

**BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
STAFF RESPONSE TO REQUEST FOR REVIEW**

Docket No. 24-RFR-51

Requestors:

Andy Lytle, Gary Griffith, and Caroline Land

RECEIVED

Summary of Staff Decision submitted by:

Steve McCaslin, Director
Air Permitting Division

MAR 28 2024

Clerk, Board of Health
and Environmental Control

SUMMARY:

This Request for Review (RFR) challenges a Synthetic Minor Air Quality Permit (“Permit”) issued by DHEC’s Bureau of Air Quality (“BAQ”) on March 1, 2024 to Silfab Solar. The Permit authorizes construction of a new solar cell and solar panel production facility in Fort Mill, South Carolina, located in York County. More specifically, the Permit authorizes construction of the following: module manufacturing equipment and processes, solar cell manufacturing equipment and processes, a diesel-fired emergency generator, and chemical storage tanks (two 5,280-gallon storage tanks for storing 37% hydrochloric acid; two 7,925-gallon storage tanks for storing 49% hydrogen fluoride; and two tube trailers for holding 26,456 lbs of silane). The Permit establishes emission limits, along with source testing, monitoring, recordkeeping, and reporting requirements, including federally enforceable emission limits to constrain hazardous air pollutant (“HAP”) emissions below “major source” levels. Lastly, the Permit incorporates applicable chemical accident prevention requirements in accordance with federal regulations.

The Permit underwent a public notice and comment period as required by applicable regulations, including a public meeting and public hearing. After due consideration of comments received, the Department issued the final Department Decision which included a written response to comments and the Permit which incorporates increased reporting and testing frequency.

In their RFR, Requestors present a list of seventeen follow up questions, informational requests, and comments in relation to the proposed facility as well as DHEC Board procedures. While some of the listed items are related to air quality matters, most of the listed items address concerns outside the scope of DHEC air quality permitting. Individually and collectively, the listed items do not confer standing upon Requestors and do not constitute valid grounds for contested case review, as they do not allege with specificity any defect or impropriety with the Permit. Notwithstanding this jurisdictional issue, the Permit’s collective requirements and conditions on the construction and subsequent operation of the facility were appropriately established in accordance with all applicable air quality regulations. As such, the Permit was lawfully and appropriately issued.

RELEVANT CHRONOLOGY:

- **June 2 and 5, 2023** – The Department received electronic and hardcopy construction permit applications from Silfab Solar’s consultant. Both a confidential application (containing claimed proprietary information) and a public version were received.
- **June 12, 2023** – The Department accepted the application into the expedited review program.
- **June 16, 2023** – The Department requested safety data sheets (“SDS”) for hydrochloric acid (“HCl”) and hydrogen fluoride (“HF”) stored in the storage tanks and corrections to the HCl and HF storage modeling analysis. The requested information was received on June 22, 2023.
- **June 30, 2023** – The Department requested additional information regarding the emission calculations. The requested information was received and updated emissions tables were provided on July 7, 2023.
- **July 13, 2023** – The Department requested information regarding monitoring parameters and Part 68 risk management program regulatory applicability. The requested information was received on July 18, 2023.
- **August 2, 2023** – The Department requested information regarding the use of silane and potting material in the process. The requested information was received and updated volatile organic compound (“VOC”) calculations were provided on August 4, 2023.
- **August 9, 2023** – The Department issued public notice of the permit application, along with a draft permit and statement of basis. This notice was posted on DHEC’s public notice website and sent via email to individuals on DHEC’s mailing list. The notice stated that comments would be accepted through September 7, 2023.
- **September 22, 2023** – The Department issued a public notice extending the public comment period. The notice stated that comments would be accepted through November 3, 2023. This extension included information on a public meeting to answer questions about the project and a public hearing at which members of the public could offer comments.
- **October 30, 2023** – The Department held a public meeting and a public hearing at Fort Mill School District Office Training Center, which was well attended by more than a hundred people. Public comments were heard and recorded by a court reporter during the public hearing.
- **November 3, 2023** – The public comment period closed.
- **November 17, 2023** – The Department performed an inspection of the proposed site after receiving comments that the facility had begun manufacturing solar panels. The regional inspector verified there was no manufacturing equipment onsite and the facility had not started manufacturing operations.
- **November 21, 2023** – The Department requested additional information regarding the planned use of a thermal oxidizer and an updated permit application. The Department also

discussed changes to the draft permit with Silfab Solar in response to comments received.

