

## ENTRY TO THE USVI COMMERCIAL FISHERY– background, status, and recommendations

Dated September 28, 2021

### 1.0 Summary recommendations

- The DPNR Commissioner should issue a press release announcing that applications will be accepted for limited, phased entry to the trap and line commercial fishery.
- New entrants to the line fishery limited by total cap per District. Both FAC do not recommend new entrants to the net or dive fishery. Helper licenses will not be limited. Fish traps may be transferred, but at no number greater than the number of fish traps in the reduction declaration of 2011; new traps may only be issued by application to and approval from the Commissioner, but new fishers may not apply until a period of one year holding a fisher license has passed.
- Total licenses should not exceed 200 per District across all fisheries based on historic and current license holders.

### 2.0 Commercial fishing license moratorium

- What is it?
  - A press release dated states that, “Dean C. Plaskett, Esp., Commissioner of the Department of Planning and Natural Resources, wishes to inform the public that, pursuant to the authority vested in him by Title 12, Chapter 10, Section 303 (a) (1) (2) (3) and (b) of the Virgin Islands Code, a moratorium on the issuance of new commercial fishing permits in the Territory will go into effect as of 5:00 p.m. on August 24, 2001. This moratorium has been requested by the St. Croix fisheries Advisory Committee and the commercial fishermen of St. Croix and shall be as a result of a discussion and vote conducted via a public meeting held on July 31, 2001 and consultation with experts in fisheries and DPNR Division of Fish and Wildlife and Division of Environmental Enforcement staff. All Virgin Islands’ fishermen who wish to obtain a commercial fishing permit for the fishing year 2001 – 2002 must obtain the permit by 5:00 p.m. on August 24, 2001. No permits will be issued after this date for the 2001 – 2002 fishing year. The purpose of the moratorium is to allow time for the revision of permitting regulations for commercial fishing in the Territory. The public will be notified when permitting will resume. Contact the Division of Fish and Wildlife at 772-1955 for more information.”
- When did it start?
  - August 24, 2001
- Why did it start?
  - At a public stakeholder meeting organized by the St. Croix FAC and DPNR-DFW on July 31, 2001, the Council voted to have the USVI fishery closed to new entrants...*“to allow time for the revision of permitting regulations for commercial fishing in the Territory.”*
  - The Division of Fish and Wildlife worked from September 23, 2005 to May 25, 2010 to revise the U.S. Virgin Islands Commercial Fishing Regulations. The revised Act draft was funded through NOAA grant WC133F05CN1388 and included stakeholder input.
- Was there an end date?
  - No, but the moratorium was intended to be a temporary measure to ensure time for revision of regulation for the commercial fishery.
- Why should we lift the moratorium?
  - No new fishing licenses have been issued since 2001. After 20 years, the fishing industry has suffered from attrition; losses due to inactivity of fishers, moving, retirement, and death. In St. Croix, there are 463 possible licenses. A survey was sent out through USPS mailers to homes and by

press release that all fishers in the USVI were to declare their intent to fish if eligible, through registration or a one year deferment, or they would forfeit their license by July 30, 2021. In St. Croix in 2021 of 463 eligible fishers, 112 registered, 4 have declared an intent to register in 2022, and 347 remain unregistered. In St. Thomas/St. John in 2021 of 370 eligible fishers, 102 registered, 260 are unregistered, and 8 have declared an intent to register in 2022.

### 3.0 Commercial fishing

- Who is a commercial fisher?
  - 12 VIC § 302 (11) defines Fisherman to include...“any person engaged in fishing for commercial, sport or other purposes, in marine, estuarine or freshwaters within the territorial jurisdiction of the United States Virgin Islands; provided, that dealers in live fish for aquariums and ornamental purposes shall be excluded from this definition.” Fishing is defined as 12 VIC § 302 (12) stating that ““Fishing” or “fisheries” shall include all acts involved in the use, setting up or operation of any device employed in killing, catching or capturing fish or in transporting or preparing fish for market.’ 11 VIC § 1405 (a) clarifies full vs. part-time fishers as, ““fulltime farmers and fishermen” are those who derive at least 55 percent of their annual gross income from farming or fishing.’
  - The FAC voted to establish a definition for Commercial Fisherman as: “Any person engaged in the harvest and sale of marine organisms, including Fish, shellfish, crustaceans, invertebrates, algae or marine plants, either whole or processed, for profit, barter or trade.” They further stipulated that, “Fishers must file taxes with the Bureau of Internal Revenue, submit commercial catch reports on a timely basis, meet port sampling requirements as established by DPNR-DFW, obtain a Department of Agriculture certification signed by the Commissioner, register their vessel with the Division of Environmental Enforcement, and obtain a commercial fishing permit from Licensing and Consumer Affairs to sell seafood at permitted locations.”

