



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
NPDES Permit No. DC0000248**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et seq.*, as amended by the Water Quality Act of 1987, P.L. 100-4, the “Act”,

John F Kennedy Center for the Performing Arts

is authorized to discharge from a facility located at

**2700 F Street, NW
Washington, D.C. 20566**

to receiving waters named

Potomac River

in accordance with discharge point(s), effluent limitation, monitoring requirements and other conditions set forth herein.

This permit shall become **effective** on the first day of the calendar month immediately following 60 days after signature, which is March 1, 2022.

This permit and the authorization to discharge shall **expire** at midnight, five years from the last day of the month preceding the effective date, which is February 28, 2027.

This permit and the authorization to discharge shall expire five (5) years from the last day of the month preceding the effective date, unless the permittee has submitted a complete and timely application for a new permit, and the U.S. Environmental Protection Agency (EPA), through no fault of the permittee, does not issue a new permit before the expiration date of this permit. In such a case, the permit will be administratively extended until such time as EPA issues a new permit.

The permittee shall apply for permit reissuance by September 1, 2026, which is 180 days before the expiration of this permit, if the permittee intends to continue operations and discharges at the facility beyond the term of this permit.

This permit supersedes the permit issued on June 6, 2013.

Signed and Issued on:

Catherine A. Libertz, Director
Water Division

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PART I. LIMITATIONS AND MONITORING REQUIREMENTS

Section A. Authorized Discharges

This permit authorizes the discharge of non-contact cooling water that complies with the requirements of this permit. This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

Section B. Outfall 001 Effluent Limitations and Monitoring Requirements – Potomac River

As specified below, the discharge shall be monitored and sampled by the permittee at outfall No. 001, N38° 53' 52.8" latitude, W77° 03' 28.8" longitude, which discharges to the Potomac River. Samples must be taken at the internal compliance sites located on the effluent side of the chillers prior to entering the discharge pipe which outfalls to the Potomac River.

Parameter	Discharge Limitations		Monitoring Requirements		
	Average Monthly ¹	Maximum Daily	Sample Frequency	Reporting Frequency	Monitoring Type
Intake Flow ² (mgd)	2.2 mgd	6.3 mgd	Daily	Monthly	Continuous
Through screen velocity	---	0.5 feet per second	Daily	Monthly	Continuous
Effluent Flow (mgd)	Report	Report	Daily	Monthly	Continuous
Effluent Temperature	Monitor and report only °C	Monitor and report only °C	Daily	Monthly	Continuous
Influent Temperature	Monitor and report only °C	Monitor and report only °C	Daily	Monthly	Continuous
pH (Std units)	6.0 - 8.5		1/week	Monthly	Continuous

The terms “average monthly discharge limitation” and maximum daily discharge limitation are defined in Part III.E of this permit.

When the facility is fully operational, the discharge is considered a “continuous discharge” as defined in Part III.E below. Therefore, continuous monitoring means monitoring that occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

¹ Average monthly flow shall be calculated as the sum of all daily flows measured during a calendar month divided by the number of daily flows measured during that month. Average monthly temperature and pH shall be calculated as the sum of daily measurements divided by number of daily measurements taken during that month.

² Effluent flow shall be reported in million gallons per day (mgd).

Section C. Special Reporting Requirements

The Permittee is obligated to monitor and report sampling results to EPA and DC's Department of Energy and Environment (DOEE) via NetDMR within the time specified within the permit. Unless otherwise specified in this permit, the permittee shall submit reports, requests, and information and provide notices in the manner described below.

1. Reporting requirements for Temperature

The Permittee shall monitor the influent and effluent temperature each time the facility's cooling water intake structure is operational in accordance with the requirements set forth Part I.B. above. The Permittee shall report on the Discharge Monitoring Report (DMR) the average monthly and daily maximum values for each monthly monitoring period the facility operates its cooling water intake structure. If there is no discharge for a monitoring period, then the permittee shall submit a "no discharge" code on the DMR. The permittee shall attach the monthly data spreadsheet as an attachment to the DMR (see Part I.C.5 below).