- **December 21, 2023** – DHEC management discussed county zoning requirements with York County officials in response to concerns from the community.
- **February 2, 2024** – The Department received additional information regarding the planned use of a thermal oxidizer.
- **February 15 and 20, 2024** – The Department received updated electronic and hardcopy applications.
- **February 19, 2024** – The Department received updated emission calculations for the thermal oxidizer.
- **February 21, 2024** – The Department requested an update to particulate matter (“PM”), PM10, PM2.5 emissions calculations. The requested calculations and associated form were received on February 22, 2024.
- **March 1, 2024** – After due consideration of all comments received, the Department issued the final Department Decision which included a written response to comments and the Permit which incorporates increased reporting and testing frequency.

RELEVANT LAW:

S.C. Code Ann. §§ 48-1-10, et seq., *Pollution Control Act*;

S.C. Code Ann. Regs. 61-62 (“R.61-62”), *Air Pollution Control Regulations and Standards*
Specifically including but not limited to the following:

- R.61-62.1, Section II.E, governing issuance of synthetic minor construction permits;
- R.61-62.5, Standard No. 8, *Toxic Air Pollutants* (“Standard No. 8”); and
- R.61-62.68, *Chemical Accident Prevention Provisions* (implementing 40 C.F.R. Part 68, *Chemical Accident Prevention Provisions*) (“Part 68” or “Risk Management Program” regulations”).¹

The Department’s air quality regulations, found collectively at S.C. Code Ann. Regs. 61-62, are promulgated pursuant to authority granted by the *Pollution Control Act*. This law confers upon the Department the power to promulgate regulations, issue permits, conduct inspections, issue orders and administer penalties, and take all action necessary or appropriate to secure to the state the benefits of all federal and state air pollution control laws.

Through the Department’s air quality regulations and permitting processes, the Department implements both state-specific requirements as well as federal requirements pursuant to the *Clean Air Act* and implementing U.S. Environmental Protection Agency regulations. Applicable standards and requirements are established to be protective of public health and the environment. Specific regulatory

¹ Other additional federal and state regulations are referenced in the Permit and Statement of Basis. Please refer to the Permit for information regarding further regulations and requirements under the Permit.

and permit requirements will vary depending on the nature of operations proposed by a permit applicant, as well as the types and quantities of pollutants that will be emitted.

In general, permit applicants must demonstrate that a proposed project will not interfere with the state's continued attainment with national ambient air quality standards, which restrict ambient concentrations of six so-called "criteria" air pollutants. Department permits also implement state toxic air pollutant ("TAP") standards under Standard No. 8 which restricts ambient concentrations of specified TAPs. Additionally, permits implement chemical accident prevention provisions under the Part 68 regulations which require subject facilities to develop a chemical Risk Management Plan and comply with requirements for identification of hazards, prevention, and minimization of the effects of any accidental chemical release. Lastly, some permits designated as "synthetic minor" include federally enforceable limits requiring facilities to constrain their emissions below regulatory thresholds that would otherwise subject them to additional regulatory and permit requirements (*e.g.*, "major source" standards for HAPs and Title V permitting requirements).

Pursuant to S.C. Code §48-1-100(A), upon finding that a discharge from a proposed source will not be in contravention of *Pollution Control Act* requirements, a permit must be issued.

JURISDICTIONAL ISSUES:

The governing statutes and case law establish that failure to identify any specific permit defect or impropriety renders a Requestor without standing and the RFR without contested case jurisdiction. As explained herein, Requestors lack standing and fail to state a cognizable claim because they present no contested case or theory under which relief may be granted.

