



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Air Quality
P.O. Box 27
Trenton, NJ 08625-0027

JON S. CORZINE
Governor

MARK N. MAURIELLO
Acting Commissioner

March 3, 2009

Mr. Daniel Cunningham
Environmental Policy Manager
PSEG
80 Park Plaza T-17
Newark, NJ 07102

Re: PI#12202 – PSEG Hudson Generating Station

Dear Mr. Cunningham:

The New Jersey Department of Environmental Protection (Department) previously notified you by letter, dated November 1, 2006, that certain emission units at your facility may be subject to the Best Available Retrofit Technology (BART) requirements of the federal Regional Haze Rule (40 CFR 51.300).

On September 5, 2008, the Department proposed a revision to the State Implementation Plan (SIP) to diminish regional haze in the Brigantine Wilderness Area of the Edwin B. Forsythe National Wildlife Refuge, a federally designated Class I area. This proposed SIP is available online at <http://www.state.nj.us/dep/baqp/sip/siprevs.htm>. One of the components, Section 6.0, of the regional haze SIP addresses BART-eligible facilities in New Jersey and includes a commitment to implement rules, or operating permit modifications, to establish procedures to perform BART analyses. This section also clarifies the criteria for identifying which emission units at a BART-eligible facility are required to undergo a BART analysis.

BART-affected emission units are those with start-up dates between August 7, 1962 and August 7, 1977, and having cumulative potential emissions for SO₂ or for NO_x greater than 40 tons per year for such pollutant(s), or for PM₁₀ greater than 15 tons per year. A case-by-case BART analysis is required to address air pollution control measures for each pollutant that exceeds the plant-wide thresholds [70 Fed. Reg. 39117 (July 6, 2005)]. The USEPA has advised us that our previous interpretation of these de minimis levels as applying to individual equipment was incorrect. Hence all significant equipment in your operating permit that meet the Federal criterion for BART affected emission units must be addressed. Significant equipment is as defined at N.J.A.C. 7:27-22.1.

As a result of our final 8-Hour Ozone SIP and proposed PM_{2.5} commitments, New Jersey has proposed, or will propose, multi-pollutant rules regulating many of the largest affected emission


units located at the BART-eligible facilities. These rules include boilers that serve electric generating units (EGUs), and certain refinery operations such as fluid catalytic cracking units (FCCUs), flares and process heaters. Many emission units identified as affected units at BART-eligible facilities are also subject to consent decrees. Federal rules require that there be a top-down BART analysis of all BART-affected units addressing air pollution control measures for each pollutant that exceeds the plant-wide thresholds. In most cases we expect that compliance with our new RACT rules and the consent decrees constitute BART, but in some cases additional control may be determined appropriate by the case-by-case evaluation.

Attached are draft provisions for BART evaluation that we intend to include as a significant modification to your operating permit. I request two things from you at this time:

- (1) Comment on these draft procedures and schedule to Yogesh Doshi by March 23, 2009; and
- (2) Begin to develop the top-down BART evaluation for your facility consistent with the attached schedule.

Please feel free to contact Yogesh Doshi of my staff by e-mail at Yogesh.Doshi@dep.state.nj.us, or by telephone at (609) 633-7249, with any general questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "William O'Sullivan", with a long horizontal flourish extending to the right.

William O'Sullivan, P.E.
Director
Division of Air Quality

Enclosures

C: T. Allen, U.S.F.W.S.
K. Connaughton, U.S.D.O.A.
R. Werner, U.S.E.P.A.
J. Preczewski
C. Salmi
Y. Doshi
F. Steitz

Enclosure 1. Proposed Schedule for BART Evaluation

Task	Schedule	Date Due
1. Facility submits proposed BART control plan	90 days after effective date*	July 15, 2009
2. Department determines administrative completeness	Within 30 days after receiving a proposed BART control plan	August 15, 2009
3. Facility addresses deficiencies, if any, and submits complete plan	Within 30 days after receiving an administrative completeness letter	September 15, 2009
4. Department determines technical completeness	Within 30 days after receiving an administratively complete plan	October 15, 2009
5. Facility provides additional technical information (if necessary)	Within 30 days after receiving a written request for information (if necessary)	November 15, 2009
6. Department issues public notice	270 days after effective date	January 15, 2010
7. Department addresses public comments and issues decision	330 days after effective date	March 15, 2010

*The Department anticipates finalizing the attached procedures and requesting BART control plans on April 15, 2009

Enclosure 2 Case-by-case BART Determinations and Procedures

- (a) This section establishes procedures and standards for establishing facility-specific BART emission limitations for visibility impairing air pollutants emitted from BART-applicable equipment located at BART-eligible facilities identified in Table 1 below.

