



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1 – New England
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May 12, 2020

VIA ELECTRONIC FILING AND EMAIL

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RE: Pilgrim Nuclear Power Station
NPDES Permit No. MA0003557; NPDES Appeal No. 20-03

Dear Sir or Madam:

In accordance with 40 C.F.R. §§ 124.16 and 124.60, Region 1 of the United States Environmental Protection Agency ("EPA") is providing notice of uncontested and severable permit conditions in connection with National Pollutant Discharge Elimination System ("NPDES") Permit No. MA0003557. EPA reissued that permit to Holtec International, LLC ("HDI") on January 30, 2020.

Together with Holtec Pilgrim, LLC (“Holtec Pilgrim”) and Entergy Nuclear Operations, Inc. (“ENOI”), HDI (collectively referred to as “Petitioners”) timely petitioned EPA’s Environmental Appeals Board (“EAB”) for review of the permit on March 6, 2020. Petitioners contested the following provisions of the Final Permit:

1. Limitations at Part I.A.1 on pollutants discharged through Outfall 001;
2. Limitations at Parts I.A.1 FN7 and I.A.3 FN7 related to chlorination of intake water;
3. Conditions at Parts I.A.4, I.A.20, I.C, and Attachment B relating to intake screenwash and screen rotating;
4. Conditions at Parts I.A.1 and I.A.3 relating to monitoring discharged circulating water for Temperature and Temperature Rise (i.e., delta T) at Outfall 001 and Outfall 010;
5. Conditions in footnote 1 to Parts I.A.1, I.A.2, I.A.3, I.A.4, I.A.5, I.A.6, and I.A.9 relating to the requirement that a routine sampling program be developed;
6. Conditions at Parts I.A.7 and I.F relating to sampling of stormwater discharged from electrical vaults;
7. Conditions at Parts I.H.4 and I.A.5 requiring the Permittee to notify or report to MassDEP regarding the Permittee’s reporting to the Nuclear Regulatory Commission; and
8. Requirement at Part I.B.1 to report planned physical alterations or additions to the permitted facility.

See Pet. for Rev. at 14-30. For the purposes of this notice and in light of the arguments made in the Petition and the facts in the record for this permit, the Region considers Part I.H.2 inseverable from the Petitioners’ challenge to Parts I.H.4 and I.A.5 in #7 above. We also consider Part I.H.6 inseverable from your challenge to the requirement at Part I.B.1 to report planned physical alterations or additions to the permitted facility in #8 above. Collectively, the foregoing limits and conditions are referred to as the “Contested Conditions.”

When a permit appeal is filed, EPA must issue a notification identifying which permit conditions are stayed as a result of the appeal and which permit conditions will go into effect. 40 C.F.R. § 124.16(a)(2)(i), (ii). While a permit appeal is pending, the contested permit conditions are stayed. *Id.* § 124.16(a)(1). Uncontested permit conditions that are inseverable from contested conditions are also considered to be contested and are stayed. *Id.* §§ 124.16(a)(2)(i), 124.60(b)(4). Uncontested permit conditions that are severable from contested conditions are not stayed and become enforceable conditions of the permit. *Id.* § 124.16(a)(2)(i), (ii).

Your challenge of conditions at Part I.A.3 and footnote 7 (relating to monitoring for Temperature and Temperature Rise and to chlorination of intake water, respectively) in #2 and #4 above does not contest monitoring and limits for total suspended solids (“TSS”), oil and grease (“O&G”), pH, flow, and total residual oxidants (“TRO”). Consequently, we are putting Part I.A.3 into effect with the exception of footnote 7 and the monitoring requirements for temperature and temperature rise, which will remain

stayed pursuant to 40 C.F.R. § 124.16.¹ Similarly, we interpret your challenge to conditions at Part I.A.4 relating to intake screenwash and screen rotating in #3 above to incorporate a challenge to the flow rate limit for Outfall 012 at Part I.A.4, but not the other provisions in Part I.A.4, which we are therefore putting into effect. Further, your challenge in #3 above to conditions relating to intake screenwash and screen rotating in Part I.C does not contest Parts I.C.3, I.C.4, and I.C.7, which we are therefore putting into effect. Your challenge to footnote 1 of Parts I.A.2, I.A.3, I.A.4, I.A.5, I.A.6, and I.A.9 in #5 above contests only the requirement to develop a routine sampling program. Consequently, we are putting the remainder of the footnote in each provision into effect. Finally, your challenge to the requirement at Part I.B.1 to report planned physical alterations or additions in #8 above contests only the last sentence in that provision. Consequently, we are putting the rest of Part I.B.1 into effect.

To the extent that conditions of the new permit are stayed, the permittee must comply with those conditions of its previous permit (issued April 29, 1991, and modified August 30, 1994) that correspond to the stayed conditions, *id.* § 124.16(c)(2), here including the conditions in Part I.A.1 of the previous permit requiring monitoring for, and placing limits on, temperature and temperature rise, among other requirements.

EPA is notifying you that the Contested Conditions as described above are stayed pending final agency action. *Id.* §§ 124.16(a)(1), 124.19(l). EPA has determined that all other conditions of the permit are uncontested and severable, and accordingly will become fully effective and enforceable beginning July 1, 2020.

If you have any questions regarding this notice, please contact Michael Curley of the Office of Regional Counsel at (617) 918-1623.

Sincerely,

Dennis Deziel
Regional Administrator
US EPA-Region 1

cc: Jed Nosal, Esq,
Gregory S. Sampson, Esq.
Elise Zoli, Esq.
Joseph Egan, Holtec Pilgrim, LLC
Lealdon Langley, Massachusetts Department of Environmental Protection
Damien Houlihan, EPA
Marie McDonald, EPA

¹ The requirement in Part I.A.3 FN1 to develop a routine sampling program will also remain stayed pursuant to #5 above.