

Virgin Islands Rules and Regulations Concerning: Wildlife and Marine Sanctuaries

Current through April 26, 2021

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Table of Contents

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 37. Extending or Curtailing Hunting Seasons

37-1. White-Crowned Pigeon.	5
-----------------------------	---

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 91. Establishment of Game Preserves

91-1. Saba Island, Turtle Dove Cay and Flat Cay.	6
--	---

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 92. Control and Supervision of Game Preserves and Wildlife Sanctuaries

92-1. Supervision.	7
--------------------	---

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 94. Offshore Islands and Cays to be Administered by the Department

94-1. Designations.	8
94-(b)-1. Purpose.	8
94-(b)-2. Prohibitions.	8
94-(b)-3. Guides; Licenses.	9
94-(b)-4. Apprenticeship Program.	9
94-(b)-5. Licenses; Suspension and Revocation.	10
94-(b)-6. Visitors' Permits.	10
94-(b)-7. Limitation.	10
94-(b)-8. Guides; Responsibilities.	10

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Expand Subchapter 96. Prohibited Acts in Wildlife and Marine Sanctuaries

96-1. Acts Prohibited in the Compass Point Pond Marine Reserve and Wildlife Sanctuary.	12
96-2. Acts Prohibited in the Cas Cay/Mangrove Lagoon Marine Reserve and Wildlife Sanctuary.	12
96-3. Acts Prohibited in the ST. James Marine Reserve and Wildlife Sanctuary.	13
96-4. Acts Permitted in the ST. James Marine Reserve and Wildlife Sanctuary, Provided a Permit is First Obtained from the Commissioner.	13
96-5. Acts Permitted in the Cas Cay/Mangrove Lagoon Marine Reserve and Wildlife Sanctuary, Provided a Permit is First Obtained from the Commissioner.	13

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 96. Frank Bay Marine Reserve and Wildlife Sanctuary

96-1. Authority.	14
96-2. Findings.	14
96-3. Definitions.	15
96-4. Prohibited or Otherwise Regulated Acts in the Frank Bay Wildlife and Marine Sanctuary.	16
96-5. Emergency Regulation.	16
96-6. Permits; Application Procedure and Issuance Criteria.	17
96-7. Posting Notice in the Wildlife and Marine Sanctuary.	18
96-8. Enforcement.	18

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

96. Salt River Bay Marine Reserve and Wildlife Sanctuary

96-9(a). Authority.	19
96-9(b). Purpose: Goals.	19
96-10. Findings.	20
96-11. Definitions.	21
96-12. Prohibited or Otherwise Regulated Acts in the Salt River Bay Marine Reserve and Wildlife Sanctuary.	21
96-13. Emergency Regulation.	22
96-14. Permits: Application, Procedure and Issuance Criteria.	22

96-15. Posting Notice in the Marine Reserve and Wildlife Sanctuary.	24
96-16. Enforcement.	24

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 97. Establishment of Wildlife or Marine Sanctuaries

97-1. Propagating.	25
--------------------	----

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 98. Posting Notice in Game Preserves and Wildlife Sanctuaries

98-1. Notices.	26
----------------	----

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 98. ST. Croix East End Marine Park

98-1. Purpose; Management Plan; Effective Date.	27
98-2. ST. Croix East End Marine Park Boundary.	27
98-3. Definitions.	27
98-4. Prohibited Activities - Park-Wide.	32
98-5. Prohibited Activities by Park Zones.	35
98-6. Emergency Regulations.	36
98-7. Permits - Application Procedures and Issuance Criteria.	37
98-8. Marine Park Office; Marine Park Advisory Committee.	38
98-9. Enforcement.	39
98-10. Revocation of Marine Park Permit.	40
98-11. Hearings and Due Process Procedures.	41
98-12. Penalties and Fine.	46

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 99. Penalties

99-1. Penalties.	47
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Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 37. Extending or Curtailing Hunting Seasons

12 V.I. R. & Regs. § 37-1

37-1. White-Crowned Pigeon.

The white-crowned or white-head pigeon has been placed on the protected list and cannot be taken as a game bird until further notice. This action is taken in an effort to preserve this fine game bird from extermination and restore it to its former numbers, and this section is applicable to all hunters as well as the general public throughout the Virgin Islands.

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 91. Establishment of Game Preserves

12 V.I. R. & Regs. § 91-1

91-1. Saba Island, Turtle Dove Cay and Flat Cay.

