



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
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NOV 2 2007

Robert Mathes, Commissioner
Department of Planning and Natural Resources
Government of the U.S. Virgin Islands
45 Estates Mars Hill, Frederiksted
St. Croix, Virgin Islands 00802

Re: Re-evaluation of the Virgin Islands' title V Operating Permits Program

Dear Commissioner Mathes:

The U.S. Environmental Protection Agency (EPA) has an ongoing program of conducting evaluations of title V air permitting programs. As part of this program, staff from Region 2 conducted a review of the Virgin Islands' title V program on July 25 and 26, 2007. I want to thank you for the assistance and information the Department of Planning and Natural Resources (DPNR) staff provided during this evaluation. We had conducted an initial review of the Virgin Islands' program in September 2003. The purpose of this re-evaluation is to assess how much progress the Virgin Islands has made in implementing the program and whether deficiencies discovered during the initial evaluation were resolved. EPA's evaluation helps EPA ensure that states and territories are implementing the permitting program in a manner consistent with federal requirements and provides information to managers in states and territories on how to improve their programs.

While there has been some progress since the September 2003 evaluation, it is insufficient to bring the program into compliance with federal requirements. The Small Business program is the only portion of the permitting program that is meeting its program goals. The program deficiencies that persist are serious and need the immediate attention of you and your air managers. I believe now is an excellent opportunity for you and your new management team to ensure accountability for meeting the goals of the title V program.

Below is a summary of our findings and enclosed is a re-evaluation report of the title V program for your review. EPA stands ready to work with you and your new management team in developing DPNR's capabilities to implement the title V program at a basic acceptable level.

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Permit Expertise: The staff's lack of expertise in evaluating a title V application and developing a comprehensive permit was identified as an area of serious concern in our 2003 evaluation. DPNR subsequently committed to address this issue and provided basic training in permit writing to the staff, but there has been no further progress on this issue. During our most recent evaluation DPNR managers acknowledged that the staff is not ready and still lacks the requisite expertise to administer the title V program.

Permit Issuance: There has been very limited permitting activity since 2004. VI issued six title V permits by 2004, however, it has failed to issue an initial permit to HOVENSA for almost 10 years. In addition, DPNR has just begun addressing the remaining initial permitting requirements for landfills and incinerators.

Permit Files: Although the permit files were organized, all of the source files lacked many critical documents. For example, we could not locate annual compliance certificates for most of the facilities. As stated in the 2003 evaluation, all of the permits lack a "Statement of Basis".

Permit Fees/Expenses: Although DPNR collects emission fees every year, it is not done in a timely fashion. Further, the revenue and the expenses are tracked but justification for the expenses needs to be provided.

Permit Compliance: DPNR has not conducted a single full compliance inspection of a title V source in the last four years. There were a limited number of partial compliance inspections conducted; however, they were not followed through with any action. EPA's separate Enforcement Audit also revealed this issue and its report will provide further detail on this and similar issues.

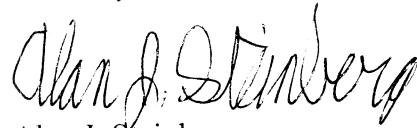
I am, therefore, asking the DPNR to submit an action plan within 90 days of this letter that includes quarterly milestones to address these deficiencies and designates the person(s) responsible for achieving them. Quarterly reports should be submitted, detailing progress in correcting program deficiencies and issuing required permits. The action plan should include: 1) actions to correct deficiencies in the technical capabilities of DPNR staff (DPNR should evaluate the options of hiring qualified staff or using a qualified contractor to prepare permits); 2) a detailed schedule for the issuance of the HOVENSA and the remaining three initial title V permits; 3) a detailed schedule for determining compliance with title V permits; 4) a schedule for collecting permit fees in a timely manner and; 5) an internal audit of the title V program by your finance office to ensure fees are appropriately being used for permitting activities.

If DPNR does not correct the deficiencies noted in this evaluation, EPA would be forced to consider various actions pursuant to 40 CFR 70.10(b)(1) of the Clean Air Act. These could include issuing a Notice of Deficiency to the Virgin Islands government and even revoking the Virgin Islands' authority to implement the title V permit program. I believe that timely action by you and your new management team can avoid these undesirable consequences and I offer the

assistance of my office in developing your Department's capacity to independently implement the air permitting program.

Again, I would like to thank you for the assistance DPNR staff provided during the audit and your consideration in resolving this matter. I look forward to discussing this further at our next meeting. I am also asking Walter Mugdan, Director of the Division of Environmental Planning and Protection, to reach out to your managers on this issue.

Sincerely,



Alan J. Steinberg,
Regional Administrator

Enclosures

cc: Nadine Noorhasan, VIDPNR, w/
Verlin Mercellin, VIDPNR, w/