	St. Thomas/St. John	St. Croix
<b>1. Definition of Commercial Fisherman</b>	“Any person engaged in the harvest and sale of marine organisms, including fish, shellfish, crustaceans, invertebrates, algae, or marine plants, either whole or processed, for profit, barter or trade.” <i>Accepted, 7-0.</i>	“Any person engaged in the harvest and sale of marine organisms, including fish, shellfish, crustaceans, invertebrates, algae, or marine plants, either whole or processed, for profit, barter or trade.” <i>Accepted, 9-0.</i>
<b>2. Full-Time Commercial Fisher</b>	“Any person who makes 50% or greater income from commercial fishing.” <i>Removed from discussion by vote.</i>	“Any person who makes 50% or greater income from commercial fishing.” <i>Removed from discussion by vote.</i>
<b>3. Part-Time Commercial Fisher</b>	“Any person who makes less than 50% of his income from commercial fishing.” <i>Removed from discussion by vote.</i>	“Any person who makes less than 50% of his income from commercial fishing.” <i>Removed from discussion by vote.</i>
<b>4. Full-Time/Part-Time Commercial Fisher</b>	“Must file taxes reporting income as per the Bureau of Internal Revenue.” <i>Accepted, 7-0.</i>	“Must file taxes reporting income as per the Bureau of Internal Revenue.” <i>Accepted, 6-5.</i>

<p><b>5. Renewal of Commercial Fishing Permit</b></p>	<p>“Submit commercial catch reports on a timely basis, meet port sampling requirements as established by DPNR-DFW, obtain a Department of Agriculture certification signed by the Commissioner of AG, register their vessel with DEE and obtain a commercial fishing permit from DLCA to sell seafood at permitted locations in the USVI.” Accepted, 7-0.</p>	<p>“Submit commercial catch reports on a timely basis, meet port sampling requirements as established by DPNR-DFW, obtain a Department of Agriculture certification signed by the Commissioner of AG, register their vessel with DEE and obtain a commercial fishing permit from DLCA to sell seafood at permitted locations in the USVI.” Accepted, 9-0. 2 abstentions.</p>
<p><b>6. Active Commercial Fisher</b></p>	<p>“An individual who complies with numbers 4 and 5 above.” Accepted, 7-0.</p>	<p>“An individual who complies with numbers 4 and 5 above.” Accepted, 9-0. 2 abstentions.</p>
<p><b>7. Inactive Commercial Fisher</b></p>	<p>“A person holding a commercial fishing permit but not commercial fishing during that calendar year. The individual may hold this status for only <u>three consecutive years</u> and is not exempt from paying all permit/vessel fees.” Accepted, 7-0.</p>	<p>“A person holding a commercial fishing permit but not commercial fishing during that calendar year. The individual may hold this status for only <u>two consecutive years</u> and is not exempt from paying all permit/vessel fees.” Accepted, 10-0. 1 abstention.</p>
<p><b>8. Sleeper Status</b></p>	<p>“A person holding a license but not commercial fishing for greater than two consecutive years. The individual must pay \$100/yr fee to maintain the permit in the sleeper status with the ability to reactive at any time.” Removed from discussion by vote.</p>	<p>“A person holding a license but not commercial fishing for greater than two consecutive years. The individual must pay \$100/yr fee to maintain the permit in the sleeper status with the ability to reactive at any time.” Accepted 5-4. 2 abstentions.</p>
<p><b>9. Forfeit</b></p>	<p>“Any person non-compliant with <u>7 above</u> forfeits their commercial fishing permit and must reapply according to current regulations.” Accepted, 7-0.</p>	<p>“Any person non-compliant with <u>7 and 8 above</u> forfeits their commercial fishing permit and must reapply according to current regulations.” Alternate: “One year of not in compliance, give fisher one year grace period and the fisher may reapply when ready to start fishing if licenses are available.” Accepted 9-1. 1 abstention.</p>
<p><b>10. Transfer</b></p>	<p>“Commercial fishing permits may be transferred to a helper or direct family members <u>with a minimum of three years of experience in the USVI fishery.</u>”</p>	<p>“Commercial fishing permits may be transferred to a helper or direct family members <u>only.</u>” Tied 5-5. 1 abstention.</p>

