

BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

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November 21, 2002

James A. Joy III, Bureau Chief
Bureau of Air Quality
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201

Re: Part 70 Air Quality Permit No. TV-0080-0041
US Department of Energy, Westinghouse Savannah River Company
Savannah River Site, Aiken & Barnwell counties/Lower Savannah EQC District

Dear Mr. Joy:

On behalf of the Blue Ridge Environmental Defense League Board of Directors and our members in the area, I write to provide additional comments on the draft Title V permit for the Savannah River Site. These remarks are in addition to our comments filed on January 15 and February 20, 2002 by Don Moniak. We appreciate the Department of Health and Environmental Control's granting of our request for a comment deadline extension. We have used the additional time to review documents on file in Columbia and elsewhere which allow us to make more comprehensive assessment of the draft permit. However, I would like to register two requests: 1) that the Department take care in responding to public document requests to ensure that records which are copied and mailed to citizens be done neatly and in order, and 2) that the Department reduce its fees of 25 cents/page for copying of public documents. Mr. Jody Hamm and his staff at the Freedom of Information Office in Columbia were most considerate and helpful in gathering large numbers of documents for our review and we appreciate their services very much. But the documents which were mailed by DHEC to our office were disorganized and out of order. We might could expect that the high copying fee would result in a professional work product, but this was not the case. It took many hours of additional work to put the papers in order.

Overview

The Savannah River Site is a sprawling defense industry complex of 310 square miles which processes and stores nuclear materials and which is attempting to clean up radioactive and hazardous wastes created during the last 50 years. From 1953 to 1988 SRS produced 36 metric tonnes of plutonium in five nuclear reactors. These reactors also produced large quantities of tritium. The site has two chemical separation plants, a heavy water extraction plant, a nuclear fuel and target fabrication plant, a tritium extraction plant, and several waste management operations.

According to BAQ, the major operations which will continue at SRS under this permit are

1) extraction of tritium to be generated at commercial nuclear power reactors run by Tennessee Valley Authority, 2) storage of irradiated nuclear fuel which SRS continues to accept from foreign research reactors, 3) separation of nuclear materials at F-Area and H-Area “canyons,” 4) bonding of 38 million gallons of high-level radioactive liquid waste in borosilicate glass at the Defense Waste Processing Facility, and 5) remediation activities at 515 contaminated sites. Decades of reactor fuel operations contaminated soil and groundwater with toxic solvents and radionuclides. SRS is on the national priority “Superfund” list under CERCLA. To date, four billion gallons of groundwater have been treated, releasing one million pounds of industrial solvents into the air; BAQ expects these decontamination activities to continue for decades.

The draft permit lists 1530 sources of air pollution at SRS. Of this total 96 are large, non-exempt sources with associated regulatory limits and 1434 are exempt sources considered insignificant under federally approved rules. Of the exempt sources, 95 are emergency diesel generators or pumps. Facilities at SRS are now operated by Westinghouse, Bechtel, BWX Technologies, and British Nuclear Fuels.

General Comments

As you know, Title V Permits must include: 1) CAA requirements applicable to the source 2) a schedule for compliance and 3) monitoring and reporting requirements. Title V permits are meant to reduce confusion by including all applicable requirements that apply to a given source. The operating permit program is designed to define compliance, not just applicable standards. The permit must list all applicable requirements including monitoring, methods of testing, semi-annual reporting, and annual compliance certification. Compliance is determined by monitoring conditions with respect to an associated standard. If there is no federal standard for monitoring requirements, averaging times, or record keeping, Title V directs the state to determine them. This monitoring provision allows the state, the operator, and the public to know if the facility is in compliance with emission standards.

Permit conditions must be practically enforceable, that is, they must make it possible to determine whether a plant is complying with the rules. The permit must clearly explain how the requirements apply to the facility. If one cannot tell what the facility is required to do to comply with permit limits, it is not practically enforceable. With limited exceptions, a facility must comply with regulations at all times. The public may use any credible evidence to show a facility is violating its permit. Evidence may include air sampling tests taken at the property line of the facility. We find that the draft Title V permit for the Savannah River Site lacks important elements which would make determination of compliance and enforcement of regulations difficult.

Specific Comments

Statement of Basis

BAQ has not included a sufficient statement of basis in this draft Title V permit as required under 40 CFR § 70.7(a)(5) which states: “The permitting authority shall provide a statement that sets forth the legal and factual basis for the draft permit conditions...” EPA provided an interpretation of 40 CFR § 70.7(a)(5) which states that the rationale for specific monitoring

methods must be clear and documented (see In re Fort James Camas Mill, December 22, 2000 at http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/fort_james_decision1999.pdf). The omission must be corrected before BAQ issues this permit. The statement of basis must include a description of the facility, any federal regulatory applicability determinations and the rationale for monitoring methods selected.