Pursuant to Title 12, Section 94, Virgin Islands Code, the islands known as Saba Island or Little Saba Island, and the islands known as Turtle Dove Cay and Flat Cay, located three to four miles west by southwest of Charlotte Amalie, St. Thomas, and Ruth Cay situated south of Krause Lagoon, St. Croix are designated wildlife sanctuaries.

(a) For the period April 1 through November 15th of each year, these islands shall be inviolate sanctuaries where human activities are prohibited in order to protect nesting birds. During this period, no person shall intrude upon these islands, nor shall any boat or vessel of any description venture within twenty-five yards of these islands. In addition no boat shall lie at anchor within 400 yards of these islands for more than one consecutive night, nor shall the use of firearms be permitted within one-half mile of these islands. Provided, that the holder of a permit to perform scientific research issued by the Commissioner of Planning and Natural Resources may visit these islands pursuant to the terms of the permit. Further provided, that the sandy beach on the northwest point of Saba Island may be used by the public for reasonable, non-damaging recreational use during daylight hours.

(b) For the Period November 16 through March 31 of each year, these islands may be visited by the public for reasonable, non-damaging recreational use during daylight hours, but the hunting or killing of animals or game of any description, or the eggs or nests of any animal are prohibited.

(c) Violation of this section shall subject the violator to be fined and/or imprisoned pursuant to Title 12, section 94, subsection (d), Virgin Islands Code.

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 92. Control and Supervision of Game Preserves and Wildlife Sanctuaries

12 V.I. R. & Regs. § 92-1

92-1. Supervision.

Title 12 V.I.C. § 92 provides that all game preserves and wildlife sanctuaries in the Virgin Islands shall be controlled and supervised by the Commissioner of the Department of Planning and Natural Resources.

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 94. Offshore Islands and Cays to be Administered by the Department

12 V.I. R. & Regs. § 94-1

94-1. Designations.

Title 12 V.I.C. § 94 provides that the Commissioner of Planning and Natural Resources shall issue regulations pertaining to the management, use or control of the offshore islands and cays owned by the Government of the Virgin Islands, including but not limited to, the designation of game preserves and wildlife sanctuaries, and the designation of inviolate sanctuaries where human activities are prohibited. The provisions of Section 94 also include other inland areas which are declared to be wildlife sanctuaries.

12 V.I. R. & Regs. § 94-(b)-1

94-(b)-1. Purpose.

In order for the people of the Virgin Islands and visitors to the Virgin Islands to be able to view nesting seabirds and seabird colonies at close range without risking potential harm to said seabirds, these regulations are promulgated under authority of the Commissioner's obligation to manage the offshore islands and cays of the Virgin Islands belonging to the Government of the Virgin Islands.

12 V.I. R. & Regs. § 94-(b)-2

94-(b)-2. Prohibitions.

It shall be unlawful for any person to land on or create any disturbance near any island or cay listed in the annex unless that person is

- (a) a governmental employee on official business, or
- (b) an authorized scientist, or
- (c) a licensed seabird guide, or
- (d) a person possessing a valid visitation permit who is escorted by a licensed seabird guide acting within the scope of his license.

ANNEX

The following is a list of the islands and cays belonging to the Government of the Virgin Islands mentioned in this section:

Capella Frenchcap

Carval RockKalkun

Cas Cay Little Flat

Cockroach Pelican

Congo	Saba
Cricket	Shark
Dog	Stevens'
Dutchcap	Sula
Flanagan	Turtledove
Flat	

12 V.I. R. & Regs. § 94-(b)-3

94-(b)-3. Guides; Licenses.

(a) Any person above the age of 18 years who meets the following qualifications and pays the required fee may be issued a seabird guide license. Such license shall be valid for a period of one year from the date of issue. The candidate must be in good health, and

- (1) of good moral character, and
- (2) must be able to swim, and
- (3) must successfully pass a written examination administered by the Fish and Wildlife Division, and
- (4) must demonstrate necessary field skills, and
- (5) must demonstrate a knowledge of the islands and cays, and the natural history of the seabirds found thereon, and,
- (6) must pay the annual fee of \$ 100.

(b) Any person above the age of 18 years who meets the following qualifications and pays the required fee may be issued an assistant seabird guide license. Such license shall be valid for a period of one year from the date of issue. The candidate must be in good health, and

- (1) of good moral character, and
- (2) must be able to swim, and
- (3) must demonstrate necessary field skills, and
- (4) must pay the annual fee of \$ 25.

This is a temporary license, and will be phased out as qualified apprentice guides become available.

12 V.I. R. & Regs. § 94-(b)-4

94-(b)-4. Apprenticeship Program.