Table 1. List of BART-eligible facilities

<i>BART-eligible Facility (Name)</i>	<i>Plant ID</i>	<i>Location (County)</i>
Amerada Hess	17996	Middlesex
Chevron	18058	Middlesex
ConocoPhillips	41805	Union
Sunoco Eagle Point	55781	Gloucester
PSEG – Hudson	12202	Hudson

- (b) The owner or operator of a BART-eligible facility listed in (a) above with any BART-applicable equipment shall submit to the Department in writing a proposed facility-specific BART control plan for the BART-applicable equipment no later than 90 days after the effective date of the BART evaluation request. The owner or operator shall obtain the Department's written approval of a facility-specific BART control plan in accordance with this section by 330 days after the effective date of the BART evaluation request or a later date as approved by the Department (no later than 360 days after the effective date of the BART evaluation request). In the proposed plan, the owner or operator will include:
1. A list of each piece of equipment at the facility that was in existence on August 7, 1977 and began operation after August 7, 1962, and corresponding potential to emit SO₂, NO_x and PM₁₀ from each piece of BART-applicable equipment. In the list, the owner or operator will briefly describe the BART-applicable equipment, existing control devices, and list its permit number and any other identifying numbers consistent with the Title V permit;
 2. For each piece of equipment listed at (b)1 above, a list of all additional NO_x, SO₂ and PM₁₀ control technologies or measures, as applicable, available for use with the equipment which could further reduce the emissions of one or more of these air contaminants;
 3. An analysis of the technological feasibility of installing and operating each control technology or measure identified at (b)2 above;
 4. For each control technology or measure which is technologically feasible to install and operate, an estimate of the cost of installation and operation;
 5. An estimate of the remaining useful life of each piece of equipment listed at (b)1 above;
 6. An estimate of the reduction in NO_x, SO₂ and PM₁₀ emissions, as applicable, attainable through the use of each control technology or measure which is technologically feasible to install and operate;
 7. For each piece of equipment listed at (b)1, the additional NO_x, SO₂, and PM₁₀ control technologies or measures, as applicable, which the owner or operator

proposes to employ, and a proposed schedule for installation and commencement of operation;

8. For each piece of equipment listed at (b)1, a proposed NO_x, SO₂ and PM₁₀ emission limit, as applicable;
9. Analyze and report the energy impacts of the control technology or measure, and non-air quality related impacts such as solid or hazardous waste generation and polluted water discharges;
10. Any other information which the Department requests which is reasonably necessary to enable it to determine whether the application satisfies the requirements at (e) below; and
11. A certification signed by the owner or operator, satisfying the requirements at N.J.A.C. 7:27-1.39.

(c) Within 30 days after receiving a proposed BART control plan, the Department will notify the owner or operator in writing whether the submitted plan includes all of the information required at (b). If the submitted plan is incomplete, the following will apply:

1. The Department will include in the notice a list of the deficiencies, a statement of the additional information required to make the submitted plan complete, and a time by which the owner or operator must submit a complete proposed BART control plan;
2. The Department may refrain from reviewing the substance of the submitted plan (or any part thereof) until it is complete;
3. The owner or operator will submit a complete proposed plan within the time stated in the Department's notification.

(d) The Department will seek comments from the general public, the United States Environmental Protection Agency and the Federal Land Manager, before making any final decision to approve or disapprove a proposed BART control plan.