Compliance Assurance Monitoring

In general condition 3.R, BAQ asserts that the draft permit contains compliance certification measures which are sufficient to fulfill requirements. But BAQ has sidestepped the applicability of 40 CFR 64 in this permit. The engineers review for the permit states, "There are processes for which PTE exceeds Title V threshold limits (PTE > 10/25 TPY HAP or > 100 TPY criteria pollutants), and that also has control equipment associated with it. However, since this TV permit application was deemed complete prior to April 20, 1998, applicability will apply at the next Title V renewal." (Engineering Calculation Sheet, 10/11/02, page 23). BAQ notes that 40CFR64 is not applicable. But the federal regulations clearly do apply; 40CFR64 states:

§64.2 Applicability.

(a) *General applicability.* Except for backup utility units that are exempt under paragraph (b)(2) of this section, the requirements of this part shall apply to a pollutant-specific emissions unit at a major source that is required to obtain a part 70 or 71 permit if the unit satisfies all of the following criteria:

- (1) The unit is subject to an emission limitation or standard for the applicable regulated air pollutant (or a surrogate thereof), other than an emission limitation or standard that is exempt under paragraph (b)(1) of this section;
- (2) The unit uses a control device to achieve compliance with any such emission limitation or standard; and
- (3) The unit has potential pre-control device emissions of the applicable regulated air pollutant that are equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source. For purposes of this paragraph, "potential pre-control device emissions" shall have the same meaning as "potential to emit," as defined in §64.1, except that emission reductions achieved by the applicable control device shall not be taken into account.

The CAM rule 40 CFR 64 was promulgated and published in the Federal Register on Oct. 22, 1997 (62 FR 54940), six months prior to the date the SRS Title V application was deemed complete. No exemptions listed in subsection (b)(1) of the rule apply to SRS, control devices are installed, and SRS is classified as a major source. Therefore, compliance assurance monitoring applies to the permit. DHEC must make the requisite changes under 40 CFR 64 before issuing the permit.

National Emission Standards for Hazardous Air Pollutants

Regarding NESHAP (40CFR63), the BAQ states, "There do not appear to be any final MACT standards to which SRS would be subject at this time." (Engineering Calculation Sheet, 10/11/02, page 23) SRS is a complex facility which may be subject to a Source Category Maximum Achievable Control Technology, or MACT, in the future. However, other means for limiting HAPs are readily available which do not depend on the EPA to issue a final decision on a MACT for SRS sources. In 1995 the EPA issued a memo which states that HAP-emitting facilities must comply with all major source requirements regardless of whether a specific MACT has been finalized and directs owner/operators to take action before final compliance

deadlines. The memo also outlined how they may be applied by states under Section 112 of the Clean Air Act.

For clarity, the Agency wishes to note that as long as a facility does not qualify for treatment as an area source, the facility must comply with any applicable major source requirement under the Clean Air Act. Facilities in need to comply with additional limits to qualify as area sources will need to plan ahead to obtain the limits before compliance deadlines for major source requirements. Facilities should consult with State and local air agencies concerning the timing of any necessary submittal.

In addition, EPA is committed to implementation of the urban area source program as required in Section 112(c)(3) of the CAA. This program requires EPA to issue air toxics standards for area sources representing 90 percent of the area source emissions of the 30 hazardous air pollutants that present the greatest threat to public health in the largest number of urban areas. Together, the Residual Risk Standards and the Urban Area Source Standards ensure protection of public health beyond that achieved by implementation of the MACT standards for major sources.

(Memorandum of May 16, 1995 regarding Potential to Emit for MACT Standards Guidance on Timing Issues, John S. Seitz, Director Office of Air Quality Planning and Standards (MD-10) to Directors EPA Regions I-X)

In 1996 the OAQP&S provided further instruction to states lacking federally-enforceable PTE limits. The memo outlines an option for enforcing emission limits by treating some sources as non-major if their PTE is below the applicable threshold. SRS is a major source comprised of some major and many non-major sources. The thrust of the EPA's policy here shows that the agency intends for all sources, major and minor, to have practically enforceable emission limits even when administrative or legal procedures delay implementation.