Pursuant to S.C. Code Sections 44-1-60(A) and (E)(2), "affected persons" are afforded standing to seek administrative review of any DHEC environmental permit issuance or other action which may give rise to a contested case. In challenging an environmental permit, this means that an affected person may seek contested case review of "whether DHEC engaged in a proper environmental analysis in the first instance, including complying with all statutory and regulatory requirements, before issuing [a] permit."² By contrast, where an affected person raises only generalized or peripheral concerns and does not identify any specific permit defect, no actionable claims, legal rights, or duties are implicated, and thus there can be no standing or contested case jurisdiction.³

The RFR lists miscellaneous questions, informational requests, comments, and concerns spanning a wide variety of topics. These topics range from emissions and air permitting questions, to questions and concerns about second-hand smoke, zoning matters, the statutory appeals process, and the

² *Preservation Society of Charleston v. S.C. Dep't of Health and Envtl. Control*, 430 S.C. 200, 215, 845 S.E.2d 481, 489 (2020).

³ *See, e.g., id.*, 430 S.C. at 209, 845 S.E.2d at 486 (fundamental to standing is the assertion of "a legal claim" or a claim to "judicial enforcement of a right or duty"); *Coastal Conservation League v. S.C. Dep't of Health and Envtl. Control*, No. 22-ALJ-07-0082-CC, at *8 (S.C. Admin. L. Ct. Aug. 10, 2022) (Reibold, J.) (affected person failed to establish an underlying right, privilege, or duty owed to it sufficient for contested case jurisdiction to challenge a DHEC action); *Brawley v. S.C. Dep't of Health and Envtl. Control*, No. 16-ALJ-30-0234-CC (S.C. Admin. L. Ct. Nov. 17, 2016) (Robinson, J.) (dismissing challenge to DHEC sewer project permit for failure to raise any specific concern "within the purview of the Department" to address).

makeup of the DHEC Board. Whether air-quality related or not, the listed items do not identify any specific statutory or regulatory requirement contravened by the Permit or any specific impropriety by the Department in issuing the Permit. Therefore, Requestors lack standing and the RFR fails to state a claim upon which relief may be granted as it presents no contested case or theory under which the DHEC Board or a court may grant relief.

STAFF RESPONSE:

Without waiving the jurisdictional issues discussed above, the Department has reviewed each item listed in the RFR and responds as follows:

I. The questions, informational requests, and other feedback included in the RFR do not establish a basis for review, because they do not actually contest the Permit's terms and conditions.

The RFR does not specifically dispute that the Permit issuance was consistent with applicable requirements, does not state any specific grounds for rescinding the Permit, and does not identify with specificity any desired changes to the Permit or the legal grounds warranting such change. As such, Requestors' stated questions and concerns create no basis for review.

In general, many of the items listed in the RFR are unrelated to air quality or are otherwise outside the scope of DHEC air quality permitting. Specifically, the following items bear no relation to the validity of the challenged Permit:

- Items numbered 3, 5, and 8 are topics not covered by the Permit or within the Department's air quality permitting or regulatory authority.
- Items 16 and 17 claim grievances with the DHEC Board appeals process and the makeup of the Board – topics which are governed by mandatory statutory provisions.

All but one of the remaining items listed in the RFR represent an array of questions, requests, and comments that are related to the facility's emissions or the Permit, but do not identify with specificity any desired changes to the Permit or the legal grounds warranting such change.⁴ These items appear to be seeking clarity, desiring additional information, or implying dissatisfaction with information appearing in the permitting documents. Many of these questions and concerns were previously addressed in the Department's Response to Comments, released in conjunction with the issued Permit.

Although the items listed in the RFR do not establish a basis for review or establish any grounds for review, modification, or rescission of the issued Permit, the attached Appendix A provides detailed responses addressing the items listed in the RFR with the exception of Item 12 which is discussed in detail in the body of this response.

⁴ The RFR includes one limited but unspecific request for a change to the Permit in Requestors' Item 12. This topic is addressed separately in Section III of the Staff Response.

II. The Permit's terms and conditions are appropriate and satisfy regulatory requirements governing permit issuance.

The RFR collectively reflects a generalized discontent with the Permit. While this provides no basis for review, the Department maintains the Permit was validly and appropriately issued.

