.” Because EPA has already initiated a rulemaking that addresses the HFC use covered in this petition, EPA denied the petition as moot. Granting a petition initiates a rulemaking where the Agency will examine restrictions on the use of HFCs covered by the petition. EPA is in the process of assessing whether to allow for continued use of HFCs in “pain relief sprays,” factoring in, to the extent practicable, the considerations provided in AIM Act subsection (i)(4), in the current rulemaking. Initiating a new rulemaking on this question while the current rulemaking is ongoing is therefore unnecessary. This denial does not address the merits of the request submitted by Gebauer.⁵

The petition submitted by AVW requested that EPA “subject the importation of small gas canisters containing 100% HFC–152a to the same import regulations that govern bulk shipments of HFC–152a.” As explained in its denial, EPA already considered and decided the issue of whether aerosol cans should be treated as bulk in the HFC Allocation Framework Rule.⁶ Therefore, to the extent that this petition was a request to alter how allowances are expended under that program, EPA denied the petition on the basis that the request was not properly

made under subsection (i) of the AIM Act. Subsection (i) authorizes the EPA to promulgate restrictions specific to uses of HFCs in particular sectors and subsectors. The AVW petition referenced “packaged dusters” as one use for EPA to restrict under subsection (i). The December 15, 2022 proposed rule (87 FR 76738) proposed restrictions on the use of HFCs in aerosol products, among others, and specifically proposed restrictions on the use of dusters. Because EPA had already initiated a rulemaking that addressed the use and sector requested by the petition, EPA therefore also denied this aspect of the petition as moot.⁷

III. What happens after EPA denies a petition?

Where the Agency denies a petition submitted under subsection (i) of the AIM Act, the statute requires that the Administrator shall publish in the **Federal Register** an explanation of the denial per subsection (i)(3)(C), which the Agency is doing through this notification.

Judicial Review

The AIM Act provides that certain sections of the Clean Air Act (CAA) “shall apply to” the AIM Act and actions “promulgated by the Administrator of [EPA] pursuant to [the AIM Act] as though [the AIM Act] were expressly included in title VI of [the CAA].” 42 U.S.C. 7675(k)(1)(C). Among the applicable sections of the CAA is section 307, which includes provisions on judicial review. Under section 307(b)(1) any petitions for review of these actions denying the petitions must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date this notification is published in the **Federal Register**.

Cynthia A. Newberg,

Director, Stratospheric Protection Division.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 16–271, 18–143, 19–195; DA 23–259, FR ID 135133]

Comment Sought on Continued Filing of Alaska Plan FCC Form 477 Mobile Deployment Data; Waiver of Interim PR–USVI Mobile Milestone Filing and Information Provided for Final Milestone Filing

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Wireless Telecommunications Bureau (WTB) and Office of Economics and Analytics (OEA) seek comment on the process to continue the filing of mobile deployment data consistent with previous FCC Form 477 filings for mobile participants of the Alaska Plan. The document also provides information from the Wireline Competition Bureau (WCB) for mobile recipients of the Uniendo a Puerto Rico Fund and Connect USVI Fund to file their FCC Form 477 network coverage data as part of their final milestone requirement. In addition, WCB waives the data reporting requirement for the interim milestone for mobile recipients of the Uniendo a Puerto Rico Fund and the Connect USVI Fund.

DATES: Comments are due on or before April 26, 2023, and Reply Comments are due May 8, 2023. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed in the following as soon as possible.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: <https://www.fcc.gov/ecfs/filings>.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

- Filings can be sent by commercial overnight courier, or by first-class or

⁴ The letters denying the two petitions are available in the docket for this action.

⁵ EPA notes the petition failed to satisfy the statutory requirement to address negotiated rulemaking. See AIM Act subsection (i)(3)(A).

⁶ The HFC Allocation Framework Rule, also referred to as the “Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program Under the American Innovation and Manufacturing Act,” can be found in the **Federal Register** (86 FR 55116).

⁷ EPA notes the petition failed to satisfy the statutory requirement to address negotiated rulemaking. See AIM Act subsection (i)(3)(A).

overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. The Commission directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments.