The Current Transition Policy

In a policy memorandum of January 25, 1995, the EPA announced a transition policy. This transition policy was to alleviate concerns that sources may face gaps in the ability to acquire federally-enforceable PTE limits because of delays in State adoption or EPA approval of programs or in their implementation. In order to ensure that such gaps would not create adverse consequences for States or for sources, the EPA provided that for a 2-year period extending from January 1995 to January 1997 (for sources lacking federally-enforceable limitations), State and local air regulators have the option of treating the following types of sources as non-major:

- (1) sources who maintain adequate records to demonstrate that actual emissions are less than 50 percent of the major source threshold, and
- (2) sources emitting between 50-100 percent of the threshold, but holding State-enforceable limits that are enforceable as a practical matter.

August 27, 1996 Memorandum regarding Extension of January 25, 1995 Potential to Emit Transition Policy, John S. Seitz, Director, Office of Air Quality Planning and Standards (MD-10) and Robert I. Van Heuvelen, Director, Office of Regulatory Enforcement (2241A).

Before issuing this permit, BAQ must ensure that each SRS source has the lowest possible emission limits, with corresponding monitoring, recordkeeping, and reporting requirements. Furthermore, to ensure that these standards are enforceable under the CAA as a practical matter, the compliance documents must be made readily available to interested members of the public.

Schedule of Compliance

BAQ omitted a consent order which was issued for this facility. Permit condition 7.C states that a compliance schedule is "Not applicable to Savannah River Site at this time." A compliance schedule is indicated when a facility has a history of problems with existing regulations. The original SRS permit applications was submitted in 1996, but permits must contain up-to-date compliance schedules including any consent orders. In 1996 Consent Order #96-58-A was issued to South Carolina Electric and Gas Company (SCE&G) for violations of SC statute 61-62.1 II. SCE&G operates the SRS D-Area Powerhouse (Operating Permit No. 0080-0044). The company paid a fine of \$2,500 for excess emissions of sulfur dioxide in its D-Area coal-fired boiler number 3. Also, SCE&G was ordered to perform special fuel sampling protocols to prevent future excess emissions. The unit had a history of excess SO₂ emissions while being operated by its previous owner, Westinghouse Savannah River Company, which instituted the protocols. The power plants were transferred from WSRC to SCE&G in 1995. Regardless of any transfers of ownership, the terms of this order and any other administrative or judicial orders must be included in the permit before it is issued by BAQ.

On April 27, 2001 BAQ issued a notice of violation to WSRC and DOE for two air permit breaches: 1) Failure to calibrate, operate, and maintain pressure drop indicator for the ash handling system baghouse (SC Code Ann. § 48-1-110(d)) and 2) Failure to submit results of source testing and tritium release reports at the Replacement Tritium Facility in H-Area (40 CFR § 61.13(f)). Each of these violations were cited twice in the NOV. Since BAQ inspections are done on an annual basis, we question whether SRS is now in compliance with the state requirement at the ash system pollution control device. Under no circumstances may a permit sanction non-compliance with an applicable requirement. BAQ may not permit an ongoing violation.

On May 16, 1995 BAQ issued a notice of violation to SRS for failure to obtain permits for the installation and operation of eight diesel-powered air compressors in G-Area (SC Regulation 61-62). While we applaud the Lower Savannah District BAQ inspector's ability to spot these violations, we are troubled by the fact that BAQ would simply request that DOE/WSRC submit permit applications for units which had been in operation for an unknown period of time without assessing a penalty.

Incineration of Radioactive Waste

The burning of hazardous and radioactive wastes in the H-Area Consolidated Incinerator Facility (Unit ID # H-010) is allowed by the draft permit. The CIF may not be operating at this time, but the draft permit for the H-Area CIF would allow the incineration of radionuclides. Radionuclide emissions cannot be destroyed by combustion, only dispersed into the atmosphere.

The draft permit sets maximum waste feed rates by weight: 1637 pounds/hour of liquid waste plus 2025 pounds/hour of solid waste. The CIF must comply with 40 CFR 61 Subpart H, *National Emission Standards of Radionuclides Other Than Radon From Department of Energy Facilities*, which states that emissions of radionuclides to the air shall not exceed that which would cause any member of the public to receive a dose of 10 millirem per year. Emission rate measurements from the stacks are stipulated in the permit, but the millirem standard for maximum allowable dosage to the public is an ambient standard, not an emission limit. The

permit fails to require any direct measurement of radioactive dose to the public and cannot be enforced as a practical matter. Therefore, the Blue Ridge Environmental Defense League recommends that BAQ delete the CIF from the permit and that the unit not be re-started.

We plan to submit additional comments before the close of the record. We request that BAQ notify us of any decisions regarding this permit.

Respectfully submitted,

Louis A. Zeller

Cc: Brett Caswell
Donna Moye
