



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permittee: ENERGY NUCLEAR INDIAN POINT 2, LLC ENERGY NUCLEAR INDIAN POINT 3, LLC; and ENERGY NUCLEAR OPERATIONS, INC. (collectively, the "Permittee," "applicant" or "WQC holder")	Facility: INDIAN POINT 1, 2 & 3 NUCLEAR POWER PLANT
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Project Location: in BUCHANAN in WESTCHESTER COUNTY

Authorized Activity: This 401 Water Quality Certification ("WQC" or "permit") certifies that the operation of Units 2 and 3 at the Indian Point Nuclear Power Plant under renewed federal licenses to be issued by the U.S. Nuclear Regulatory Commission ("NRC") will not contravene water quality standards. The federal licenses issued by the NRC authorize the operation of the respective units at the facility. This WQC is authorized to run concurrently with the NRC issued federal licenses, accounting for Entergy's commitment to retire Units 2 and 3 in 2020 and 2021, respectively (subject to the terms and conditions of that commitment).

Permit Authorizations

Water Quality Certification - Under Section 401 - Clean Water Act

Permit ID 3-5522-00011/00030

Effective Date: May 1, 2017

Expiration Date: Retirement of Unit 2 and Unit 3, but no later than [the expiration date of the renewed NRC operating license].

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Chief Permit Administrator
NYSDEC Headquarters
625 Broadway
Albany, NY 12233

Authorized Signature:

Date 04/24/2017



Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: WATER QUALITY CERTIFICATION

- 1. Conformance with Plans.** All activities authorized by this WQC must be in strict conformance with the application submitted by the applicants or applicants' agent as part of the application.
- 2. Best Technology Available ("BTA") Determination.** Pursuant to 6 NYCRR § 704.5 (Intake Structures), the WQC holders are required to minimize adverse environmental impact, specifically impingement and entrainment mortality of aquatic organisms at the facility. The SPDES permit issued with this WQC contains and any final SPDES permit issued during the term of this WQC will contain various requirements to meet this standard. The Section 704.5 cooling water intake structure conditions set forth in the SPDES permit issued with this WQC, and any subsequent SPDES permit, shall be automatically incorporated by reference into this WQC. This approval certifies that, provided the WQC holders are in compliance with the requirements and limitations incorporated into the SPDES permit issued with this WQC and any subsequent, conforming SPDES permit, including the provision reflecting Entergy's commitment to retire Units 2 and 3 in 2020 and 2021, respectively (subject to the terms and conditions of that commitment) ("Early Retirement"), they are in compliance with water quality standards.
- 3. Thermal Determination.** Pursuant to 6 NYCRR Part 704 (Criteria Governing Thermal Discharges), the WQC holders are required to operate the Indian Point Nuclear Power Plant's thermal discharges to assure the protection and propagation of the balanced indigenous population of shellfish, fish and wildlife in and on the Hudson River. The current SPDES permit contains, and any subsequent, conforming SPDES permit issued during the term of this WQC will contain, various requirements to meet this standard. The Section 704 thermal discharge conditions set forth in the final SPDES permit shall be automatically incorporated into this WQC by reference. This approval certifies that, provided the WQC holders are in compliance with the requirements and limitations incorporated into the SPDES permit issued with this WQC and any subsequent, conforming SPDES permit, they are in compliance with water quality standards.



4. **Radiological Determination.** The WQC holders are required to operate the Indian Point Nuclear Power Plant consistent with NRC requirements and limitations relating to radiological releases. This approval certifies that the WQC holders are currently in compliance with water quality standards relating to the radiological releases from Indian Point to the Hudson River, based on the facts and circumstances in the record to date, but that future radiological releases to the Hudson River, if any, that materially differ from those addressed in the record may be subject to separate action by NYSDEC to the extent authorized by applicable law.