As guided by air quality regulations, the Permit imposes applicable requirements for activities and emissions associated with solar module manufacturing, solar cell manufacturing, and chemical storage tanks. These air quality requirements include but are not limited to:

- The facility modeled compliance with Standard No. 8 ambient TAP standards, and estimated emissions of criteria pollutants were shown to be well below levels at which modeling would be required.
- The Permit contains federally enforceable HAP limits and requires the facility to continuously maintain records of all HAPs and verify compliance on a monthly and 12-month rolling sum basis.
- The facility must use wet acid scrubbers with at least 96% control efficiency to control for hydrochloric acid ("HCl") and hydrogen fluoride ("HF") emissions, and the facility is required to conduct initial and periodic performance testing to verify emissions control.
- A variety of operational parameters must be monitored and recorded daily, and operational ranges for each parameter must be established to ensure proper operation. Any deviations outside of required parameters must be recorded and corrected (and reported to the Department).

In addition to the above air quality requirements, the Permit also incorporates Part 68 regulatory requirements, based on the facility's storage of two subject chemicals (HCl and silane) above threshold levels. These regulations require the facility to develop a chemical Risk Management Plan ("RMP") and comply with all applicable Risk Management Program provisions so as to identify hazards and prevent and minimize the effects of any accidental chemical releases. The facility is required to develop and submit its RMP, and develop an emergency response plan, prior to the time at which any regulated substance is present above the threshold levels, and the facility must also revise and update its RMP and hazard analysis in accordance with specified timeframes.

This Permit, like all air quality permits issued by the Department, was drafted and issued in a manner to promote regulatory compliance and protection of those health and environmental interests which may be of concern to Requestors. The Permit was issued consistent with the Department's authority and implements all applicable requirements.

III. The monitoring, recordkeeping, and reporting provisions implemented in the Permit are appropriate and in keeping with standard practice for environmental compliance and enforcement.

Item 12 of the RFR states dissatisfaction with “self-monitoring” to be conducted by the facility due to Requestors’ lack of trust in Silfab Solar. The item specifically seeks digital monitoring with alarms as an additional or alternative means of monitoring compliance. This concern does not constitute grounds for review, as the monitoring and reporting requirements of the Permit are lawful and appropriate for facilitating Department oversight and are consistent with self-reporting requirements used in environmental permitting nationwide.

As an initial matter, the RFR is unspecific as to exactly what it considers to be “self-monitoring” and exactly which monitoring provision(s) are of concern to Requestors (*i.e.*, what pollutant(s) or parameter(s) should be monitored differently).

To the extent Requestors are concerned with monitoring requirements associated with emissions of regulated HAPs, the Department notes that the facility is required to conduct source testing to verify the facility’s control efficiency, both as an initial matter and every two years. Such source testing provisions go beyond monitoring and reporting requirements with which the facility must comply on an ongoing basis.

To the extent Requestors are concerned about monitoring and alarms in association with emergency prevention and response, the facility has yet to develop its specific emergency response plan. As discussed in the Response to Comments (at 16), the facility is required develop an emergency response plan prior to bringing any regulated substance onsite above threshold levels, in addition to complying with other risk management program requirements. The facility’s emergency response plan must be incorporated into the community’s emergency response plan and would include procedures for informing the public and response agencies should an accident occur.

As addressed in the Response to Comments (at 6), monitoring and reporting requirements contained in air quality permits are necessarily the responsibility of the permitted facility. The monitoring and reporting requirements implemented in the Permit are consistent with those applicable to other permitted facilities and reflect standard, accepted practice within environmental permitting across the country. The Department will review all compliance information submitted by the facility (or obtained on site) to determine compliance and will take enforcement action for violations occurring as a result of any reports or certifications found to be inaccurate, as appropriate.

REQUESTED ACTION:

Department staff respectfully requests the Board deny the Request for Final Review Conference, or in the event the matter is heard, that the Board uphold the Permit as issued.

