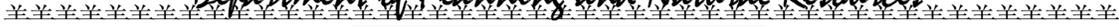


VIRGIN ISLANDS OF THE UNITED STATES

Department of Planning and Natural Resources



**SOLID WASTE MANAGEMENT
PROGRAM DESCRIPTION**

Revised March 2008

SOLID WASTE MANAGEMENT PROGRAM DESCRIPTION

I. INTRODUCTION

The Virgin Islands of the United States includes the islands of St. Thomas, St. Croix and St. John and consists of approximately 136 square miles of land mass separated by seawater. St. Croix, the largest of the islands, is comprised of approximately 84 square miles, St. Thomas is comprised of approximately 32 square miles, and St. John is approximately 20 square miles. The territory's geography, geology, land use demands, and environmental and socio-economic concerns makes land disposal of solid wastes difficult.

The statutory, regulatory and administrative procedures governing the implementation of the solid waste management program by the Territory of the Virgin Islands differ considerably from those of the states in that the territorial government fulfills the traditional roles of both the state and of the local governments. Thus, for example, the territorial Department of Public Works plans, constructs and operates all the municipal solid waste disposal facilities presently in existence. The operation of the landfills is supported entirely by the general funds and there are no tipping fees. For this reason, it is unlikely that a private facility will be started even though there is no law prohibiting such enterprise.

This organizational structure dictates special accommodations in the permitting, compliance monitoring, and enforcement procedures which are described in this document.

II. JURISDICTION AND RESPONSIBILITIES OF AGENCIES

The Solid Waste Management Program was established by Title 19, Chapter 56, Virgin Islands Code ("VIC" or "Code") entitled "Solid and Hazardous Waste Management," in 1978.

Section 1560 of the Code established an interagency committee comprised of the Commissioners of the Department of Conservation and Cultural Affairs ("DCCA"), Public Safety, and gave the committee authority to promulgate such rules and regulations as are necessary for the purpose of implementing and enforcing the provisions of the Solid and Hazardous Waste Management Chapter. The initial promulgation of the Rules and Regulations took place on March 30, 1981, and rules were enacted by the Governor on March 31, 1981.

The Code designated the DCCA as the agency responsible for the enforcement, compliance monitoring and permitting of landfill facilities [see 19 VIC § 1553 (F)]. On June 24, 1987, the DCCA was re-designated by the Legislature as the Department of Planning and Natural Resources ("DPNR") and all references to DCCA in the Virgin Islands Code were thenceforward deemed to refer to the newly reorganized department [see 3 VIC § 407].

Section 1553 (a) of the Code designated the Department of Public Works as the solid Waste Management Agency of the Virgin Islands and, among its many other functions, gave it the authority to provide for the disposal of solid wastes. In this respect, DPW is similar in nature to comparable organizations of the local government.

In addition to the broad compliance and enforcement functions of the DPNR, the Department of Health has a specialized function of enforcement of the provisions of the Code as they relate to public health, vectors and disease control and removal of dead animals.

Department of Public Safety personnel and harbor patrol officers of the Virgin Islands Port Authority have significant roles in the area of solid waste management which, however, are unrelated to the disposal of municipal solid waste in landfills [see 19 VIC § 1553 (e) and 1553 (g)].

The Attorney General of the Virgin Islands is empowered to appear for and represent the executive branch of the Government of the Virgin Islands before the courts in all civil proceedings in which the Government or any executive department, board, commission, agency, instrumentality or officer thereof is interested [3 VIC § 114 (a) (1)].

III. SIZE OF THE REGULATED COMMUNITY

Currently there are two operating municipal solid waste disposal facilities within the Territory: The Bovoni Landfill, located on St. Thomas, and the Anguilla Landfill on St. Croix. The Susannaberg Landfill on St. John accepted the last shipment of Solid Waste prior to October 9, 1993. However, the facility has not undergone the required RCRA closure and post-closure monitoring. Currently, the landfill site serves as a transfer station, and solid waste is shipped daily to the Bovoni Landfill.