To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

FOR FURTHER INFORMATION CONTACT: For additional information on the proceeding, contact Matthew Warner of the Wireless Telecommunications Bureau, Competition and Infrastructure Policy Division, matthew.warner@fcc.gov, (202) 418-0247; Dangkhua Nguyen, Wireline Competition Bureau, Telecommunications Access Policy Division, dangkhua.nguyen@fcc.gov, (202) 418-7865.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Public Notice in WC Docket Nos. 16-271, 18-143, 19-195; DA 23-259, released on March 27, 2023. The full text of this document is available at the following internet address: <https://docs.fcc.gov/public/attachments/DA-23-259A1.pdf>.

Ex Parte Rules: This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine

period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

1. In 2022, the Federal Communications Commission (Commission) instituted the Broadband Data Collection (BDC), which required the filing of mobile deployment data similar to that collected through FCC Form 477, though with significant differences. The specified requirements of the BDC can lead to different coverage area data than what mobile providers submitted pursuant to FCC Form 477.

2. On December 9, 2022, as a further step in implementing the BDC, the Commission adopted an order, *Form 477 Sunset Order*, 87 FR 76949, December 16, 2022, sunsetting the collection of broadband and mobile voice deployment data through FCC Form 477. The Commission recognized, however, that it currently relies upon information from its FCC Form 477 data collection in other contexts, including, among other things, to assess the deployment of broadband services. Accordingly, the Form 477 Sunset Order (1) delegated authority to WTB and OEA to instruct mobile participants of the

Alaska Plan how to submit coverage data specific to Alaska after sunsetting FCC Form 477 deployment data, and (2) delegated authority to WCB to instruct mobile providers that participate in either the Bringing Puerto Rico Together Fund or the Connect USVI Fund on how to submit coverage data for Puerto Rico and USVI, respectively.

3. Alaska Plan. WTB and OEA propose to require mobile participants in the Alaska Plan to file deployment data consistent with FCC Form 477 and seek comment on the proposal. The *Alaska Plan Order*, 81 FR 69696, October 7, 2016, required mobile provider participants of the Alaska Plan to submit performance plans in 2016, with commitments due in 2021 and 2026. These original performance plans and any revised plans approved by WTB were based on mobile coverage consistent with the FCC Form 477 requirements. The propagation models and the speeds in these approved performance plans often do not align with BDC requirements. Continued filing of deployment data under the previous FCC Form 477 instructions will allow for like comparisons to the previous deployment data on which Alaska Plan mobile providers based their commitments. WTB and OEA believe such data are, therefore, essential for understanding whether providers met their commitments.

4. WTB and OEA propose that all mobile participants in the Alaska Plan file deployment data consistent with FCC Form 477 instructions. Mobile Alaska Plan participants would file these deployment data annually until March 1, 2028. These data will allow like comparisons to continue throughout the ten-year Alaska Plan, with an additional year of data after the final commitment. The data would be submitted through the BDC special collections portal. For the first year, data representing December 2022 would be due by June 30, 2023. Subsequently, the FCC Form 477-based data would be due March 1 of each year. WTB and OEA seek comment on the proposal.

5. WCB requires Stage 2 mobile recipients of the Uniendo a Puerto Rico Fund and the Connect USVI Fund to file FCC Form 477 network deployment data for their final 100% network coverage area data submission in the BDC special collections portal. WCB also waives, on its own motion, the requirement for mobile providers receiving support to resubmit interim milestone reports demonstrating 66% mobile network coverage area.

6. In 2017, Hurricanes Irma and Maria caused massive devastation to Puerto Rico (PR) and the United States Virgin

Islands (USVI). In response, the Commission created the Uniendo a Puerto Rico Fund and the Connect USVI Fund. As part of Stage 2 of those Funds, the Commission has authorized approximately \$385.9 million in universal service support to facilitate and harden deployment of advanced broadband networks. More than \$250 million of this funding was dedicated to mobile broadband restoration, hardening, and improvement over a three-year period. Specifically as to mobile support recipients, the Commission required, as a condition of support, that providers meet interim and final network coverage area milestones. At the end of the three-year term of support, each mobile support recipient must have restored its mobile network coverage to an area that is equal to or greater than 100% of the pre-hurricane network coverage area when compared with its June 2017 FCC Form 477 coverage data.