[Signature Page to follow]

Respectfully submitted,

Steve McCaslin

Steve McCaslin, Director
Air Permitting Division

Dawn Miller

Dawn Miller
Assistant General Counsel

Attachments:

Appendix A– Additional Response to Listed Items in RFR

APPENDIX A

Additional Response to Listed Items in RFR

Item 1: Questions about SiF₄ – SiF₄, a pollutant referenced in Silfab Solar’s original permit application, refers to silicon tetrafluoride. The facility included calculations for emissions of this pollutant in its permit application, notwithstanding that SiF₄ emissions are not specifically regulated by applicable law (*i.e.*, it is not a listed criteria pollutant, HAP, or TAP). According to the permit application, Silfab Solar cell manufacturing processes would emit 0.329 tons per year of this pollutant.

Item 2: Questions about “the effect of the cocktail” – The Department assumes that Requestors are referring to a comment received during the comment period inquiring into “the hazards of the potential chemical cocktail should any of [the toxic chemicals or by-products of the processes] be mixed together, or exposed to air or water.” The Department’s Response to Comments addresses comments received about the scope of chemicals and their emissions, as well as environmental and safety concerns. As stated in the Response to Comments (at 3-4), a summary of all regulated air pollutant emissions from the project can be found in the Statement of Basis for the Permit. Silfab Solar’s air permit application contains additional information regarding air pollutant emissions and underlying chemical usage, including but not limited to SDSs for raw materials that could cause an emission of a regulated air pollutant. As also addressed by the Permit and Response to Comments (at 15-16), Silfab Solar must comply with chemical accident prevention requirements applicable to its storage of silane and HCl (including developing a risk management plan that identifies hazards and potential impacts, in accordance with specific regulatory requirements), and must also continuously comply with the Clean Air Act’s more broadly applicable General Duty Clause (which is implemented and enforced by the EPA).

Item 3: Questions about “EPA voluntary regulations” on school sitings – There are no regulations on this topic subject to implementation or oversight by the Department. EPA does have “School Siting Guidelines” designed to “encourage, inform and improve consideration of environmental factors in local school siting decision-making processes without infringing on local decision-making authority.” U.S. EPA, “School Siting Guidelines” at 1 (Oct. 2011), *available at* [https://www.epa.gov/sites/default/files/2015-06/documents/frequent_questions .pdf](https://www.epa.gov/sites/default/files/2015-06/documents/frequent_questions.pdf). These “voluntary guidelines” are not regulations, and the Department’s action in issuing the Permit is not a school siting decision.

Item 4: Request to see calculations with the stamp of the Professional Engineer (“PE”) along with a letter stating the PE’s knowledge of proximity to schools, residences, and businesses – Applicable air permitting regulations (R.61-62.1, Section II(C)(1)) require that air quality construction permit applications be reviewed, signed, and sealed by a registered PE. Both the original permit application and updated revised application submitted on behalf of Silfab Solar include the PE’s signature and seal as required by the Department (see DHEC Form 2566, within the permit applications). Department regulations do not require the PE to certify knowledge of the facility’s proximity to schools, residences and businesses.

Item 5: Request to update regulations to account for *Americans with Disabilities Act* (“ADA”) requirements, and inquiry into toxic air pollutant (“TAP”) impacts relative to those from

second-hand smoke – The Department cannot speak specifically to ADA requirements or second-hand smoking impacts, which are not within DHEC’s air permitting and regulatory authority. However, the Department notes that applicable TAP standards were first established in 1991 (subsequent to the ADA’s enactment in 1990) and reflect maximum allowable 24-hour concentrations designed to be protective of human health for all concentrations. Please refer to the Department’s Response to Comments for further details.