Any person above the age of 16 years who is enrolled in an apprenticeship program in any high school in the Territory of the Virgin Islands is automatically entitled to be licensed as an apprentice seabird guide if that person meets the following qualifications:

- (a) is in good health, and
- (b) maintains a grade point average satisfactory to the school, and

(c) makes a least seven (7) trips to islands and cays with a licensed seabird guide and a party of visitors during each of two consecutive twelve-month periods, or under the direct supervision, as a summer employee; of the Division of Fish and Wildlife.

(d) Any person above the age of 18 who has satisfactorily completed a high school course, and has met the requirements listed under subsections (a)-(c) of this section above shall be issued a seabird guide license. The fee shall be waived for the first twelve-(12-) month period.

12 V.I. R. & Regs. § 94-(b)-5

94-(b)-5. Licenses; Suspension and Revocation.

The license required of a seabird guide may be suspended or revoked for cause by the Commissioner after a hearing. Such cause includes, inter alia:

- (a) Unprofessional conduct, such as the use of drugs or alcohol while a tour is being conducted,
- (b) littering, or allowing visitors to litter,
- (c) escorting visitors who do not have a valid permit,
- (d) causing or allowing visitors to cause a disturbance in [the island].
- (e) any other act or failure to act which is inconsistent with the responsibilities of a licensed seabird guide, and
- (f) any violation of this title, or these regulations, or any criminal statute in the Virgin Island Code.

12 V.I. R. & Regs. § 94-(b)-6

94-(b)-6. Visitors' Permits.

Upon proper application and payment of the required fee to the Department of Planning and Natural Resources, any person above the age of nine (9) years, if escorted by a licensed seabird guide, may visit one or more designated islands or cays for the purpose of viewing and photographing seabirds. The fee schedule is:

- (a) For regular visitors - \$ 50 per day or \$ 200 per week.
- (b) For students - \$ 10 per day or \$ 50 per week.
- (c) For visitors on special trips - no fee.

12 V.I. R. & Regs. § 94-(b)-7

94-(b)-7. Limitation.

Any licensed seabird guide may escort a party of not more than ten persons, except that such guide, if assisted by an assistant guide or an apprentice guide, may escort a party of not more than eighteen persons.

12 V.I. R. & Regs. § 94-(b)-8

94-(b)-8. Guides; Responsibilities.

It shall be the responsibility of the licensed guide to:

- (a) file a “visit plan” with the Division of Fish and Wildlife showing the times and places where visits are desired, the names and addresses of the visitors, and the license numbers of the guide(s);
- (b) ensure that each person being escorted to an island or cay has in their possession a valid visitor's permit.

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

96. Prohibited Acts in Wildlife and Marine Sanctuaries

12 V.I. R. & Regs. § 96-1

96-1. Acts Prohibited in the Compass Point Pond Marine Reserve and Wildlife Sanctuary.

Except under a permit or specific authorization of the Commissioner, it is unlawful to:

- (a) use or possess any firearm, air rifle, bow and arrow, or any trap or other contrivance designed to be, or capable of being, used to take birds, fish or other wildlife, or to discharge any firearm or release any arrow into or within the marine reserve and wildlife sanctuary;
- (b) bring livestock, dogs, motor vehicles or to play loud electronic music in the marine reserve and wildlife sanctuary;
- (c) disturb or take any plant or animal within the marine reserve and wildlife sanctuary.
- (d) store, repair, maintain, or construct any vehicle or vessels within the marine reserve and wildlife sanctuary.

12 V.I. R. & Regs. § 96-2

96-2. Acts Prohibited in the Cas Cay/Mangrove Lagoon Marine Reserve and Wildlife Sanctuary.

Except under a permit or specific authorization of the Commissioner, it is unlawful to:

(a) Water:

- (1) take or possess any bird, fish or other wildlife (including any living organism), or part thereof;
- (2) use or possess any firearm, bow and arrow, or any trap or other contrivance designed to be, or capable of being, used to take fish, birds or other wildlife, or to discharge any firearm or release any arrow into or within the marine reserve and wildlife sanctuary;
- (3) anchor beyond seven (7) days within the boundaries of the marine reserve and wildlife sanctuary;
- (4) anchor boats without functioning sewage holding tanks;
- (5) use in the inner lagoon (defined as the area within the marine reserve and wildlife sanctuary west of a line from Turpentine Run to the eastern end of Patricia Cay) any internal combustion engine;
- (6) operate any powered vessel in excess of five (5) miles per hour;
- (7) moor any vessel after July 1, 1996; vessels with current mooring permits must have a functioning holding tank capable of being discharged at a pump-out facility or beyond three miles at sea (no new mooring permits will be granted for this area).