2. Reporting Requirements for pH

The permittee shall monitor the pH of the influent and effluent each time the facility's cooling water intake structure is operational in accordance with the requirements set forth in Part I.B. The Permittee shall report on the DMRs the highest and lowest pH values for each monthly monitoring period the facility operates its cooling water intake structure. If there is no discharge for a monitoring period, then the permittee shall submit a "no discharge" code on the DMR. The permittee shall attach the monthly data spreadsheet as an attachment to the DMR (see Part I.C.5 below).

3. Reporting Requirements for Flow

The permittee shall report the average monthly and daily maximum flow on the DMRs for both the effluent and influent each time the facility's cooling water intake structure is operational in accordance with the requirements set forth in Part I.B. If there is no discharge for a monitoring period, then the permittee shall submit a "no discharge" code on the DMR. The permittee shall attach the monthly data spreadsheet as an attachment to the DMR (see Part I.C.5 below).

4. Submittal of DMRs Using NetDMR

As of December 21, 2016, all reports and forms submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 C.F.R. §127.2(b), in compliance with this section and 40 C.F.R. Part 3 (including, in all cases, subpart D to Part 3), 40 C.F.R. § 122.22, and 40 C.F.R. Part 127. Part 127 is not intended to undo existing requirements for electronic reporting.

Beginning on the effective date of the permit, the permittee must submit its monitoring data in DMRs to EPA **no later than the 28th day of the month following the completed monitoring period** using EPA's NetDMR electronic reporting tool found at: (<https://netdmr.epa.gov/netdmr/public/login.htm>). The permittee must also submit analytical

data sheets from any laboratory it uses through the NetDMR system as attachments to the DMR.

5. Submittal of Attachments in NetDMR

a. Data Spreadsheets

The permittee shall electronically submit all excel spreadsheets to EPA as NetDMR attachments rather than as hard copies. The spreadsheets shall be submitted at the time the DMRs are submitted (which is no later than the 28th day of the month following the completed monitoring period). If there is no discharge reported for the monitoring period, then data spreadsheets are not expected to be submitted.

b. Reports and Studies

The permittee shall electronically submit any additional reports and studies to EPA as NetDMR attachments rather than as hard copies. Because the due dates for these additional submissions may not coincide with the due date for submitted DMRs (which is no later than the 28th day of the month following the completed monitoring period), reports or studies that are submitted electronically as a NetDMR attachment shall be considered timely if it is electronically submitted to EPA with the next DMR due following the due date for any reports or studies specified in this permit.

6. In accordance with 40 C.F.R. § 122.44(i)(1)(iv), the permittee shall use sufficiently sensitive test procedures (i.e., methods) approved under 40 C.F.R. Part 136 or required under 40 C.F.R. Chapter I, Subchapter N or O, for the analysis of pollutants or pollutant parameters limited in this permit. A method is considered “sufficiently sensitive” when either: (1) the method minimum level (ML) is at or below the level of the effluent limit established in this permit for the measured pollutant or pollutant parameter; or (2) the method has the lowest ML of the analytical methods approved under 40 C.F.R. Part 136 or required under 40 C.F.R. Chapter I, Subchapter N or O for the measured pollutant or pollutant parameter. The ML is not the minimum level of detection, but rather the lowest level at which the test equipment produces a recognizable signal and acceptable calibration point for a pollutant or pollutant parameter, representative of the lowest concentration at which a pollutant or pollutant parameter can be measured with a known level of confidence. For the purposes of this permit, the detection limit is the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions (i.e., the level above which an actual value is reported for an analyte, and the level below which an analyte is reported as non-detect).

PART II. STANDARD CONDITIONS

Section A. General Conditions

This permit is issued subject to all applicable federal regulations. Failure to set forth the full language of any applicable regulation or requirement below, however, does not change or waive its applicability in any way.