7. In the *2019 PR USVI Order*, 84 FR 59937, November 7, 2019, the Commission provided that the filing of coverage data pursuant to FCC Form 477 instructions is essential for like comparisons to assess whether providers fulfilled this requirement. The Commission required PR/USVI Fund mobile recipients to file FCC Form 477 network deployment data for their final 100% network coverage area data submission. The deadline for mobile providers to file their final 100% network coverage area data submission is January 30, 2024. As directed by the Commission, the final network coverage area report would be based on FCC Form 477 data and shall reflect the network coverage area for a provider as of the end of its three-year Stage 2 support term. Providers shall file consistent with previous FCC Form 477 instructions, submitting through the BDC special collections portal utilizing the data specifications released by the Bureau.

8. While WCB is committed to ensuring the full restoration of mobile networks to their pre-hurricane coverage areas, it takes this opportunity to waive, on its own motion, the interim milestone report for mobile providers receiving support to demonstrate 66% mobile network coverage area for the Uniendo a Puerto Rico Fund and the Connect USVI Fund. WCB finds this waiver for the filing of the network coverage report to be warranted and in the public interest based on the Commission's receipt of FCC Form 477 reporting data, which were submitted and certified by mobile providers subject to the interim milestone report. An analysis comparing FCC Form 477

data for June 2017 and subsequent filing periods from PR and USVI mobile providers verified that each provider has restored more than 66% of its network coverage area that existed prior to the 2017 hurricanes, thus meeting the interim milestone under § 54.1514(a) of the Commission's rules. WCB concludes that limiting the burden on providers and not requiring them to expend their resources to resubmit FCC Form 477 data already in the Commission's possession is in the public interest.

9. While WCB finds a waiver of the 66% interim milestone report is warranted, WCB maintains the Commission's requirement for ensuring mobile providers meet their network performance commitments and their final 100% network coverage area milestone reports and certifications. In a separate public notice, WCB and OEA will provide instructions regarding the reporting of drive, drone, and/or scattered site test data for network coverage and reporting of network performance as part of the final 100% milestone report.

Federal Communications Commission.

Amy Brett,

Acting Chief of Staff, Wireless Telecommunications Bureau.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R6-ES-2022-0093; FF09E22000 FXES1113090FEDR 223]

RIN 1018-BG56

Endangered and Threatened Wildlife and Plants; Removal of the Colorado Hookless Cactus From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of draft post-delisting monitoring plan.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove the Colorado hookless cactus (*Sclerocactus glaucus*) from the Federal List of Endangered and Threatened Plants (List) due to recovery. Recent taxonomic studies have indicated that the currently listed entity is actually two species: *Sclerocactus glaucus* and *Sclerocactus dawsonii*. We find that neither species should be listed as a threatened or endangered species under the Endangered Species Act of 1973, as

amended (Act). Our review of the best available scientific and commercial data indicates that the threats to the species have been eliminated or reduced to the point that these species no longer meet the definition of a threatened or endangered species under the Act. We request information and comments from the public regarding this proposed rule and the draft post-delisting monitoring (PDM) plan for Colorado hookless cactus (*S. glaucus* and *S. dawsonii*). If this proposal is finalized, Colorado hookless cactus will be removed from the List and the prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, will no longer apply to the species.

DATES: We will accept comments received or postmarked on or before June 12, 2023. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by May 26, 2023.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-R6-ES-2022-0093, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on "Comment."

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R6-ES-2022-0093, U.S. Fish and Wildlife Service, MS: PRB/3W; 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: This proposed rule and supporting documents, including the species status assessment (SSA) report and post-delisting monitoring plan, are available at <https://fws.gov/species/colorado-hookless-cactus-sclerocactus-glaucus>, at <https://www.regulations.gov> under Docket No. FWS-R6-ES-2022-0093, and at the Colorado Ecological Services