IV. STAFFING

To fulfill its compliance monitoring functions the DPNR has designated one and a half fulltime employees (FTEs to conduct) charged with the inspections and compliance at the two operating disposal facilities, as well as other sites. Program planning, development, and supervision are performed by one additional FTE. This level of support is sufficient until the existing landfills reach their capacity and new facilities will need to be permitted. At that point additional engineering staffing will be required. The present annual program budget amounts to \$187, 000.

V. PERMITTING OF NEW AND EXISTING UNITS

There are no privately-owned municipal waste disposal facilities on the U.S. Virgin Islands. Because the disposal of municipal waste is the responsibility of the Waste Management Authority is supported solely by the general funds, it is unlikely that a privately-owned facility will be established before the implementation of tipping fees.

Prior to April 1995, engineering proposals were requested to determine the scope of work necessary to bring the facilities into full compliance with the criteria. It is expected that the landfill study will be completed by April 1995. In the immediate future, these facilities

are expected to continue their operations by vertical expansion. A long-term study of the solid waste management needs was recently accomplished by R.W. Beck and Associates. ¹ That study identified an action plan designed to minimize the reliance on the disposal facilities as the sole means for solid waste management. The plan will have to be updated as it does not reflect the mandates created by part 258 criteria promulgated in October 1991.

Based on a 1986 study, the Bovoni Landfill had sufficient physical capacity to operate until 2003.² However, operation as a disposal facility is now expected to continue until 2014. A study conducted by Malcolm Pirnie indicated that the Anguilla landfill had sufficient capacity to operate until 1999. Its operation as a waste disposal site has continued to the present. It is now anticipated that, based on a Federal Aviation Administration mandate, closure of this facility will commence after 12/31/09.

VI. PERMITTING PROCEDURES

Section 19 VIC § 1553(f)(4) authorizes the DPNR to issue permits to the owners and operators of the solid waste disposal facilities. The Code further requires the issuance of the permit for the establishment and operation of such facilities by the DPNR [19 VIC § 1556 (b)] and prohibits operation of disposal facilities by any person without a permit [19 VIC § 1563 (14)]. The term “establishment” can reasonably be considered to be equivalent to “construction” thus meeting the requirement of § 239.6 (a) (1) of the State/Tribal Implementation Rule. Because WMA would be the only likely applicant for any new permit or for permit amendments, the validity of the interpretation is of little importance because it can be met by a MOA (“MOA”) between the respective Commissioners. As mentioned in the Appendix, the MOA will remain in force until such time as Chapter 56, Title 19, of the Code, is revised and the Rules and Regulations based on the revised Code are enacted.

Section 1560-300 (a) of the current Rules and Regulations allows operation of disposal facilities only in accordance with permits issued by the DPNR. Sections 1560-300 (c), 1560-300(d), and 1560-300 (e) specify the documentation that the permittee is required to submit. Section 1560-300 (f) prohibits issuance of a permit if the DPNR finds that location and operation of the proposed facility would violate a list of requirements contained in § 1560-300(f) (1) through 1560-300 (f) (8). Requirements contained in § 1560-300 will be discussed further in Section VII of this narrative.

¹ R.W. Beck and Associations, “Integrated Solid Waste Management Plan,” Final Report to the Virgin Islands Water and Power Authority, June 1991.

² Malcolm Pirnie, Inc., “Waste-to-Energy Desalinization Feasibility Report” (1986).

VI. PERMITTING STANDARDS

Subpart A – General

Section 258.1 Purpose, Scope and Applicability

Existing Virgin Islands law and regulations were revised in 2000 to incorporate the more detailed requirements of 40 Code of Federal Regulations Part 258.

Section 258.2 Definitions

Virgin Islands regulations, Title 19, Virgin Island Code, Part VI: Regulatory Provisions Concerning Public Health, Chapter 56: Solid and Hazardous Waste Management, Rules and Regulations, Division 1: General Regulations, provide definitions for implementing Part 258.2.

Existing regulations define solid waste, sludge, and open burning. The MOA specifies that the Executive Director of WMA will use all other definitions provided in Part 258.