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

- a. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- b. The CWA provides that any person who violates Section 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any permit condition or limitation implementing any such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Sections 402 (a)(3) or 402 (b)(8) of the CWA, is subject to a civil penalty. Any person who negligently or knowingly violates such sections of the CWA or such permit requirements is subject to criminal penalties or by imprisonment, or both.
- c. Any person may be assessed an administrative penalty by the Administrator for violating Section 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the CWA.

Note: See 40 C.F.R. §122.41(a) for “Duty to Comply” regulations.

2. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or notification of planned changes or anticipated noncompliance does not stay any permit condition. [40 C.F.R. § 122.41(f)]

3. Duty to Provide Information

The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Regional Administrator, upon request, copies of records required to be kept by this permit. [40 C.F.R. § 122.41(h)]

4. Reopener Clause

The effluent limitations in this permit are based on the District of Columbia’s water quality standards and TMDL documents prepared in accordance with the Clean Water Act and applicable regulations. In the event of a revision of the District of Columbia’s water quality standards and/or the TMDLs, this permit may be modified by EPA to reflect this revision. The Regional Administrator reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be

authorized under the CWA in order to bring all discharges into compliance with the CWA.

Federal regulations pertaining to permit modification, revocation and reissuance, and termination are found at 40 C.F.R. §§ 122.62, 122.63, 122.64, and 124.5.

5. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from responsibilities, liabilities or penalties to which the permittee is or may be subject under Section 311 of the CWA, or Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

6. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges. [40 C.F.R. § 122.41(g)]

7. Confidentiality of Information

- a. In accordance with 40 C.F.R. Part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words “confidential business information” on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 C.F.R. Part 2 (Public Information).
- b. Claims of confidentiality for the following information will be denied:
 - (1) The name and address of any permit applicant or permittee;
 - (2) Permit applications, permits, and effluent data as defined in 40 C.F.R. §2.302(a)(2).
- c. Information required by NPDES application forms provided by the Regional Administrator under 40 C.F.R. § 122.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

Note: See 40 C.F.R. §122.7 for “Confidentiality of Information” regulations.

8. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The Permittee shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Regional Administrator. (The Regional Administrator shall not grant permission for applications to be submitted later than the expiration date of the existing permit.) [40 C.F.R. § 122.41(b)]

9. State Authorities

Nothing in 40 C.F.R. Parts 122, 123, or 124 precludes more stringent State regulation of any activity covered by these regulations, whether or not under an authorized State program. [40 C.F.R. § 122.1(a)(5)]

10. Other Laws

The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable Federal, State, or local laws and regulations. [40 C.F.R. §122.5(c)]

Section B. Operation & Maintenance of Pollution Controls

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [40 C.F.R. § 122.41(e)]

2. Need to Halt or Reduce Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. [40 C.F.R. § 122.41(c)]

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. [40 C.F.R. § 122.41(d)]

4. Bypass

a. Definitions

- (1) *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.
- (2) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass not exceeding limitations

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs B.4.c. and 4.d. of this section.

c. Notice

- (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
- (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D.1.e of this part (Twenty-four hour reporting).

d. Prohibition of bypass

- (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against a permittee for bypass, unless:
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (C) The permittee submitted notices as required under Paragraph 4.c. of this section.
- (2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in paragraph 4.d(1). of this section.

Note: See 40 C.F.R. §122.41(m) “Bypass” for regulations.

5. Upset

- a. Definition. *Upset* means an exceptional incident in which there is an unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph B.5.c. of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the

affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee submitted notice of the upset as required in paragraph D.1.e. (Twenty-four hour notice); and
 - (4) The permittee complied with any remedial measures required under B.3. above.
- d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

Note: See 40 C.F.R. §122.41(n) “Upset” for regulations.