	Accepted, 7-0.	
<b>11. Deceased</b>	<p><u>Commercial fishers must annually designate, during the registration period, a person to whom their commercial license and gear will be transferred to upon their death.</u> Otherwise, a commercial fishing license issued to a commercial fisher recently deceased may be applied for by a family member or helper, <u>if no one is designated</u> and a family member is not interested, within two years of the commercial fisher's death."</p> <p>Accepted, 7-0.</p>	<p>"The commercial fishing permit issued to a commercial fisher recently deceased may be applied for by a family member or helper, if a family member is not interested, within two years of the commercial fisher's death."</p> <p>Accepted 9-2.</p>
<b>12. Trap Fishery Entrants</b>	<p>"Limited entry; capped by date."  Removed from discussion by vote.</p>	<p>"Limited entry; capped by date."  Accepted 9-1. 1 abstention.</p>
<b>12A. Fishery Entrants</b>	<p>"No new entrants; capped by date."  Accepted, 7-0.</p>	<p>*STT/STJ created a new point. No data for St. Croix.</p>
<b>13. Line Fishery Entrants</b>	<p>"Open; encourage deployment of FADs to attract pelagic fishes."  Removed from discussion by vote.</p>	<p>"Open; encourage deployment of FADs to attract pelagic fishes."  Accepted 11-0.</p>
<b>14. Net Fishery Entrants</b>	<p>"No new entrants."  Removed from discussion by vote.</p>	<p>"No new entrants."  Accepted 7-2. 2 abstentions.</p>
<b>15. Dive Fishery Entrants</b>	<p>"No new entrants."  Removed from discussion by vote.</p>	<p>"No new entrants."  Not accepted, 5-6.</p>
<b>16. Number of Helpers Allowed By Category</b>	<p>"Limit the number of helpers allowed per commercial fisher <u>boat to 5.</u>"  Accepted, 7-0.</p>	<p>"Limit the number of helpers allowed per commercial fisher boat to 6."  Not accepted, 4-6. 1 abstention.  "Limit the number of helpers allowed per commercial fisher."  Accepted 6-4. 1 abstention.</p>
<b>17. Authorization of Helpers as Vendors</b>	<p>"A person who is licensed by the Territory to assist under the supervision or direction of a commercial fisher in operating commercial gear or in taking, attempting to take, possessing, transporting, or selling commercial fish."  Accepted, 7-0.</p>	<p>*STT/STJ created a new point. No data for St. Croix.</p>

### 3.0 Commercial fishing licenses St. Croix

Total Licenses	Year	Unregistered Fishers	Registered Fishers	Inactive	Active	<2 CCR from Active Fisher	Comments
463	2020	334	129	22	43	N/A	*Only reflects CCR's submitted by 65 fishers from 07/20-09/20; incomplete reports for July to September
	2019	333	130	76	54	26	
	2018	344	119	79	40	34	
	2017	340	123	87	36	27	
	2016	328	135	73	62	53	
	2015	330	133				
	2014	324	139				* 2011 -2015 are not possible to calculate completely, as compliance is not indicated by actual numbers of CCR's submitted incomplete numbers are recorded in spreadsheets
	2013	317	146				
	2012	306	157				
	2011	317	146				
	2010	281	182	109	73		
	2009	281	182				
	2008	290	173				
	2007	295	168				
	2006	288	175				
	2005	283	180				
	2004	273	190				
	2003	249	214				
2002	261	202					
2001	244	219					

•Total

Licenses represents names of individuals who have held a commercial fishing license since 1997, and who can legally register as a commercial fisher for St. Croix.