(b) Land:

- (1) conduct the following activities:
 - (A) picnicking in/at non-designated areas;
 - (B) camping;
 - (C) hunting;

- (D) use of fire, except in a self-contained charcoal-briquette or gas grill;
- (E) possession of firearm(s);
- (F) playing of amplified music;
- (G) disturbing or removal of any plant, animal or mineral;
- (H) store, repair, maintain or construct any vessel or vehicle.

12 V.I. R. & Regs. § 96-3

96-3. Acts Prohibited in the St. James Marine Reserve and Wildlife Sanctuary.

Except under a permit or specific authorization of the Commissioner, it is unlawful to remove any marine or other wildlife.

12 V.I. R. & Regs. § 96-4

96-4. Acts Permitted in the St. James Marine Reserve and Wildlife Sanctuary, Provided a Permit is First Obtained from the Commissioner.

- (a) Scientific collecting in support of and for use in a research project with an approved protocol.
- (b) The use of a castnet with a minimum square mesh size of one-quarter (1/4) inch to capture baitfish ("fry") within fifty (50) feet of the shoreline, except for Cow and Calf rocks.
- (c) Fishing with hook and line.

12 V.I. R. & Regs. § 96-5

96-5. Acts Permitted in the Cas Cay/Mangrove Lagoon Marine Reserve and Wildlife Sanctuary, Provided a Permit is First Obtained from the Commissioner.

- (a) The use of a castnet with a minimum square mesh size of one-quarter (1/4) inch to capture baitfish ("fry") within fifty (50) feet of the north and west shorelines of Cas Cay only.

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 96. Frank Bay Marine Reserve and Wildlife Sanctuary

12 V.I. R. & Regs. § 96-1

96-1. Authority.

(a) The following Rules and Regulations are promulgated pursuant to the Commissioner's authority under V.I. Code tit. 12, section 92.

Pursuant to Title 12, V.I.C. section 97, the Commissioner of the Department of Planning and Natural Resources may for the purpose of propagating, feeding, and protecting birds, fish and other wildlife designate and establish wildlife or marine sanctuaries and public access areas and special management zones within any wildlife or marine sanctuary.

Pursuant to Title 12, V.I.C. section 96(b), the Commissioner of the Department of Planning and Natural Resources is authorized promulgate rules and regulations pursuant to Title 3, Chapter 35, V.I.C., prohibiting acts which may adversely impact upon wildlife or marine sanctuaries or game preserves.

PURPOSE; GOALS

(b) The goals of the Department's regulatory program are to:

(1) Protect, conserve, and manage fish, wildlife, plants, endangered or threatened species and the Frank Bay Pond habitats for the ultimate benefit of the people of the Virgin Islands, now and in the future and thereby ensure the integrity, health and continued recreational, scientific, educational and aesthetic resources and qualities of this significant area of the marine environment;

(2) Maintain, restore and enhance living resources by providing places for species that depend on this marine area for survival and propagation;

(3) Facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of this area not prohibited pursuant to other authorities; and

(4) Enhance public awareness, understanding, appreciation, and wise use of the marine environment.

12 V.I. R. & Regs. § 96-2

96-2. Findings.

In designating the Frank Bay Pond as a Wildlife and Marine Sanctuary, the Commissioner hereby finds and declares that:

(1) This nation historically has recognized the importance of protecting special areas in its public domain;

(2) Title to certain submerged and filled lands, such as Frank Bay Pond has been conveyed in trust to and are held in trust by the Government of the Virgin Islands for the benefit of the people of the Virgin Islands;

(3) The Frank Bay Pond in Estate Enighed and Contant, Cruz Bay Quarter, St. John, constitutes a distinct and valuable natural resource of vital importance to the people of the Virgin Islands;

(4) Inspections, studies and other investigations conducted by the Department of Planning and Natural Resources, Division of Fish and Wildlife, and other government agencies and private organizations have shown

that the Frank Bay Pond, although degraded, remains a significant wildlife habitat on St. John. This pond is used by numerous bird species.