Section C. Monitoring Requirements

1. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee’s sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 C.F.R. Part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application except for the information concerning storm water discharges which must be retained for a total of 6 years. This retention period may be extended by request of the Regional Administrator at any time.
- c. Records of monitoring information shall include:
 - (1) The date, exact place, and time of sampling or measurements;
 - (2) The individual(s) who performed the sampling or measurements;
 - (3) The date(s) analyses were performed;
 - (4) The individual(s) who performed the analyses;
 - (5) The analytical techniques or methods used; and
 - (6) The results of such analyses.
- d. Monitoring results must be conducted according to test procedures approved under 40 C.F.R. Part 136 unless another method is required under 40 C.F.R. Subchapters N or O.
- e. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine or by imprisonment, or both.

Note: See 40 C.F.R. §122.41(j)(5) for “Monitoring and records” regulations.

2. Inspection and Entry

The permittee shall allow the Regional Administrator or an authorized representative (including an authorized contractor acting as a representative of the Regional Administrator), upon presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

Note: See 40 C.F.R. §122.41(i) for "Inspection and Entry" regulations.

Section D. Reporting Requirements

1. Reporting Requirements

a. Planned Changes.

The permittee shall give notice to the Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is only required when:

- (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 C.F.R. § 122.29(b); or
- (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 C.F.R. § 122.42(a)(1).
- (3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

b. Anticipated noncompliance.

The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. [40 C.F.R. §122.41(1)(2)]

c. Transfers.

This permit is not transferable to any person except after notice to the Regional Administrator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the CWA. (See 40 C.F.R. § 122.61; in some cases, modification or revocation and reissuance is mandatory.)

d. Monitoring reports.

Monitoring results shall be reported at the intervals specified elsewhere in this permit.

- (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Regional Administrator for reporting results of monitoring of sludge use or disposal practices.
- (2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 C.F.R. Part 136 or, another method required for an industry-specific waste stream under 40 C.F.R. subchapters N or O, the results of the monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Administrator.
- (3) Calculations for all limitations which require averaging or measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

e. Twenty-four hour reporting

- (1) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances.

A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

- (2) The following shall be included as information which must be reported within 24 hours under this paragraph.
 - (a) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 C.F.R. § 122.41(g).)
 - (b) Any upset which exceeds any effluent limitation in the permit.

(c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Regional Administrator in the permit to be reported within 24 hours. (See 40 C.F.R. § 122.44(g).)

(3) The Regional Administrator may waive the written report on a case-by-case basis for reports under Paragraph D.1.e. if the oral report has been received within 24 hours.

f. Compliance Schedules.

Reports of compliance or noncompliance with, any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

g. Other noncompliance.

The permittee shall report all instances of noncompliance not reported under Paragraphs D.1.a, D.1.d., D.1.e., and D.1.f. of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in Paragraph D.1.e. of this section.

h. Other information.

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Administrator, it shall promptly submit such facts or information.

Note: See 40 C.F.R. §122.41(l) for “Reporting Requirements” regulations

2. Signatory Requirement

- a. All applications, reports, or information submitted to the Regional Administrator shall be signed and certified. (See 40 C.F.R. § 122.22)
- b. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine or by imprisonment, or by both.

Note: See 40 C.F.R. 122.41(k) for complete “Signatory Requirement” regulations

3. Availability of Reports

Except for data determined to be confidential under Paragraph A.7 above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statements on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the CWA. [40 C.F.R. § 2.302(f)]

