



GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES

DEPARTMENT OF PLANNING AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

45 MARS HILL
FREDERIKSTED, ST. CROIX, VI 00841
PHONE: (340) 773-1082, FAX: (340) 773-9310

July 18, 2017

Dale J. Carpenter
Section Chief
Resource Conservation & Special Project Section
RCRA Programs Branch
USEPA - Region II
290 Broadway
New York, NY 10007-1866

Dear Mr. Carpenter:

The Department of Planning and Natural Resources-Division of Environmental Protection (DPNR-DEP) is in receipt of the Environmental Protection Agency's (EPA) Region II correspondence dated April 17, 2009 regarding the revised RCRA Subtitle D Municipal Solid Waste Landfill (MSWLF) permit program application dated May 12, 2008. As requested, below is DPNR-DEP response to EPA's comments in the April 17, 2009 correspondence:

EPA's COMMENT:

1. REGULATIONS: As the Solid Waste Management regulations submitted with DPNR's May 2008 application are dated June 2000 and there have been some changes to the Part 258 requirements since that time, in the interest of expediting the regulatory review, EPA requests that DPNR submit a side-by-side crosswalk comparison of the Territory's solid waste management regulations against the requirements codified in the current 40CFR part 258.

DPNR's RESPONSE:

Please see Attachment # 1 for DPNR's side-by-side crosswalk comparison of the Territory's Solid Waste Management Regulations against the requirements codified in the current 40 CFR part 258. The table provides a comparison of existing Virgin Islands Solid Waste Rules and Regulations that are implemented by DPNR to the Corresponding federal regulations. Essentially, all, except

for 4 landfill provisions in 40 Code of Federal Regulations Part 258 are also covered in the local regulations. For the most part, the language compares similarly. In those cases where there is significant difference in the language comments are provided for clarity.

EPA's COMMENT:

2. JURISDICTION & RESPONSIBILITIES: For clarification of the application, an Organizational Chart is developed showing the relationships and overall responsibilities of the agencies and departments involved in permit program implementation; a discussion of the lines of communication and coordination; a flowchart illustrating the entire process from regulation development to permitting to inspection and enforcement; and identification of specific offices or agencies responsible for each of the various tasks.

DPNR's RESPONSE:

In response to Comment #, five (5) charts were generated by DPNR. The charts are designated as attachments 2 through 6. Attachment 2 is a detailed organizational chart which delineates the relationships between programs within DPNR as well as agencies that may play a role in the permit program implementation. Attachment 2 also provides a summary of the primary responsibilities that are currently carried out by the DPNR respective programs and agencies or are expected to be an integral function of these entities. A legend is provided for further clarification.

Please see Attachment #2 for the Organizational Chart showing the relationships and overall responsibilities of the agencies and department involved in the permit program implementation in addition to a discussion of the lines of communication and coordination.

Attachments # 3 through 6 are process flow charts that relate to the rule development, inspection, permitting and enforcement processes per DPNR protocols. Separate charts have been provided in lieu of a single chart because in actuality these are clearly separate and distinct process, although there may be some correlation at certain points in each process. However, based on timelines and activities conducted in each process, one continuous flowchart is not feasible.

EPA's COMMENT:

3. PERMITTING/REGULATION OF EXISTING AND NEW UNITS: Explanation of how the existing landfills (Bovoni, Susanaberg and Anguilla) will be permitted/regulated in accordance with the requirements of the VI Solid Waste Management regulations. Discuss why these facilities have not been permitted to date under DPNR's existing permit program which has been in place since 1993.

DPNR's RESPONSE:

The landfills in the territory have been and will continue be regulated in accordance with the Virgin Islands Solid and Hazardous Waste Management Act, which includes provisions for inspections, enforcement actions and responses to incidents and complaints. However, the landfills are also permitted/regulated through other DEP programs such as the Air Pollution

Control and Water Pollution Control programs. Furthermore, the original Consent Order was consolidated and is identified as Consent Order Document Nos. 3:10-CV-0048 and 3:10-CV-48.