Section 258.10 Airport Safety

Existing Virgin Island regulations (Section 1560 – 300 (f) (8)) specify that no disposal site shall be issued a permit which does or is determined to pose a bird hazard to aircraft.

Section 258.11 Floodplains

The existing Virgin Islands regulations (Section 1560-300 (c) (3)) require that an application for the establishment and operation of a landfill disposal site shall include detailed information on floodplains, waterways and channels, including methods to prevent water flow restriction, reduction of temporary water storage capacity of the floodplain or washout of solid wastes.

The remainders of the criteria for floodplains are included in the MOA including the requirement that all MSWLFs located in 100-year floodplain demonstrates that the MSWLF will not restrict the flow of the 100-year flood event, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human health and the environment. The owner and operator is required to place the demonstration in the operating record and notify the Commissioner of Department of Planning and Natural Resources that it has been placed in the operating record.

Section 258.12 Wetlands

The existing Virgin Islands regulation (1560-300 (f) (1) – (4)) provide that no permit will be issued for a site unless that owner can demonstrate that the proposal is consistent with required Sections 402 and 404 of the Clean Water Act, and that the facility will not: (a) cause non-point source pollution of the waters of the Virgin Islands, (b) contaminate underground drinking water source beyond the solid waste boundary, (c) cause a discharge of pollution into waters of the Virgin Islands.

Section 258.13 Fault Areas

Part 258 requires that new landfills and lateral expansions shall not be located within 200 feet of a fault that has had displacement in Holocene time. However, this requirement may be waived if the owner or operator demonstrates to the Commissioner of the DPNR that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the landfill unit and will be protective of human health and the environment.

Existing Virgin Islands regulation (Section 1560-300) specify performance requirements. In addition, Section 1560-313 provides specific standards for fault areas.

Section 258.14 Seismic Impact Zones

Part 258 requires that new landfills and lateral expansions shall not be located in seismic impact zones unless the owner or operator demonstrates to the Commissioner of the Department of Planning and Natural Resources that all containment structures, including liners, leachate collection systems, and surface water control systems are designed to resist the maximum horizontal acceleration in leach field earth material for the site. The demonstration must be placed in the operating record for the facility.

This requirement is incorporated under Section 1560-314 of the existing Virgin Islands regulations.

Section 258.15 Unstable Areas

Consistent with 40 CFR Part 258.15, Section 1560-315 of the regulations require that owners and operators of new landfills, existing units and lateral expansions located in an unstable area must demonstrate that engineering measures have been incorporated into the landfill units design to ensure that the integrity of the structural components will not be disrupted. The factors of Section 258.15 (a) (1) – (3) at a minimum must be used in determining whether the area is unstable. The demonstration must be placed in the operating record for the facility.

Section 258.16 Closure of Existing Municipal Solid Waste Landfill Units

The U.S. Virgin Islands consists of four principal islands: St. Thomas, St. John and St. Croix and Water Island. While historical waste management practices have included ocean dumping, incineration and landfilling, today landfilling of municipal solid waste is the chief means of waste disposal.

St. Thomas

On St. Thomas, solid waste is disposed at the 30 acre Bovoni landfill site at the Long Point Peninsula. This site will continue to receive solid waste after October 8, 1993 and will be assessed for continued use or closure pursuant to Part 258.

St. John

The St. John landfill stopped receiving solid waste prior to October 9, 1993 and will undergo closure. A transfer station is currently operating adjacent to the site and solid waste is transported to the St. Thomas landfill for disposal.

St. Croix

The landfill on St. Croix is located approximately 2,000 feet southeast of the eastern end of the Alexander Hamilton Airport, adjacent to the Central Wastewater Treatment Plant. It is estimated that the landfill will be able to continue to operate only until December 31, 2009, unless a determination is made by the Federal Aviation Administration that there is no bird hazard and that the operation of the facility will not interfere with airport safety.