(5) The Frank Bay Pond and its surrounding area is regularly inhabited by the White-Checked Pintail and Great Blue Heron, species considered endangered locally, and is frequented by numerous migratory shore birds, thus possessing conservation, ecological, historical, research, recreational, educational and aesthetic qualities that give this area special territorial and national significance;

(6) Improper and unregulated development and use of the Frank Bay Pond have resulted in sediment deposition, obstruction of tidal flow, decline in productivity of the marine environment, pollution and other adverse environmental effects, all of which have adversely affected the beneficial uses of the Frank Bay Pond by the people of the Virgin Islands;

(7) Unauthorized obstructions, pollution and adverse environmental effects continue to exist and continue to cause damage to the Frank Bay Pond;

(8) Existing territorial and federal laws or regulations have been unable to ensure coordinated and comprehensive conservation and management of the Frank Bay Pond;

(9) The establishment of periodic tidal influence in the pond would improve the overall quality of the environment and preserve the resident and migratory wildlife of the area:

(10) Members of the public and various organizations have expressed great interest in the conservation, preservation and restoration of the Frank Bay Pond. Specifically, the Virgin Islands Audubon Society has studied and monitored the area since 1987; has cleared the area of hurricane debris, has secured an Urban and Community Forestry Program Grant for restoration of plants at the pond, and has commenced reforestation of the Pond. The incorporation of the Frank Bay Pond into the Wildlife and Marine Sanctuary System is essential to continue the preservation efforts commenced by the Audubon Society;

(11) It is the declared public policy of the Government of the Virgin Islands and it is the duty of the Commissioner to protect, manage and regulate areas declared to be Wildlife Marine Sanctuaries;

(12) Designation of the Frank Bay Pond as a Wildlife Marine Sanctuary will facilitate the objectives of the Department to protect, preserve, manage and regulate an area of special territorial significance;

(13) The size and nature of the Frank Bay Pond will permit comprehensive and coordinated conservation and management; and

(14) Designation of the Frank Bay Pond as a Wildlife and Marine Sanctuary will fulfill the policies, goals and purposes of V.I. code tit. 12, section 1.

12 V.I. R. & Regs. § 96-3

96-3. Definitions.

As used in these rules and regulations -

“Commissioner” means the Commissioner of the Department of Planning and Natural Resources.

“Department” means Department of Planning and Natural Resources.

“Sanctuary” means The Frank Bay Wildlife and Marine Sanctuary.

“Natural Resources” means animals, corals, plants, fish and all other items that have historically been deemed natural resources.

96-4. Prohibited or Otherwise Regulated Acts in the Frank Bay Wildlife and Marine Sanctuary.

(a) The following activities are prohibited within the Frank Bay Pond, Wildlife and Marine Sanctuary, unless a permit is granted or there is other specific authorization from the Commissioner. It is unlawful to:

- (1) collect, take or possess any bird, fish, coral or other wildlife, or part thereof;
- (2) use or possess any firearm, bow and arrow or any trap or other contrivance designed to be, or capable of being used to take birds, fish or other wildlife, or to discharge any firearm or release any arrow into the sanctuary;
- (3) throw, place or deposit any waste into the sanctuary;
- (4) bring livestock or dogs into the sanctuary;
- (5) collect, take, possess or harmfully disturb any plant, soil, rock or other material;
- (6) destroy, injure or harmfully disturb any sanctuary animal;
- (7) feed any sanctuary animal;
- (8) store, maintain, repair, construct, use or abandon any vehicle or vessel in the sanctuary;
- (9) camp, make fire or picnic at non-designated sites in the sanctuary;
- (10) dredge, fill, excavate or otherwise alter the pond bed of the sanctuary, or construct, place or abandon any structure, material or other matter on the pond bed of the sanctuary;
- (11) use any motorized vehicle or vessel, except on existing roads, within the sanctuary;
- (12) discharge, release or deposit any materials or substances of any kind into the sanctuary waters;
- (13) remove, deface, damage or tamper with any archaeological or historical resources within the boundary of the sanctuary;
- (14) discharge, release or deposit, from beyond the boundary of the sanctuary, any material or other matter that subsequently enters the sanctuary and degrades the natural resources or other values of the sanctuary;
- (15) mark, deface or damage in any way whatsoever, or displace, remove or tamper with any sign, notice or placard, whether temporary or permanent or with any navigational aid, monument, stake, post, buoy, scientific equipment or boundary marker installed by the Commissioner.

(b) There is a rebuttable presumption that any natural resource found in the possession of a person within the sanctuary, has been collected or removed from within the sanctuary.

96-5. Emergency Regulation.

When necessary, to prevent or minimize the destruction or, loss of or injury to a sanctuary resource or value, or minimize the imminent risk of such destruction, loss or injury, all activities are subject to immediate temporary regulation, including prohibition.

96-6. Permits; Application Procedure and Issuance Criteria.