PART III. Special Conditions

Section A. Cooling Water Intake Structure Best Technology Available

1. In accordance with section 316(b) of the Clean Water Act, the location, design, construction, and capacity of the Permittee's cooling water intake structure (CWIS) shall reflect the best technology available (BTA) for minimizing adverse environmental impacts from impingement and entrainment of various life stages of fish (i.e., eggs, larvae, juveniles, adults).
2. Nothing in this permit authorizes take for the purposes of the facility's compliance with the Endangered Species Act.
3. The permittee shall monitor and report daily the intake velocity and flow during operation. These measurements must be reported on the DMRs as an average monthly measurement. The individual daily measurements shall be submitted as an attachment to the DMRs (see Part I.C.5).
4. At all times the permittee shall properly operate and maintain the intake equipment that will ensure compliance with the BTA impingement mortality standard at 40 C.F.R. § 125.94(c)(3) and the BTA entrainment standard at § 125.94(d). Technology and operational measures currently employed at the cooling water intake structures must be operated in a way that minimizes impingement mortality and entrainment to the fullest extent possible.
5. The permittee shall notify EPA of any proposed changes to the CWIS or proposed changes to operations at the facility that affect the information considered in the current BTA evaluation.
6. To minimize impingement mortality, the permittee shall maintain an actual through-screen intake velocity of no more than 0.5 feet per second. The maximum velocity must be achieved under all conditions, including during minimum ambient source water surface elevations and during periods of maximum head loss across the traveling screen, except for brief periods in order to maintain the integrity of the CWIS, e.g., during maintenance of the intake structure.
7. The permittee may not alter the location, design, construction, or capacity of the CWIS without prior written approval from EPA. Consistent with 40 C.F.R. 125.97(c), the permittee shall submit to EPA an annual certification statement and report that certifies there have not been substantial modifications to the operation of the CWIS during the prior annual period.
8. Visual or remote inspections. You must either conduct visual inspections or employ remote monitoring devices during the period the CWIS is in operation. You must conduct such inspections at least weekly to ensure that any technologies operated to comply with the BTA for impingement and BTA for entrainment are maintained and operated to function as designed.

Section B. Additional Monitoring for Entrainment

1. ENTRAINMENT MONITORING

The Permittee shall conduct entrainment monitoring when operating the CWIS. Monitoring must be representative of normal operating conditions at the facility.

Entrainment monitoring shall begin the first week of the of the calendar month following the effective date of the permit and continue as long as the permit remains in effect. Entrainment samples shall be collected at least twice a week over a twenty-four hour operational period and collected from a representative location within the CWIS. The permittee must document the following information during each entrainment sampling event:

- Sampling period (i.e., start/end, date/time)
- Number and taxonomic category of organisms collected
- Location within the CWIS where the samples were collected

All fish, eggs, and larvae shall be identified to the lowest distinguishable taxonomic category and counted. Entrainment monitoring results shall be reported annually to EPA in the Biological Monitoring Report.

2. BIOLOGICAL MONITORING REPORT

The Permittee shall submit a Biological Monitoring Report that includes the results of all entrainment monitoring to EPA by December 28th of the calendar year in which the monitoring occurred. The Biological Monitoring Report shall be submitted as an attachment to the December Discharge Monitoring Report (DMR).

Results of entrainment monitoring shall be reported as total number of fish, eggs, and larvae entrained, identified to the lowest distinguishable taxonomic category.

Section C. Application Requirements for Cooling Water Intake Structures

The permittee shall submit the applicable information specified in 40 C.F.R. § 122.21(r) with the permit renewal application:

1. Source water physical data [40 C.F.R. § 122.21(r)(2)]
2. Cooling water intake structure data [40 C.F.R. § 122.21(r)(3)]
3. Source water baseline characterization data [40 C.F.R. § 122.21(r)(4)]
4. Cooling water system data [40 C.F.R. § 122.21(r)(5)]
5. Chosen method(s) of compliance with impingement mortality standard 40 [C.F.R. § 122.21(r)(6)]
6. Entrainment performance studies [40 C.F.R. § 122.21(r)(7)]
7. Operational status [40 C.F.R. § 122.21(r)(8)]

Section D. Considerations Under Federal Law [40 CFR §122.49]

1. Endangered Species

Per the requirements under Section 7 of the Endangered Species Act (50 C.F.R. Part 402; 16 U.S.C. § 1536(c)) and concurrent with making the permit available for public notice and comment, EPA submitted a Biological Evaluation and Finding of not likely to adversely affect listed species or critical habitat to the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries). EPA received a Biological Opinion from the National Marine Fisheries Service (aka NOAA

Fisheries) on October 12, 2021 which completed consultation. No additional permit requirements were stipulated by NOAA Fisheries. EPA did not receive a response from the U.S. Fish and Wildlife Service.