Subpart C – Operating Criteria

Section 258.20 Procedures for Excluding the Receipt of Hazardous Waste

Existing Virgin Islands regulations (Section 1560-2 (f), Prohibited Acts) provide that no person shall mix inflammable or explosive materials nor any material classed as a hazardous waste under these regulations with other solid wastes for disposal purposes. In addition, pursuant to Part 258, the regulations requires all MSWLFs to have a program to detect and prevent disposal of regulated quantities of RCRA hazardous Wastes and PCB wastes regulated under TSCA and includes the program elements specified under Section 258.20 (a) (1)-(4). The owner or operator of MSWLF units must record and maintain near the facility an operating record of information about the MSWLF unit and notify the Commissioner of the Department of Planning and Natural Resources when the information is placed in the record.

Section 258.21 Cover Material Requirements

Existing Virgin Islands regulations (Section 1560-300) provide standards for MSWLF units. Section 1560-301 (i) specifies that wastes shall be deposited in two foot layers and compacted, and daily cover of at least 6 inches of compacted earth shall be placed over the compacted waste unless otherwise specified. Section 301.21(b) provides that alternative materials may be approved by the Commissioner of the Department of Planning and Natural Resources, as well as a temporary waiver for seasonal conditions.

Section 258.22 Disease Vector Control

Existing Virgin Islands regulations (Section 1560-2(a), Prohibited acts), state “No person shall accumulate or allow the accumulation of any material which, because of its character, condition or improper storage, may invite the breeding or collection of flies, mosquitoes or rodents, is capable of transmitting disease to humans, or which may in any other manner prejudice the public health.” Section 301.22 of the regulations also provides that owners or operators of all landfills must prevent or control on-site population of disease vectors using techniques appropriate for protecting human health and the environment.

Section 258.23 Explosive Gases Control

Existing Virgin Islands regulations (Section 1560-300 (f)(7)) provide that no permit will be issued for a site if it is determined that the site will generate concentrations of explosive gases which exceed 25% of the lower explosive limit inside the facility structure (excluding gas control or recovery system components), and/or exceed the lower explosive limit for gases at the property boundary (for the purposes of this paragraph "lower explosive limit" means the lowest percent by volume of a mixture of explosive gases which will propagate a flame in air at 25 degrees C and atmospheric pressure).

Section 301.23 of the regulations provides that owners and operators of landfill units ensure that any disposal site does not generate concentrations of explosive gases and establish and implement a routine methane monitoring program to ensure that standards are met.

The owner or operator shall place information in the operating record pursuant to explosive gases detection and notify the Commissioner.

Section 258.24 Air Criteria

The existing Virgin Islands regulations (Section 1560-300) provide performance standards for permitting disposal sites. Section 1560-300(f)(6) provides that no disposal site shall be issued a permit which does or, on the basis of the permitting agency's investigation, is determined to be likely to engage in open burning of residential, commercial, institutional or industrial solid waste. The criteria are established in the MOA pursuant to the part 258.

Pursuant to Part 258, requires that owners and operators of all municipal solid waste landfills ensure that the units not violate any applicable requirements developed under a State Implementation Plan (SIP) approved or promulgated by the Administrator pursuant to section 110 of the Clean Air Act. The open burning of solid waste is prohibited at all municipal solid waste management units. Section 301.24(a) incorporates this requirement.

Section 258.25 Access Requirements

Existing Virgin Islands regulations (Section 1560-301 (a)) provide that the site be fenced, with a gate which shall be locked when the site is closed.

Section 301.25 provides that owners and operators control public access and prevent unauthorized vehicular traffic and illegal dumping of wastes, pursuant to Part 258.

Section 258.26 Run-on/Run-off Control System

The existing Virgin Islands regulations (Section 1560-300 (c)(3)) provide performance standards for the operation of the landfill. The regulation provides that permit applicants must provide detailed plans, maps and drawings to show any floodplains, waterways, or channels likely to affect the site; plans for drainage and

erosion control; and methods to prevent water flow restriction, reduction of temporary water storage capacity of the flood plain or washout of solid wastes.