(e) Within six months after receiving a complete proposed BART control plan, the Department will approve, approve and modify, or disapprove the proposed plan and notify the owner or operator of the decision in writing. The Department will approve the proposed plan only if it satisfies the following requirements:

1. The proposed plan contains all of the information required under (b) above;
2. The proposed plan considers all control technologies and measures available for the control of NO_x, SO₂ or PM₁₀ emissions, as applicable, from the type of equipment in question;
3. For any control technology or measure described in (e)2 above which the owner or operator does not propose to use on the BART-affected equipment, the proposed plan demonstrates that the control technology:
 - i. Would be ineffective in controlling NO_x, SO₂ or PM₁₀ emissions, as applicable, from the BART affected equipment;
 - ii. Is unsuitable for use in the BART affected equipment, or duplicative of

- control technology which the plan proposes to use;
 - iii. Would carry costs disproportionate to the improvement in the reduction of the NO_x, SO₂ or PM₁₀ emissions rate, as applicable, which the control technology is likely to achieve, or disproportionately large in comparison to the total reduction in NO_x, SO₂ or PM₁₀ emissions, as applicable, which the control technology is likely to achieve over its useful life; or
 - iv. Would carry costs disproportionate to the costs incurred for the control of NO_x, SO₂ or PM₁₀ emissions, as applicable, from the same type of equipment used by other persons in the owner or operator's industry;
 - 4. The emission limit proposed for the BART affected equipment is the lowest rate which can practicably be achieved at a cost within the limits described at (e)3iii and iv above;
 - 5. The cost of achieving an additional emission reduction beyond each proposed limit would be disproportionate to the size and environmental impact of that additional emission reduction; and
 - 6. Any significant net emission of any other criteria pollutant as a result of the implementation of the control technology or measure does not cause or significantly contribute to a violation of a National Ambient Air Quality Standard, an exceedance of a Federal Prevention of Significant Deterioration increment if applicable, or any violation of the Clean Air Act, 42 U.S.C. 7401 et seq. The determination of whether such an increase causes or significantly contributes to an exceedance of a National Ambient Air Quality Standard will be determined pursuant to N.J.A.C. 7:27-18.
- (f) The Department will submit to EPA for approval as a revision to the State Implementation Plan (SIP) any BART control plan the Department approves pursuant to these procedures and standards.
- (g) As a condition of an approval issued under this section, the Department will include schedules for BART implementation and may impose requirements upon the operation of any of the BART affected equipment at the subject facility listed pursuant to (b) above necessary to minimize any adverse impact upon human health, welfare and the environment;
- (h) Before altering any BART affected equipment included in an approved BART control plan, the owner or operator will:
- 1. If the alteration would change any of the information required at (b) above, apply for and obtain pursuant to the procedures set forth at (b) through (g) above, the Department's approval of an amended facility-specific BART control plan, reflecting the proposed alteration. If the owner or operator does not obtain the Department's approval before commencing operation of the altered BART Affected Equipment, the Department may (in addition to assessing penalties under N.J.A.C. 7:27A-3.10) modify the facility-specific BART control plan to reflect the alteration, in a manner satisfying the criteria set forth in (e) above; and
 - 2. Apply for and obtain such permits and certificates, or changes thereto, as are

required under N.J.A.C. 7:27-8 or 22, N.J.A.C. 7:1K-5, and any other applicable law or regulation.

- (i) The Department will revoke an approval of a BART control plan by written notice to the holder of the approval if EPA denies approval of the proposed BART control plan as a revision to either the ozone or fine particulate State Implementation Plan. The Department may revoke an approval of a BART control plan by written notice to the holder of the approval, if:
 - 1. Any material condition of the approval is violated;
 - 2. The Department determines that its decision to grant the approval was materially affected by a misstatement or omission of fact in the proposed plan or any supporting documentation; or
 - 3. The Department determines that continued use of the BART affected equipment pursuant to the approval poses a potential threat to the public health, welfare or the environment.
- (j) A person may request an adjudicatory hearing in accordance with the procedure at N.J.A.C. 7:27-8.12, if:
 - 1. The Department denied the person's application for approval of a plan under this section;
 - 2. The person seeks to contest one or more conditions of the Department's approval imposed under (g) above; or
 - 3. The Department has revoked the person's approval pursuant to (i)1, 2 or 3 above.
- (k) The owner or operator of a facility with a Department-approved facility-specific BART control plan will implement that plan (including, without limitation, complying with the emission limits set forth in the plan) and maintain compliance with the plan and all conditions of the Department's approval.
- (l) The owner or operator submitting a proposed facility-specific BART control plan will send it to the Department at the following address:

Section Chief, Bureau of Operating Permits
Division of Air Quality
Department of Environmental Protection
401 East State Street
PO Box 027
Trenton, New Jersey 08625-0027