A person in possession of a valid Wildlife and Marine Sanctuary Permit issued by the Commissioner in accordance with this section may conduct in the Sanctuary activities specified in the permit, including any activity specifically prohibited under section 100-5 of these rules and regulations, if the activity is:

- (1) research related to the resources of the sanctuary; or
 - (2) to further the educational value of the sanctuary; or
 - (3) for salvage or recovery operations; or
 - (4) for restoration of resources.
- (a) Permit applications must be addressed to the Commissioner.
 - (b) An application must include a detailed description of all activities proposed including:
 - (1) the equipment and methods involved;
 - (2) the qualifications and experience of person(s) seeking permit;
 - (3) the potential effects of the activities, if any, on the sanctuary resources or values;
 - (4) a timetable for completion of the proposed activity; and
 - (5) copies of all other required licenses or permits.
 - (c) In considering whether to grant a permit, the Commissioner must evaluate such matters as:
 - (1) the extent to which the proposed activity may diminish or enhance the value of the sanctuary as a source for recreation, education or scientific information;
 - (2) the appropriateness of the methods being proposed to conduct the proposed activity;
 - (3) the applicant's professional and financial background;
 - (4) the goals and objectives of the proposed activity.
 - (d) In addition to meeting the criterias in subsections (a) through (d) of this section, the applicant shall also satisfactorily demonstrate to the Commissioner that:
 - (1) adequate safeguards will be implemented to protect the environment; and
 - (2) the environment will be enhanced or returned to the condition that existed before the proposed activity occurred.
 - (e) Upon receipt of an application, the Commissioner may request additional information from the applicant as the Commissioner deems necessary to act on the application and if deemed necessary, may seek public input or hold a public hearing.
 - (f) The Commissioner, at his or her discretion, may issue the permit subject to such terms and conditions as determined to be appropriate.
 - (g) A permit granted under this section is nontransferable and is valid for one year.
 - (h) The Commissioner may amend, suspend or revoke a permit issued under this section for cause. The Commissioner may deny a permit application, in whole or in part, if it is determined that the permittee or the applicant has acted in violation of the terms or conditions of a permit or of the Rules and Regulations set forth

in this subchapter or for other good cause. Any such action must be communicated in writing to the permittee or applicant by certified mail and must set forth the reason(s) for the action.

12 V.I. R. & Regs. § 96-7

96-7. Posting Notice in the Wildlife and Marine Sanctuary.

The Commissioner shall cause to be prepared suitable signs to be posted at the Sanctuary designating the area as a Wildlife and Marine Sanctuary and giving notice of the activities prohibited by Section 100-5 of these rules and regulations.

12 V.I. R. & Regs. § 96-8

96-8. Enforcement.

A person who violates any provision of these Rules and Regulations is subject to a civil fine provided no penalty assessed shall be in excess of the maximum allowed by V.I. Code tit. 12, Section 913(c)(1).

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 96. Salt River Bay Marine Reserve and Wildlife Sanctuary

12 V.I. R. & Regs. § 96-9(a)

96-9(a). Authority.

(a) The following regulations are issued pursuant to the Commissioner's authority under V.I. Code Title 12, Section 92.

Pursuant to V.I. Code Title 12, Section 97, the Commissioner of the Department of Planning and Natural Resources may, for the purpose of propagating, feeding and protecting birds, fish and other wildlife, designate and establish wildlife or marine sanctuaries and public access areas and special management zones within any wildlife or marine sanctuary.

Pursuant to Title 12, V.I.C. Section 96(b), the Commissioner of the Department of Planning and Natural Resources is authorized to promulgate rules and regulations pursuant to Title 3, Chapter 35, V.I.C., prohibiting such acts which may adversely impact upon wildlife or marine sanctuaries or game preserves.

(b) The following regulations are also issued pursuant to Public Law 102-247, which established Salt River Bay National Historical Park and Ecological Preserve.

12 V.I. R. & Regs. § 96-9(b)

96-9(b). Purpose: Goals.

(b) The Government of the Virgin Islands through the Department of Planning and Natural Resources recognizes its joint management commitments and responsibilities to Salt River Bay as a partner with the Department of Interior in the joint management of the Salt River Bay National Historical Park and Ecological Preserve. The goals of the Department's regulatory program are to:

(1) Protect, conserve and manage fish, wildlife, plants, endangered or threatened species and Salt River Bay habitats, owned by the Government of the Virgin Islands, for the ultimate benefit of the people of the United States, now and in the future and thereby ensure the integrity, health and continued availability of the ecological, historical, recreational, scientific, educational and aesthetic resources and qualities of this significant area of the marine environment;

(2) Maintain, restore and enhance living resources by providing places for species that depend on this marine area for survival and propagation;

(3) Accommodate to the extent compatible with the primary objective of protection of resources of national significance, all public and private uses of the resources of this area not prohibited pursuant to other authorities, including P.L. 102-247 and such statutes, executive orders, policies and guidelines applicable to units of the National Park Service; and

(4) Enhance public awareness, understanding, appreciation and wise use of the marine environment.