2. National Historic Preservation Act of 1966

The National Historic Preservation Act of 1966 and implementing regulations (36 C.F.R. Part 800) require federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation, or designee, the opportunity to comment on such undertakings. See Section 106, 54 U.S.C. § 306108. EPA notified the District of Columbia State Historic Preservation Office (DC SHPO) that it is proposing to reissue NPDES permit no. DC0000248 and that EPA has determined that this permit does not have the potential to affect historic properties. See 36 C.F.R § 800.3(1).

Section E. Clean Water Act Section 401(a) State Certification Conditions (40 C.F.R. § 121.10)

1. Discharges authorized by this permit shall comply with the District of Columbia Water Pollution Control Act of 1984, as amended (DC Official Code § 8-103.01 and § 8-103.06, et seq.) to ensure that waters of the District of Columbia, waters in adjacent and downstream states, and the beneficial uses of these waters will not be harmed or degraded by the discharges.
2. Discharges authorized by this permit must comply with §§ 1104.1 and 1104.8 of Chapter 11 and the provisions of Chapter 19 of Title 21 of District of Columbia Municipal Regulations to attain and maintain designated uses of waters of the District of Columbia.
3. Upon request, the permittee shall submit all inspection and monitoring reports as required by this permit and 40 CFR § 122.41 to the Associate Director, Inspection and Enforcement Division, Department of Energy & Environment, Government of the District of Columbia, 1200 First Street, NE, 5th Floor, Washington, DC 20002; telephone (202) 535-2226, or by email at Joshua.Rodriguez@dc.gov.

Section F. Definitions and Abbreviations

Administrator means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

Applicable standards and limitations means all, State, interstate, and Federal standards and limitations to which a “discharge”, a “sewage sludge use or disposal practice”, or a related activity is subject to, including “effluent limitations”, water quality standards, standards of performance, toxic effluent standards or prohibitions, “best management practices”, pretreatment standards, and “standards for sewage sludge use and disposal” under Sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of the CWA.

Application means the EPA standard national forms for applying for a permit, including any additions, revisions, or modifications to the forms; or forms approved by EPA for use in “authorized States”, including any approved modifications or revisions.

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For total and/or fecal coliforms and *Escherichia coli*, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of “daily discharges” over a calendar month calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of “waters of the United States.” BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Best Professional Judgment (BPJ) means a case-by-case determination of Best Practicable Treatment (BPT), Best Available Treatment (BAT), or other appropriate technology-based standard based on an evaluation of the available technology to achieve a particular pollutant reduction and other factors set forth in 40 C.F.R. §125.3 (d).

Composite Sample means a sample consisting of a minimum of eight grab samples of equal volume collected at equal intervals during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportional to flow, or a sample consisting of the same number of grab samples, or greater, collected proportionally to flow over that same time period.

Construction activities – the following definitions apply to construction activities:

- (a) *Commencement of construction* is the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.
- (b) *Dedicated portable asphalt plant* is a portable asphalt plant located on or contiguous to a construction site and that provides asphalt only to the construction site that the plant is located on or adjacent to. The term portable asphalt plant does not include facilities that are subject to the asphalt emulsion effluent limitation guideline at 40 C.F.R. Part 443.
- (c) *Dedicated portable concrete plant* is a portable concrete plant located on or contiguous to a construction site and that provides concrete only to the construction site that the plant is located on or adjacent to.
- (d) *Final stabilization* means that all soil disturbing activities at the site have been complete, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
- (e) *Runoff coefficient* means the fraction of total rainfall that will appear at the conveyance as runoff.

Contiguous zone means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

Continuous discharge means a “discharge” which occurs without interruption throughout the operating hours of the facility except for infrequent shutdowns for maintenance, process changes, or similar activities.

CWA means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117; 33 USC §§1251 et seq.

