

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II

2010 NOV 17 P 1:53

ADMINISTRATIVE HEARINGS
CLERK

IN THE MATTER OF:)
)
USVI Department of Health – Division of)
Environmental Health – St. Thomas &)
St. Croix)
)
Respondent)
)
Proceeding under Section 3008 of the)
Solid Waste Disposal Act, as amended)
42 U.S.C. section 6928)
_____)

ANSWER

Docket No. RCRA – 02-2010-7111

The Department of Health – Division of Environmental Health, St. Thomas & St. Croix (“DOH”) files this response to the EPA Complaint received on October 14, 2010 and would show as follows:

I. Complaint

The DOH acknowledges the authority of the EPA as set forth in section I of the Complaint.

General Allegations

1. Allegation 1 is a legal conclusion and does not require a response.

Respondent’s Background

2. DOH acknowledges that it is an executive department of the Government of the Virgin Islands.
3. Allegation 3 is a legal conclusion and does not require a response.
4. Allegation 4 is a legal conclusion and does not require a response. DOH acknowledges its statutory authority and responsibilities under the Virgin Islands Code, as amended.
5. Allegation 5 is a legal conclusion and does not require a response.
6. Allegation 6 is a legal conclusion and does not require a response. DOH does have facilities on St. Thomas and St. Croix where chemicals are stored.
7. Allegation 7 is a legal conclusion and does not require a response.
8. DOH denies the allegations contained in paragraph 8.
9. DOH denies the allegations contained in paragraph 9.
10. DOH denies the allegations contained in paragraph 10.
11. DOH denies the allegations contained in paragraph 11.
12. DOH cannot admit or deny the allegations contained in paragraph 12
13. DOH cannot admit or deny the allegations contained in paragraph 13
14. DOH denies the allegations contained in paragraph 14.

15. DOH cannot admit or deny the allegations contained in paragraph 15.
16. DOH denies the allegations contained in paragraph 16.
17. Allegation 17 is a legal conclusion and does not require a response.
18. DOH cannot admit or deny the allegations contained in paragraph 18.
19. DOH cannot admit or deny the allegations contained in paragraph 19.
20. DOH denies the allegations contained in paragraph 20.
21. Allegation 21 is a legal conclusion and does not require a response.
22. Allegation 22 is a legal conclusion and does not require a response.
23. Allegation 23 is a legal conclusion and does not require a response.
24. Allegation 24 is a legal conclusion and does not require a response.
25. DOH cannot admit or deny the allegations contained in paragraph 25.
26. DOH cannot admit or deny the allegations contained in paragraph 26 as DOH is not in possession of the documents referred to in this paragraph.
27. DOH cannot admit or deny the allegations contained in paragraph 27 as DOH is not in possession of the documents referred to in this paragraph.
28. Allegation 28 is a legal conclusion and does not require a response.
29. DOH denies the allegations contained in paragraph 29.
30. DOH denies the allegations contained in paragraph 30.
31. Allegation 31 is a legal conclusion and does not require a response.
32. Allegation 32 is a legal conclusion and does not require a response.
33. Allegation 33 is a legal conclusion and does not require a response.
34. Allegation 34 is a legal conclusion and does not require a response.
35. DOH denies the allegations contained in paragraph 35.
36. DOH denies the allegations contained in paragraph 36.
37. DOH denies the allegations contained in paragraph 37.
38. Allegation 38 is a legal conclusion and does not require a response. By way of further answer, DOH cannot admit or deny whether an inspection took place and its purpose.
39. DOH cannot admit or deny the allegations contained in paragraph 39.
40. DOH denies the allegations contained in paragraph 40.
41. DOH cannot admit or deny the allegations contained in paragraph 41.
42. DOH cannot admit or deny the allegations contained in paragraph 42.
43. DOH cannot admit or deny the allegations contained in paragraph 43.
44. DOH cannot admit or deny the allegations contained in paragraph 44.
45. DOH cannot admit or deny the allegations contained in paragraph 45.
46. DOH cannot admit or deny the allegations contained in paragraph 46.
47. DOH cannot admit or deny the allegations contained in paragraph 47.
48. DOH cannot admit or deny the allegations contained in paragraph 48.
49. DOH cannot admit or deny the allegations contained in paragraph 49.
50. DOH cannot admit or deny the allegations contained in paragraph 50.
51. DOH denies the allegations contained in paragraph 51.
52. DOH cannot admit or deny the allegations contained in paragraph 52.
53. DOH cannot admit or deny the allegations contained in paragraph 53.
54. DOH denies the allegations contained in paragraph 54.
55. DOH denies the allegations contained in paragraph 55.
56. DOH cannot admit or deny the allegations contained in paragraph 56.

57. DOH cannot admit or deny the allegations contained in paragraph 57.
58. DOH cannot admit or deny the allegations contained in paragraph 58. Any document referenced in this paragraph speaks for itself.
59. DOH cannot admit or deny the allegations contained in paragraph 59. Any document referenced in this paragraph speaks for itself.
60. DOH cannot admit or deny the allegations contained in paragraph 60. Any document referenced in this paragraph speaks for itself.
61. DOH cannot admit or deny the allegations contained in paragraph 61. Any document referenced in this paragraph speaks for itself. Allegation 64 is a legal conclusion and does not require a response
62. DOH cannot admit or deny the allegations contained in paragraph 62.
63. DOH incorporates its previous responses to the applicable allegations contained in paragraphs 1 through 62 as if fully set forth herein.
64. Allegation 64 is a legal conclusion and does not require a response.
65. Allegation 65 is a legal conclusion and does not require a response.
66. Allegation 66 is a legal conclusion and does not require a response.
67. DOH denies the allegations contained in paragraph 67.
68. DOH denies the allegations contained in paragraph 68.
69. DOH denies the allegations contained in paragraph 69.
70. DOH denies the allegations contained in paragraph 70.
71. DOH denies the allegations contained in paragraph 71.
72. DOH denies the allegations contained in paragraph 72.
73. DOH incorporates its previous responses to the applicable allegations contained in paragraphs 1 through 73 as if fully set forth herein.
74. Allegation 74 is a legal conclusion and does not require a response.
75. Allegation 75 is a legal conclusion and does not require a response.
76. Allegation 76 is a legal conclusion and does not require a response.
77. Allegation 77 is a legal conclusion and does not require a response.
78. Allegation 78 is a legal conclusion and does not require a response.
79. Allegation 79 is a legal conclusion and does not require a response
80. DOH denies the allegations contained in paragraph 80.
81. DOH denies the allegations contained in paragraph 81.

II Proposed Civil Penalty

The proposed civil penalty is excessive. The financial circumstances of the Territory do not warrant the assessment of fines or penalties in the amounts proposed.

III. Compliance Order


The Department of Health received this Complaint on October 14, 2010. Pursuant to 40 C.F.R. section 22.15, the Department of Health is requesting a hearing on this matter. In addition to the Department of Health's request for a hearing, the Department is requesting an informal settlement conference to address the issues alleged in the Complaint.

Respectfully Submitted,

VINCENT F. FRAZER, ESQ.
Attorney General

ELLIOTT M. DAVIS
Solicitor General

Dated: November 12, 2010

By:  Pamela R. Tepper

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of November, 2010, a copy of the Answer of the Virgin Islands Department of Health was served upon the following individuals by depositing it in the United States Mail, first class, postage prepaid, at St. Thomas, VI, addressed to:

1. Eduardo R. Gonzalez, P.E.
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