96-10. Findings.

The designation of Salt River Bay Marine Reserve and Wildlife Sanctuary was approved and signed by the Commissioner of the Department of Planning and Natural Resources on 19 July 1995. The findings of the Commissioner were as follows:

- (1) The establishment of a marine reserve and wildlife sanctuary within the below defined boundary will advance the interests and values of the people of the United States and particularly the United States Virgin Islands, contribute significantly to commercially viable fishery resources, preserve a habitat for larval and juvenile fish within the mangrove estuary, provide marine viewing areas, as well as study areas for academic institutions, protect valuable habitat for federally and locally listed endangered and threatened sea turtle and bird species, and in general assist to ensure that fisheries continue by protecting a portion of the spawning stock from exploitation;
- (2) The within defined area incorporates many types of marine/wetland ecosystems in the United States Virgin Islands within small and manageable units, maximizing biodiversity within minimum areas;
- (3) The within defined area in February 1980 was designated a National Natural Landmark by the Secretary of the Department of the Interior due to its national significance illustrating the natural heritage of the United States and Territories;
- (5) On February 24, 1992, the President of the United States signed Public Law 102-247 establishing the Salt River National Historical Park and Ecological Preserve;
- (6) In September 1993, Salt River Bay and watershed were designated an Area of Particular Concern and Area for Preservation and Restoration by the Department of Planning and Natural Resources in recognition of the area's unique cultural, historical, ecological and educational values;
- (7) Within the said boundaries there presently exists almost no harvesting of fish for sale and the said defined area offers significant protected opportunities for education, non-harmful recreation (diving, sailing, canoeing, recreational release fishing, etc.), and passive enjoyment of the environment (fish watching, bird watching, etc.);
- (8) The boundary of the area designated is as follows:

The landward boundary is located within the boundary established for the Salt River National historical Park and Ecological Preserve (Public Law 102-247). The boundary line is established at the mean high water mark throughout and includes all mangrove wetland vegetation contained therein. Beginning at the easternmost point of Fort Sale Point on the western shore of Salt River Bay, the boundary extends south along the western shore of Salt River Bay; then along the western southern shore of Sugar Bay; then along the western, southern and eastern shores of Triton Bay and the eastern shore of Salt River Bay to the northernmost point of Judith's Fancy Point. The seaward boundary is contiguous or lies within the seaward boundary of Salt River Bay National Historical Park and Ecological Preserve and extends from the northernmost point of Judith's Fancy Point directly north to the 300 foot depth contour; then west along the 300 foot depth contour to a point directly north of the highest point of Greig Hill; then south to the shore; then east and south along the western shore of Salt River Bay, following the mean high water mark, to the easternmost point of Fort Sale Point, the point of origin;
- (9) Salt River Bay Marine Reserve and Wildlife Sanctuary boundaries apply only to those marine and wetland areas transferred and conveyed to the United States Virgin Islands as "Trust Lands", pursuant to Public Law 93-435, 88 Statutes, 1210 (Title 48 U.S. Code, Section 1705), or is otherwise owned by the Government of the Virgin Islands;

12 V.I. R. & Regs. § 96-11

96-11. Definitions.

As used in these rules and regulations-

“Commissioner” means the Commissioner of the Department of Planning and Natural Resources.

“Department” means Department of Planning and Natural Resources.

“Sanctuary” means the Salt River Bay Marine Reserve and Wildlife Sanctuary.

“Natural Resources” means animals, corals, plants, fish and all other items that have historically been deemed natural resources.

12 V.I. R. & Regs. § 96-12

96-12. Prohibited or Otherwise Regulated Acts in the Salt River Bay Marine Reserve and Wildlife Sanctuary.