Daily Discharge means the discharge of a pollutant measured during the calendar day or any other 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the “daily discharge” is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the “daily discharge” is calculated as the average measurement of the pollutant over the day.

Director normally means the person authorized to sign NPDES permits by EPA or the State or an authorized representative. Conversely, it also could mean the Regional Administrator or the State Director as the context requires.

Discharge Monitoring Report Form (DMR) means the EPA standard national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by “authorized States” as well as by EPA. EPA will supply DMRs to any authorized State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA’s.

Discharge of a pollutant means:

- (a) Any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source”, or
- (b) Any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation (See “Point Source” definition).

This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works.

This term does not include an addition of pollutants by any “indirect discharger.”

Effluent limitation means any restriction imposed by the Regional Administrator on quantities, discharge rates, and concentrations of “pollutants” which are “discharged” from “point sources” into “waters of the United States”, the waters of the “contiguous zone”, or the ocean.

Effluent limitation guidelines means a regulation published by the Administrator under Section 304(b) of CWA to adopt or revise “effluent limitations”.

EPA means the United States Environmental Protection Agency.

Grab Sample – An individual sample collected in a period of less than 15 minutes.

Hazardous Substance means any substance designated under 40 C.F.R. Part 116 pursuant to Section 311 of the CWA.

Maximum daily discharge limitation means the highest allowable “daily discharge” concentration that occurs only during a normal day (24-hour duration).

Municipality means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under Section 208 of the CWA.

National Pollutant Discharge Elimination System (NPDES) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the CWA. The term includes an “authorized program”.

Owner or operator means the owner or operator of any “facility or activity” subject to regulation under the NPDES programs.

Pass through means a “discharge” which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation).

Permit means an authorization, license, or equivalent control document issued by EPA or an “authorized” State.

Person means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

Point Source means any discernible, confined, and discrete conveyance, including but not limited to any pipe ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff (see 40 C.F.R. §122.2).

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

- (a) Sewage from vessels; or
- (b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes is approved by the authority of the

State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Regional Administrator means the Regional Administrator, EPA, Region 3, Philadelphia, Pennsylvania.

Significant spills include, but is not limited to, releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the CWA (see 40 C.F.R. §110.10 and §117.21) or Section 102 of CERCLA (see 40 C.F.R. § 302.4).

State means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands.

Stormwater means storm water runoff, snow melt runoff, and surface runoff and drainage.

Stormwater discharge associated with industrial activity means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. (See 40 C.F.R. § 122.26 (b) (14) for specifics of this definition).

Time-weighted composite means a composite sample consisting of a mixture of equal volume aliquots collected at a constant time interval.

Toxic pollutants mean any pollutant listed as toxic under Section 307 (a)(1) or, in the case of “sludge use or disposal practices” any pollutant identified in regulations implementing Section 405(d) of the CWA.

Runoff is rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off the land surface.

State is one of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and an Indian tribe eligible for treatment as a State pursuant to regulations promulgated under the authority of section 518(e) of the CWA.

Abbreviations:

AML	average monthly limit
BTA	best technology available
C.F.R.	code of federal regulations
CFS	cubic feet per second
CV	coefficient of variation

CWIS	cooling water intake structure
DO	dissolved oxygen
kg/day	kilograms per day
lbs/day	pounds per day
MDL	maximum daily limit
mg/L or mg/l	milligram(s) per liter
ml/L or ml/l	milliliters per liter
MGD	million gallons per day
N/A	means not applicable
pH	a measure of hydrogen ion concentration. A measure of acidity or alkalinity of a liquid or material
RP	reasonable potential
RPA	reasonable potential analysis
°C	temperature in degrees Centigrade
°F	temperature in degrees Fahrenheit
TBEL	technology-based effluent limit
TSD	technical support document for water-quality based toxics control
TSS	total suspended solids
µg/L or µg/l	microgram(s) per liter
WLA	wasteload allocation
WQBEL	water-quality based effluent limit
ZID	zone of initial dilution