- Inactive fisher represents a registered fisher who submits did not fish (DNF) or no CCR for the year.
- Active fisher represents a registered fisher who submitted at least 6 CCR for the year (reduced from Alexis original 12, due to some commercial fishers only reporting queen conch, which has a 5-month closed season and would affect numbers).
- <2 CCR represents a registered fisher who submitted more than 2 CCR per month for the year.

In the St. Croix Fishery Advisory Committee, recommendations to identify measures to be implemented prior to ending the moratorium on commercial fishing licenses were discussed. Issues covered at the meeting included sustainability, definitions of key terms, the process for issuing new licenses, regulations, and enforcement. Underlying each suggestion was the foundational understanding that fishing is of significant cultural importance and deeply rooted in the history of the Virgin Islands. Increasing commercial fishing licenses is intended to support the continuation of the industry and promote youth in the fishery.

A key factor in ending the moratorium is whether the fisheries can ecologically and economically sustain an increase in fishers. Participants at the FAC discussion suggested that it can- if appropriate monitoring continues. A cap on licenses was suggested to allow a younger generation to join the industry while preventing indefinite growth. A 30% increase in licenses was put forward. Additionally, it was proposed to create a category for inactive licenses, establish a phased entry system for new licenses, and reassess quotas and annual catch limits with safety margins based on new stock assessments and market surveys. The proposed solution to stressed stocks was to decrease the impact of inshore fishing by providing additional support farther out, such as placing additional FADs.

Suggestions for increased data collection and analysis were put forward. This would satisfy the need to create a better understanding of fish stocks and current take, allowing entry into the industry without detriment to current fishers. Increased field sampling to determine accuracy of commercial catch report compliance, validated with direct port sampling, was one proposed method. This data could be used to validate which resources in different fisheries should be opened under the new licenses based on the pressure from verified take. The same data could be used to restrict recreational take of key commercial fish or to limit the types of fishing permitted to recreational participants (e.g. scuba).

In addition to supporting future sustainability, it was recommended that historical analysis be conducted as well. Inventorying licenses across time and understanding why fishers have left the industry since 2001 can allow those causes to be addressed and improve ongoing support to the community. It was also requested to determine how many fishers have been, and are, licensed in different age categories to analyze shifting age demographics.

Outside of sustainability concerns, there was the broader issue of what should be defined as commercial fishing. This point requires further clarification with legal and VIDA. At the meeting, it was considered that distinguishing characteristics of commercial fishers may include full time vs. part time, the percent of income coming from fishing, and whether the fisher held other employment. It was suggested that commercial fishers be limited to those with more than fifty percent of income coming from fishing and that do not hold another full-time job, to make the classification livelihood dependent. It was proposed that different licenses be created for full and part-time commercial fishers, with different registration fees (and that fees in Act 3330 be reassessed). Fishers with only part-time status would be permitted different gear types and not able to place traps, based on maintenance and ecological reasons.

Accompanying this was the recommendation to come up with a minimum number of catch reports and port samplings needed per year to maintain commercial status (such sampling should be conducted more frequently than years past). A time limit would be created for between catch reports, exceeding the limit results in forfeiture of the license. Creating mechanisms that result in loss of licenses requires considering establishing routes to re-entry, including hardship clauses, and clarifying how appeals to the Commissioner would work (especially for established fishers that fall into the not-active category). Participants at the meeting generally agreed that enforcement capacity and prosecution need to be increased for both existing and proposed regulations. The issue of hotels and restaurants buying catch from recreational fishers was of particular concern.

Separate classifications for commercial fishers were not limited to full and part time but extended to considering the helpers' licenses as well. It was generally agreed that fishers should be given primary consideration before addressing helpers. It was suggested to include which commercial fisher the helper assists on

their license, and to determine the type of gear each helper uses/are permitted to use overall. It was requested that it be determined how many helpers work in the fishery.