The Consent Orders were issued for the Bovoni and Anguilla Landfills. As of this date the Anguilla has been issued a Title V permit. The permit is issued by DPNR-DEP, Air Pollution Control Program (APC). The Bovoni Landfill will be permitted prior to end of 2017. The landfills have also been subjected to enforcement actions by EPA relative to Clean Air Act violations, Municipal Solid Waste (MSW) landfills federal plan requirements promulgated in 40 CFR Part 60 and are currently following a compliance schedule to address the violations.

EPA's COMMENT:

4. STAFFING INFORMATION: A revised staffing narrative for the current approved budget for fiscal year 2009 for all management and staff involved with implementation and enforcement of the Territory's Solid Waste Management program, including Air Quality staff involved with the air monitoring requirements of the landfills. All position descriptions, whether currently staffed or vacant, and specific training requirements and certificates of completed training for each position and management/staff member. Also, include resource estimates for all personnel from all the implementing agencies mentioned in the application including the Attorney General's office, VIWMA, the Department of Health, etc.

DPNR's RESPONSE:

Please see Attachment #7 for the revised solid waste staffing plan.

EPA's COMMENT:

5. COMPLIANCE MONITORING: Additional description of DPNR's compliance monitoring/inspection capacity and procedures. Include specific information on monitoring frequencies and types, inspection priorities, and cross-media inspections. Explain the procedures and mechanisms DPNR will use to verify the accuracy of information submitted by the permittee(s) and the adequacy of the methods used by the (permittees) to obtain the information on the permit application. Also, describe the procedures which will be used to properly consider information submitted by the public. Additionally, provide copies of DPNR's landfill inspection reports for the past three years.

DPNR's RESPONSE:

Please see Attachment #4 for DPNR's compliance monitoring/inspection capacity and procedures. DPNR-DEP would perform several types of inspections---Compliance Inspections, Follow-up Inspections, Case Development Inspections (Evidence Gathering, sampling, photographs, document collection), and Multi-Media Inspections. Compliance monitoring inspections will be conducted once every quarter for the fiscal year.

Explain the procedures and mechanisms DPNR will use to verify the accuracy of information submitted by the permittee(s) and the adequacy of the methods used by the (permittees) to obtain the information on the permit application. Also, describe the procedures which will be used to

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properly consider information submitted by the public. Please see slides that may be useful in this instance.

Please see Attachment # 10 for all the landfill inspection reports for the last three years.

In general, it is DPNR's policy to conduct file reviews prior to an inspection. The file review may not necessarily be limited to one program's files. In addition, during a facility's inspection, a record review is conducted whenever feasible.

For inspections that are prompted by citizen's complaints, an investigation of the site in question is conducted to determine the validity of the complaint, and the required file/record reviews are conducted.

EPA's COMMENT:

6. ENFORCEMENT: Provide details regarding DPNR's enforcement program and specific detail on DPNR's enforcement procedures. Provide any enforcement correspondence and/or Notices of Violation (NOVs) for the landfills for the past three years.

DPNR's RESPONSE:

Please see Attachment #6 and Attachment #11 for DPNR's enforcement program and specific details on DPNR's enforcement procedures. The Department has issued several enforcement correspondences to VIWMA and have attached these documents: February 21, 2006 letter pertaining to Concordia Inspection, February 4, 2008 letter pertaining to Hazardous and Special Waste Permits, September 4, 2008 letter pertaining to Hazardous Waste Permit, January 19, 2009 letter pertaining to Waste Tires Management, March 19, 2009 letter pertaining to Hazardous Waste Application, NOV T-02-0002 issued July 29, 2002, NOV T-02-0001 issued July 29, 2002, NOV C-02-0002 issued July 24, 2002, Notice of Non-Compliance for Corrective Action issued January 19, 2005, and Notice of Non-Compliance For Corrective Action issued September 2, 2004. These are collectively referred to as Attachment #12.

If you have any questions and or concerns please feel free to contact Clancia Pelle, Environmental Engineer, DEP at (340) 773-1082 or email at clancia.pelle@dpnr.vi.gov.

Best regards,



Norman Williams,
Director, DEP

cc: Clancia Pelle, DEP