Item 6: Concern about use of the word “minimal” in the Response to Comments – The referenced term was used in the Response to Comments in the context of the Department’s discussion of anticipated criteria pollutant emissions from the facility. As discussed in the Response to Comments (at 14), emission rates for criteria pollutants (*i.e.*, PM \leq 10 microns, PM \leq 2.5 microns, nitrogen oxides, sulfur dioxide, and carbon monoxide) were described as “minimal” in the sense that they were determined to be well under the thresholds at which air quality dispersion modeling would be required.⁵ Emission rates below the established thresholds indicate that a facility will not interfere with attainment of national ambient air quality standards at or beyond the property line. As discussed in the Response to Comments (at 13), VOCs are not subject to air quality concentration standards or modeling as a group of compounds. Applicable TAPs (HCl and HF) were modeled, and the modeling demonstrated compliance with the relevant standards.

Item 7: Questions concerning “toxic” volatile organic compounds (“VOCs”) – The Department’s Response to Comments generally noted (at 13) that “many VOCs are also toxic air pollutants.” The Requestors wish to know which VOCs are TAPs and the volume of their emissions, as well as whether those VOCs would be sent through the scrubbers. To clarify, toluene, which will be emitted from the source, is considered both a TAP and a VOC. Toluene emissions concentrations were not modeled because the estimated toluene emissions rate was below the threshold level at which air dispersion modeling would be required. Other TAPs for which air dispersion modeling was required (HCl and HF) are not considered VOCs.⁶ As stated in the Statement of Basis, toluene emissions from the facility are estimated to be 0.109 lbs/hr and 0.48 tons per year, and total VOC emissions from the project (including but not limited to toluene) are anticipated to be 17.30 pounds/hour or 75.71 tons/year. VOCs generated by the project as described in the application and Permit do not require specific controls.

Item 8: Request for Environmental Impact Statement (“EIS”) addressing matters within scope of zoning code – As noted in the Department’s Response to Comments (at 18), the interpretation, application, and enforcement of county zoning ordinances are outside of the Department’s purview. The county, however, has indicated that air quality requirements administered through Department air permits and Department air quality regulations are the standards against which compliance with county performance standards governing emissions of fumes, vapors, and gases is measured. EIS

⁵ Air dispersion modeling requirements and applicable exemptions are discussed in detail in BAQ’s modeling guidelines. See BAQ, “South Carolina Modeling Guidelines for Air Quality Permits” (“BAQ Modeling Guidelines”) (last revised Apr. 15, 2019), available at https://scdhec.gov/sites/default/files/media/document/BAQ_SC%20Modeling%20Guidelines_10.15.18_revised%204.15.19.pdf.

⁶ Additional TAPs to be emitted from the emergency generator and thermal oxidizer are exempt from Standard No. 8 air dispersion modeling, as the modeling guidelines do not require modeling of emissions from fuel-burning sources that burn only virgin fuel or specification used oil. BAQ Modeling Guidelines at 10. Some TAPs from the emergency generator and thermal oxidizer would also be considered VOCs and are included in the total VOC emissions estimate for the facility.

provisions under the *National Environmental Policy Act* are inapplicable and outside the scope of the Permit to Silfab Solar.

Item 9: Question about contacts with any elected officials – The permit application review and Permit drafting and issuance were handled specifically within BAQ. BAQ is aware of the Department having been asked for periodic updates regarding the status of the permit review from representatives of the S.C. Department of Commerce and/or York County. York County representatives also provided information to the Department relevant to zoning concerns that had been raised in the comments, and this information is referenced in the Department’s Response to Comments (at 18). One York County Council representative submitted written comments during the comment period; those comments did not state an opinion in favor of the project. At no point were any elected officials or other government representatives specifically involved in BAQ’s permitting review and activity, and BAQ staff were not pressured by any such officials to issue the Permit.

Item 10: Questions about thermal oxidizer not referenced in the original application – The issued Permit, Statement of Basis, and Response to Comments reflect the facility’s planned use of a direct fired thermal oxidizer and associated venturi scrubber, which were not identified in Silfab Solar’s original permit application. The Department learned of Silfab Solar’s plans to use this equipment in the course of its review, after discussing further questions about facility processes and emissions with the applicant. As noted in the chronology within the Staff Response, Silfab Solar submitted an updated application reflecting additional information in February 2024. As addressed in the updated permit application and resulting Permit, the thermal oxidizer will be used to destroy residual silane gas from solar cell manufacturing. Such use of a thermal oxidizer is not required by air quality regulations but instead is in the interest of safety. The planned installation and use of the thermal oxidizer causes the source to be subject to additional PM and opacity limits under R.61-62.5, Standard No. 3 and Standard No. 4. A venturi scrubber will be used for control of PM emissions from the thermal oxidizer, and the issued Permit includes monitoring requirements for the venturi scrubber. No other additional air quality standards or limits were triggered by the planned installation and use of the thermal oxidizer and venturi scrubber. The underlying storage of silane was already addressed under the original permit application and draft permit, and HAP and TAP estimates remain unchanged.