Moving on from who may be considered a commercial fisher, it was discussed which types of fishing should be allowed under the licenses. The need to determine which areas to adjust and which to leave at status quo was considered across line, dive, trap, net, free-dive, and bait fishing. More data is needed to determine if any areas need to remain closed to new licensees. It was proposed that spear fishing, line fishing, and net fishing be the only open options. Clarification was sought on how many divers can dive under one commercial fishing license and if helpers are included. One suggestion to promote sustainability as well as facilitate new entry was that a fisher may be permitted to enter a closed fishery if buying out another fisher's pots; only a fisher from a regulated fishery could get gear from another fisher within the same regulated fishery, not a different type. This reasoning came from the idea to allow new licenses by species group, keeping minimal competition between present divers and trap fishers, and accounting for biological limits.

After clarifying intentions for the fisher classification system, the discussion proceeded to anticipated issues once new fishers enter the industry. One suggestion was to put a one-year probationary period in place for new licensees, or to create a classification for beginner fisher licenses. Following the idea of establishing a process to move up in the fishery as you gain experience it was put forward that new fishers be paired with an existing fisher "mentor" who assists in filing taxes, compliance reports, etc. to allow knowledge sharing to the new entries and ensure they are doing such things correctly. It was additionally proposed that all fishers be encouraged to file taxes to claim all benefits from government, banks, and other sources (e.g. 1040, SE, Schedule C), and those that do not have Schedule C cannot renew a license.

It was brought forward that the Commissioner should issue a declaration that Schedule C be filed by all registered commercial fishers on federal taxes. The declaration falls under VIDA's jurisdiction covering registration and would help to educate fishers that 90% of their income is exempt; filing Schedule C is beneficial to both their business and livelihoods. It was additionally requested, concerning policy, that definitions for commercial versus recreational fishers be updated and formalized, keeping consistent across GVI and with the CFR.

In considering each of the measures identified in this discussion, compatibility between federal and territorial regulations must be accounted for. While there was general agreement around foundational goals, multiple pathways to ending the moratorium were proposed; the discussion yielded action items for both policy and field work that would benefit from additional discussion with fishers and stakeholders.

#### 4.0 Commercial fishing licenses St. Thomas/St. John

Total Licenses	Year	Unregistered Fishers	Registered Fishers	Inactive	Active	Comments
	2020	251	116			
	2019	218	147			
	2018	252	113			
	2017	260	105			
	2016	258	107			
	2015	213	152			
	2014	218	147			
	2013	231	134			
	2012	239	126			
	2011	*	*			*2011 registration is missing; numbers cannot be entered
	2010	167	198			
	2009	167	198			
	2008	176	189			
	2007	175	190			
	2006	181	184			
	2005	182	183			
	2004	186	179			
	2003	200	165			
	2002	202	163			
	2001	189	176			

In the St. Thomas/St. John Fishery Advisory Committee, recommendations to identify measures to be implemented prior to ending the moratorium on commercial fishing licenses were discussed. Issues covered at the meeting included definitions of key terms, the process for issuing new licenses, regulations, and enforcement. Each issue was finalized with a vote. All suggestions advised caution in entry to the fishery, as the fishery is sensitive to fishing effort and must be preserved and conserved for the next generation. Overall, limited entry to the commercial fishery was supported if guaranteed that the rules would promote young Virgin Islanders' entry to the fishery.

One of the first definition topics was the difference between full and part-time commercial fishing. There was some division over how to establish that distinction, with suggestions that it be based on time spent fishing or percentage of income. Through discussion members resolved that percent of income was not an appropriate way to create the categories and would jeopardize the fishing status of license holders who have supplemental income, such as through



rental properties, even if they fish each day. There was a unanimous decision to remove topics 2 and 3, the definitions of full and part-time fishers, from discussion as no method put forward received serious support.

The group supported the current renewal process and requirement to file taxes to report income as per the Bureau of Internal Revenue. The discussion held that submitting commercial catch reports on a timely basis, meeting port sampling requirements as established by DPNR-DFW, obtaining a Department of Agriculture certification signed by the Commissioner of AG, registering their vessel with DEE and obtaining a commercial fishing permit from DLCA to sell seafood at permitted locations in the USVI as currently required has no significant issues that provide reason for change. It also held that an active commercial fisher is an individual who complies with these requirements.