Pursuant to Part 258, provides that the owner or operator design, construct and maintain a run-on control system to prevent flow onto the active portion of the landfill during the peak discharge from a 25-year storm event. A Run-off control system from the active portion of the landfill must be provided to collect and control at least the water volume resulting from a 24-hour, 25 year storm event. Section 301.26(a) incorporates this requirement. However, the reference to 25-year flood zone appears to have been inadvertently changed to 25-hour and should be corrected in the next rule amendment.

The run-off from the active portion of the landfill unit must be managed in accordance with Part 258.27 (a), Surface Water Requirements.

Section 258.27 Surface Water Requirements

Existing Virgin Islands regulations (Section 1560-300 (f)(2) and (3)) provide that MSWLF units shall not cause a discharge of pollutants into waters of the Territory that is in violation of the requirements of Section 402 and 404 of the Clean Water Act. As amended (Pub L.92-500), and shall not cause non-point source pollution of waters of the Territory that violate applicable requirements for implementing the Territorial Water Quality Management Plan approved by the Administrator under Section 208 of the Clean Water Act.

Part 258, requires that municipal solid waste management facilities not cause a discharge of pollution into waters of the Virgin Islands, nor cause non-point source pollution to waters of the Virgin Islands that violate the Water Quality Management Plan approved by the Administrator under Section 208 of the Clean Water Act. Section 301.27(a) of the regulations incorporates this requirement.

Section 258-28 Liquids Restrictions

Part 258 requires that bulk or non-contaminated liquid wastes may not be placed in municipal solid waste management units unless specific requirements have been met, including the type of waste is a leachate or condensate derived from the MSWLF unit with a composite liner and leachate collection system.

The existing Virgin Islands regulations (Section 1560-300) provide performance standards for permitting. Section 301.28(a)(2) of the regulations incorporates this requirement.

Section 258.29 Recordkeeping Requirements

Existing Virgin Islands regulations (Section 1560-303, Inspection; records) requires that officers and agents of the Virgin Islands government charged with the administration and enforcement of the regulation may visit any public or private disposal site during normal operating hours for the purpose of conducting inspections. The Department of Health, WMA, and the Department of Planning and Natural Resources may require any disposal site operator to keep such operating records as it may deem

necessary and to submit or make available such records to appropriate agencies of the Government.

Part 258, requires that owners and operators of MSWLFs record and retain information under Section 258.29 (a) as it becomes available; and requires the notification of the Commissioner of the Department of Planning and Natural Resources when documents issued pursuant to 258.29 (a) have been placed or added to the information collected and that all information shall be made available upon request to the officer and agents of the Virgin Islands Government or be made available at all reasonable times for inspection by the officials or agents of the Virgin Islands Government. Section 303(b) through 303(c) of the regulations incorporate this requirement.

Subpart D – Design Criteria

Section 258.40 Design Criteria

The existing Virgin Islands regulations provide specific design criteria for MSWLFs under Section 1560-309.

Subpart E – Groundwater Monitoring and Corrective Action

Section 258.50 Applicability

Part 258, provides that groundwater monitoring requirements may be suspended by the Commissioner of Planning and Natural Resources if the owner or operator can demonstrate that there is no potential for migration of hazardous constituents from the landfill unit to the uppermost aquifer. Section 800(b) of the regulations incorporates this requirement.

Unless otherwise specified, owners and operators of municipal solid waste landfill units must be in compliance with groundwater monitoring requirements:

1. if within less than one mile from a drinking water intake;
2. if more than one mile, but less than two miles from a drinking water intake;
3. if greater than two miles from a drinking water intake;
immediately for newly permitted units.

The Commissioner of the Department of Planning and Natural Resources may specify an alternative schedule based on potential risk posed by the unit.

Part 258, requires groundwater monitoring at each MSWLF unit throughout the active life (including closure) and the post-closure period; and requires the sign-off by a certified groundwater scientist. For the purposes of this section a qualified groundwater scientist is a scientist or engineer who has received a baccalaureate or post graduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by State registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and

corrective-action. This requirement is incorporated under Section 1560-811 through Section 1560-815.