Item 11: Metric for quantifying silane storage – As noted by the Requestors, the Statement of Basis for the issued Permit characterizes silane storage in pounds, which is consistent with the applicable RMP regulations. The Statement of Basis reflects Silfab Solar’s stated use of two tube trailers each holding 13,228 lbs of silane, which equates to a collective total of 26,456 lbs. Per the manufacturer’s specifications, the frame surrounding the tubes in the tube trailers is approximately 40 feet by 8 feet by 5 feet. Because silane is stored as a gas, converting silane storage weight to volume depends on factors such as pressure and temperature. Either Silfab Solar or the packaging engineer may be better positioned to verify estimated silane storage volume for the facility.

Item 13: Questions about HF and need for SDS – As noted in the Statement of Basis and in the Response to Comments, Silfab Solar will store HF at a 49% concentration, which is below the concentration at which RMP regulatory requirements are triggered for that chemical. The facility’s shipment records will include the percent concentration for each shipment, and this information is subject to Department review upon request. An SDS for HF was submitted and is publicly available through the February 2024 updated application.

Item 14 – Questions about “1500 property buffer” – Requestors’ questions and concerns regarding use of the term “1500 property buffer” were previously addressed in the Response to Comments (at 12). As discussed there, Figure 5 within Silfab Solar’s permit application (the dispersion modeling grid) notated a “1,500 meter property buffer.” The figure and notated area do not represent an impact area or property “buffer” as that term may commonly be used, and the permit applicant’s use of that term does not reflect any official terminology adopted by the Department. Rather, the figure and notated area represent the receptor grid array that was included in the air dispersion modeling analysis, consistent with BAQ modeling guidelines requiring that receptor grid configurations include a minimum range of 1,500 meters.⁷ Department air quality regulations do not use the term “buffer,” and no specific “buffer” is required.

Item 15: Questions about use of modeling for air quality emissions estimates and interest in emissions from other Silfab Solar facilities – Consistent with regulatory requirements, air dispersion modeling is a standard tool used to demonstrate a project will not interfere with applicable ambient air quality standards, and modeling was appropriately used as such. To estimate module manufacturing process emission rates (used as inputs in the modeling), the facility in fact used data from one of Silfab Solar’s Washington facilities. This data included the material usage rates at that site, and estimated emissions were calculated based on maximum material usage and SDS information for the proposed York County site. These calculations were intended to represent worst-case emission rates at the facility and demonstrate compliance with applicable standards. Actual emissions are expected to be lower than those estimated. In addition, BAQ contacted the Northwest Clean Air Agency permitting contact for the Washington Silfab Solar facility, and the information provided was consistent with that provided by Silfab Solar in its permit application.

Item 16: Request to supplement appeal based on limited timeframe for filing RFR – General concerns about the process for appeals to the DHEC Board are outside the scope of review of a particular Department-issued permit. The fifteen-day timeframe for submitting a request for review is mandated pursuant to S.C. Code Section 44-1-60(E)(2).

Item 17: Concern regarding vacant seat on DHEC Board – The makeup of the DHEC Board is not relevant to the staff decision to issue the Permit to Silfab Solar. Pursuant to S.C. Code Section 44-1-20, Board vacancies are filled through appointment by the Governor, upon the advice and consent of the Senate. The DHEC Board will cease to exist on July 1, 2024, the date upon which DHEC environmental programs, services, duties, and authorities will transfer to the Department of Environmental Services.

⁷ See BAQ Modeling Guidelines at 41-42.