While the definition of active commercial fisher was accepted without modification, the members suggested a modification to the definition of an inactive commercial fisher. There was agreement that the existing system of a two-year inactive status transitioning to an indefinite sleeper status with a yearly fee was not conducive to keeping active engagement in the fishery and was harmful under a system with limited licensed. The group voted to suggest the complete removal of sleeper status, and to extend the inactive status so that it could be held for three years. The members found that three years seemed an appropriate time to allow inactive status, accounting for potential hardship, but not allowing a license to be kept out of use. The suggested definition of forfeiture was modified to address the removal of sleeper status, any person non-compliant with the inactive commercial fisher status, passing the three-year period, forfeits their license.

In considering the topic of license transfers, the FAC had several suggestions. First, there was strong support for requiring that license recipients have knowledge of the fishery. A recommendation was put forward that a helper or direct family member receiving a license through transfer must have a minimum of three years of experience in the USVI fishery. It was also suggested to define “family” and “direct family.” For the transfer of a license from a recently deceased fisher, it was requested to add a DPNR form, to be submitted and notarized annually at fishing registration, for the license holder to designate who would receive their license and associated gear, or who would make that decision, in the event of their death. This suggestion received strong support and the FAC’s wording of Topic 11 was modified to include it.

On the issue of defining different fishery’s entrance availability, the FAC consolidated “Trap Fishery Entrants,” “Line Fishery Entrants,” “Net Fishery Entrants,” and “Dive Fishery Entrants” into a single topic that read “Fishery Entrants.” The members found that distinction was unnecessary if none were open under the moratorium. There was also a concern that if a license was granted for only one type of fishery it would complicate enforcement. The resolution of this topic included discussion of the moratorium in general and it was clarified that the FAC’s suggestions on these definitions were put forward as part of a status review for providing a pathway for new entrants and did not reflect their support for ending the moratorium.

Moving on to the issue of helpers, the FAC discussed how many helpers should be allowed by category, what the helper’s license allows and how it is defined. Members highlighted the helpers are not just on the boats actively fishing but they also build traps, fix equipment, and provide other support. They found that in setting a limit for helpers it should be a boat specific limitation and account for the practice of fishers having helpers that often specialize in certain tasks that are not always interchangeable. The suggestion put forward was to limit the number of helpers allowed per commercial fisher boat to five. It was also suggested to list the name of the fisher the helper is under on the helper’s ID.

There was serious interest expressed in allowing helpers more autonomy that they currently have in practice. The members suggested modifying definitions to grant helpers the right to sell fish on behalf of, and with authorization of, a commercial fisher even if they are not present. They expressed frustration that they

were unaware of anything in the law that says only commercial fishers can sell but that that has been the enforcement practice. It was put forward that if the goal of restricting helper's abilities was to protect fish stocks it wouldn't be a hinderance to allow them to act as vendors. On the topic of helper authority, it was also recommended that a notarized form be submitted at registration by commercial fishers to designate a helper that could take over the vessel for the purposes of tending to already deployed traps or gear, but not additional fishing, in the event the fisher is sick or otherwise incapacitated.

Once these suggestions were agreed upon the members worked on a recommendation for establishing a definition for a commercial fishing helper. The FAC suggested that a helper be defined as "a person who is licensed by the Territory to assist under the supervision or direction of a commercial fisher in operating commercial gear or in taking, attempting to take, possessing, transporting, or selling commercial fish." There was agreement that a definition should be established and that it should authorize helpers to act as vendors at the direction of a licensed commercial fisher, assuming they meet any other applicable requirements.

In considering each of the measures identified in this discussion, compatibility between federal and territorial regulations must be accounted for. There was agreement around the suggestions and definitions put forward, and topics without a productive solution or found to be redundant were removed from discussion. The discussion focused on pathways to increase efficiency and active participation in the fishery and action items for both policy and field work that would benefit from additional discussion with fishers and stakeholders. The discussion at this FAC was held as part of a fishery status review for potential opening pathways but had not been framed as an opportunity to discuss support or dissent for the moratorium.