Section 258.51 Groundwater Monitoring System

The existing Virgin Islands regulations specify system requirements under Section 1560-811, consistent with 40 CFR Section 258.51

Section 258.53 Groundwater Sampling and Analysis Requirements

Existing Virgin Islands regulations specify requirements for groundwater sampling and analysis program under Section 1560-813.

Section 258.54 Detection Monitoring Program

The existing Virgin Islands regulations specify monitoring standards under Section 1560-814. The MOA, pursuant to part 258, provides that a detection monitoring program be established to detect a release from the MSWLF unit, and the monitoring parameters are included in Part 258, Appendix I.

Section 258.55 Assessment Monitoring Program

The existing Virgin Islands regulations specify requirements for assessment monitoring under Section 1560-815. This is consistent with 40 CFR Part 258 which requires that a program that assesses the nature and extent of a release by sampling and analyzing for Appendix II constituents and restore the groundwater quality to the same extent as the Federal Criteria, and monitoring parameters must be those listed in Appendix II, unless they are modified according to Part 258.55 (b).

Section 258.56 Assessment of Corrective Measures

The existing Virgin Islands regulations specify corrective measures under Section 1560-816, consistent with 40 CFR Part 258.

Section 258.57 Selection of Remedy

The existing Virgin Islands regulations specify selection of remedy under Section 1560-817.

Section 258.58 Implementation of Corrective Action Program

The existing Virgin Islands regulations specify implementation requirements under Section 1560-818.

Subpart F – Closure and Post-Closure Care

Section 258.60 Closure Criteria

The existing Virgin Islands regulations (Section 1560-301 (m)) specify final cover criteria. In addition, Section 1560-900 provide further guidance for closure, consistent

with 40 CFR Part 258, which specifies the closure criteria which require a final cover system that is designed to minimize infiltration and erosion and specifies the schedules for closure.

Section 258.61 Post-Closure Care Requirements

The existing Virgin Islands regulations do not specify post-closure care requirements. The MOA, pursuant to Part 258, specifies post-closure care requirements.

Subpart G – Financial Assurance Criteria

Section 258.70 Applicability and Effective Date

The existing Virgin Islands regulations do not specify financial assurance requirements.

The MOA, pursuant to part 258, specifies that the financial assurance requirements apply to owners and operators of all municipal solid waste landfill units except owners and operators who are Government entities.

Section 258.71 Financial Assurance for Closure

The existing Virgin Islands regulations do not specify financial assurance for closure.

The MOA provides that the owner or operator must have a detailed written estimate in current dollars of the cost of hiring a third party to close the largest area of all landfill units. The owner or operator must notify the Commissioner of the Department of Planning and Natural Resources that the estimate has been placed in the operating record.

Section 258.72 Financial Assurance for Post-Closure Care

The existing Virgin Islands regulations specify financial assurance for post-closure care under Section 1560-302.30. Under this section, owners and operators must have a detailed written estimate in current dollars of the cost of hiring a third party to conduct post-closure care and notify the Commissioner of the Department of Planning and Natural Resources that the estimate has been placed in the operating record.

Section 258.73 Financial Assurance for Corrective Action

The existing Virgin Islands regulations provide for financial assurance for corrective action under Section 1560-302.40.

Section 258.74 Allowable Mechanisms

The existing Virgin Islands regulations define allowable mechanisms under Section 1560-302.50.

VIII. COMPLIANCE MONITORING

Section 19 VIC § 1553 (f) (5) authorizes the DPNR to periodically inspect all disposal facilities to ensure compliance with the designated plan. Section 1560-300(a) of the Rules and Regulations defines “plan” to mean technical reports, engineering drawings, and narrative operative descriptions which describe the facility and its operation. Such plans form the basis of the permit issued to the facility. Section 1560-303(a) of the Rules and Regulations provides that officers of the DPNR may enter any public or private site during normal operating hours for the purpose of conducting inspections. Section 1560-303(b) of the Rules and Regulations authorizes DPNR to require the disposal site operator to keep operating records that it may deem necessary and to submit such records to appropriate agencies of the government.