5. **Coverage under 401 WQC.** This WQC covers normal operation of the facility. It does not cover ongoing maintenance activities that result in discharges into waters of the United States that trigger the requirement to obtain Section 404 of the Clean Water Act individual permits by the U.S. Army Corps of Engineers or the Department of Environmental Conservation. Any proposed work on the shoreline must be consistent with the appropriate federal and Department of Environmental Conservation permits, which may include permits pursuant to Article 15, Protection of Waters, Article 34, Coastal Erosion, or Section 401 of the federal Clean Water Act.

WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

1. **Water Quality Certification.** The Department of Environmental Conservation (the "Department") hereby certifies that the subject license renewals for the Indian Point Nuclear Plant will not contravene effluent limitations or other limitations or standards under Sections 301, 302, 303, 306 and 307 of the Clean Water Act of 1977 (PL 95-217), provided that all of the conditions listed herein are met. This WQC supersedes the Department's April 10, 2010 Notice of Denial.

2. **Operating in Accordance with SPDES Permit.** The WQC holder is authorized to operate its cooling water intake structure and to discharge in accordance with effluent limitations, monitoring and reporting requirements, other provisions and conditions set forth in this WQC, which expressly incorporates, among other permits, the SPDES permit issued with this WQC, including Early Retirement, and any subsequent, conforming SPDES permit for the Indian Point Nuclear Power Plant issued during the term of this WQC in compliance with Title 8 of Article 17 of the Environmental Conservation Law of New York State and the Clean Water Act, as amended, (33 U.S.C. § 1251 et seq.), pursuant to NYCRR Title 6, Chapter X, State Pollutant Discharge Elimination System ("SPDES") Permits Part 750-1.2(a) and 750-2.



GENERAL CONDITIONS - Apply to ALL Authorized Permits:

- 1. Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation to determine whether the permittees are complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3). The WQC holder shall provide a person to accompany the Department of Environmental Conservation's representative during an inspection to the facility, when requested by the Department or otherwise required or authorized by law.

A copy of this WQC, including all referenced maps, drawings and special conditions, must be available for inspection by the Department of Environmental Conservation at all times at the facility. Failure to produce a copy of the WQC upon request by a Department representative is a violation of this authorization.

- 2. Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this WQC does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.
- 3. Applications for Permit Renewals, Modifications or Transfers** Consistent with applicable law, the Permittee must submit a separate written application to the Department for renewal, modification or transfer of this WQC. Such application must include any forms or supplemental information the Department requires, consistent with applicable law. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Chief Permit Administrator
NYSDEC HEADQUARTERS
625 BROADWAY
ALBANY, NY 12233

- 4. Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Water Quality Certification.
- 5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to modify, suspend or revoke this WQC, consistent with applicable law. Pursuant to applicable law, the grounds for modification, suspension or revocation may include:
 - a) materially false or inaccurate statements in the permit application or supporting papers;
 - b) failure by the permittee to comply with any terms or conditions of the permit during its term;



- c) exceeding the scope of the project as described in the permit application or herein;
 - d) newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
 - e) material noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.
6. **Permit Transfer** WQCs are transferrable unless specifically prohibited by statute, regulation or another permit condition. Consistent with applicable law, applications for transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

Excepting state or federal agencies, the Permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation, its representatives, employees and authorized agents, for all claims, suits, action and damages, to the extent attributable to the Permittee's acts or omissions in connection with the Permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by this WQC whether or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to the Department's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the Department and arising under Article 78 of the New York Civil Practice Laws and Rules, any citizen suit or civil rights provision under federal or state laws, or otherwise under applicable law.

Item B: Permittee's Contractors to Comply with Permit

The Permittee is responsible for informing independent contractors, employees, agents and assigns of their responsibility to comply with this WQC, including all special conditions, while acting as the Permittee's agent with respect to the permitted activities, and such person shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the Permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this WQC.



Item D: No Right to Trespass or Interfere with Riparian Rights

This WQC does not convey to the Permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.