Because the owner and operator of the currently existing landfills is a governmental agency, the issue of the refusal of the right of access to the facility, to the documents, or to any other site where such records may be kept, is resolved statutorily [3 VIC § 881]. Because no groundwater monitoring systems exist currently, no monitoring samples are being collected by the DPNR staff from the landfills. However, DPNR personnel routinely collect and manage compliance samples under other programs such as TPDES or ambient water quality monitoring and have sufficient proficiency to perform their compliance duties in the solid waste program.

Inspections are primarily conducted to determine compliance with the pertinent rules, regulations, laws and permit conditions. This inspection program will consist of a written Standard Operating Procedures (SOP), inspection forms, schedule of inspection frequency, procedures to refer violations for enforcement, evidence preservation, SOP for sampling to include Quality Assurance/Quality Control (QA/QC), preservation, chain of custody, etc.

The inspection staff is trained in inspection techniques by the technical and legal staff of the Department of Planning and Natural Resources. Additional training will be sought from the USEPA, state governments and trade associations. Training at a minimum will consist of safety, inspection techniques, legal authority, rules for civil and criminal investigations, sampling methodology, etc.

Inspections will commence with a pre-inspection review of the file at the office for permit conditions and parameters. The inspection will further involve an entry conference with the landfill manager, review of required records, visual perusal of the total landfill area to determine compliance, interview of staff and witnesses as needed, taking of samples as needed, documentation of violations as needed and will terminate with an exit conference with landfill manager to detail inspection findings and conclusions.

The inspection is followed by a written inspection report with pertinent documentation. The inspection report, at a minimum, is comprised of Finding, Conclusion and Recommendations.

The existing disposal facilities are inspected at least quarterly. In addition to periodically scheduled inspections, the personnel of the DPNR investigate all complaints relating to the landfill management received from the public within five work-days of the

receipt. Unless the complaint was anonymous, the complainant is notified in writing of the action taken by the Department.

IX. ENFORCEMENT AUTHORITY

Section 19 VIC § 1553 (f)(1) authorizes the Commissioner of DPNR to enforce the provisions of the Chapter relating to the disposal of solid waste. The Code further provides for the authority to issue citations [§15553(f)(3)], and specifies the enforcement procedures [§1561(c)]. The latter section directs the Commissioner of DPNR to issue notices of non-compliance that state the nature of non-compliance, the steps needed for correction, and a time limit for compliance. Each day of non-compliance may be considered as a separate offense. The Commissioner may assess a civil fine of \$200 for each offense. Such civil fines have been assessed by the DPNR against DPW in other environmental programs.

In addition to the civil fines, in case of the disposal facilities, if the violation of the permit condition is not corrected within the period specified, the commissioner may suspend or cancel the permit for cause.

Section 19 VIC § 1562 (b) provides that in the case of willful non-compliance of any notice or compliance order issued pursuant to 19 VIC § 1561 (c) the subject may be fined \$5,000 for each day of non-compliance for the first offense or \$10,000 for second or subsequent offenses. That section also provides for terms of imprisonment.

Because the Commissioner of DPNR may issue administratively compliance orders [19 VIC 1562(b)], he can immediately restrain any person from engaging in any activity which may endanger or cause damage to human health or the environment.

The Attorney General, who represents the executive branch of the government before the territorial courts in all civil proceedings [3 VIC § 114(a)(1)], is empowered to prosecute all offenses of the law of the Virgin Islands [3 VIC § 114 (a)(2)].

In the highly unlikely case when both parties are agencies of the executive branch, the General Litigation Section of the Department of Justice would represent the plaintiff and solicitor General would represent the defendant agency.

X. INTERVENTION IN CIVIL ENFORCEMENT

The DPNR:

- A. Will provide notice and opportunity for public involvement in all proposed settlement actions except where immediate action is necessary to adequately protect human health and the environment;
- B. Will investigate and provide responses to citizen complaints; and
- C. Will not oppose citizen intervention when permissive intervention is allowed by statute, rule, or regulation.