(a) The following activities are prohibited within the Salt River Bay Marine Reserve and Wildlife Sanctuary, unless a permit is granted or there is other specific authorization from the Commissioner. It is unlawful to:

- (1) collect, take or possess any fish, coral, bird or other wildlife, or part thereof;
- (2) use or possess any firearm, bow and arrow, spear gun or any trap, net or other contrivance designed to be, or capable of being used to take birds, fish or other wildlife, with the exception of recreational catch and release line fishing with barbless hooks, or to discharge any firearm or release any arrow into the sanctuary;
- (3) throw, place or deposit any waste into the sanctuary;
- (4) bring livestock or domestic animals into the sanctuary;
- (5) collect, take, possess or harmfully disturb any plant, soil, rock or other material, either marine or terrestrial;
- (6) destroy, injure or harmfully disturb any sanctuary animal, either marine or terrestrial;
- (7) feed any sanctuary animal, either marine or terrestrial;
- (8) store, maintain, repair, construct, use or abandon any vehicle or vessel in the sanctuary;
- (9) camp, make fire or picnic at undesignated sites in the sanctuary;
- (10) dredge, fill, excavate or otherwise alter the seabed or shoreline of the sanctuary, or construct, place or abandon any structure, material or other matter on the seabed of the sanctuary;
- (11) use any motorized vehicle except on existing roads within the sanctuary;
- (12) use any motorized vessel except as specified for restricted areas in V.I. Code tit. 25, § 297-3 within the sanctuary;
- (13) use any “Personal Watercraft” or “Thrillcraft” within the sanctuary;
- (14) discharge, release or deposit any material or substance of any kind into the sanctuary waters;
- (15) excavate, remove, deface, damage or tamper with any archaeological or historical resources or possess or use metal detectors within the boundary of the sanctuary;
- (16) discharge, release or deposit, from beyond the boundary of the sanctuary, any material, substance or other matter that subsequently enters the sanctuary and degrades the natural resources or other values of the sanctuary;

(17) mark, deface or damage in any way whatsoever, or displace, remove or tamper with any sign, notice or placard, whether temporary or permanent or any navigational aid, monument, stake, post, buoy, scientific equipment or boundary marker installed by the United States Government or the Government of the Virgin Islands;

(18) short term anchor (14 days or less) outside a designated anchoring area;

(19) long term anchor or moor any vessel or surface platform without obtaining a mooring permit issued by the Department of Planning and Natural Resources;

(20) anchor or moor any surface or underwater vessel or platform outside designated anchoring or mooring areas; and

(21) anchor during hurricanes only in designated hurricane anchorage areas.

(b) There is a presumption that any item listed in these paragraphs (natural, historical or archaeological resources) found in the possession of a person within the sanctuary has been collected or removed illegally from within the sanctuary.

12 V.I. R. & Regs. § 96-13

96-13. Emergency Regulation.

When necessary to prevent or minimize the destruction of, loss of or injury to a sanctuary resource or value, or minimize the imminent risk of such destruction, loss or injury, all activities are subject to immediate temporary regulation, including prohibition.

12 V.I. R. & Regs. § 96-14

96-14. Permits: Application, Procedure And Issuance Criteria.

A person in possession of a valid Marine Reserve and Wildlife Sanctuary Permit issued by the Commissioner with concurrence of the National Park Service in accordance with this section may conduct in the sanctuary activities specified in the permit, including any activity specifically prohibited under Section 96-12 of these Rules and Regulations, if the activity is:

(1) research related to the resources of the sanctuary; or

(2) to further the educational value of the sanctuary; or

(3) for salvage or recovery operations other than of historic or archaeological resources; or

(4) for restoration of resources.

Other activities requiring a permit within the sanctuary include, but are not limited to, the following recreational water sports activities:

(1) sightseeing concessions;

(2) birdwatching concessions;

(3) snorkeling and diving concessions;

(4) canoeing and kayaking concessions;

(5) recreational catch and release sport fishing concessions; and

(6) windsurfing concessions:

(a) Permit applications must be addressed to the Commissioner of the Department of Planning and Natural Resources.

(b) An application must include the following:

- (1) a detailed description of the proposed undertaking;
 - (2) an explanation justifying the need for the undertaking;
 - (3) an Environmental Assessment or equivalent;
 - (4) the equipment and methods involved;
 - (5) the qualifications and experience of all personnel;
 - (6) the potential effects of the activities, if any, on the sanctuary resources or values;
 - (7) a timetable for completion of the proposed activity; and
 - (8) copies of all other required licenses or permits.
- (9) administrative fee.

(c) In considering whether to grant a permit, the Commissioner shall evaluate such matters as:

- (1) the compatibility with the provisions of P.L. 102-247 and federal statutes, executive orders, policies and guidelines applicable to units of the National Park System;
- (2) the extent to which the proposed activity may diminish or enhance the value of the sanctuary as a source for recreation, education or scientific information;
- (3) the appropriateness of the methods being proposed to conduct the proposed activity;
- (4) the need for the proposed undertaking;
- (5) the goals and objectives of the proposed activity.

(d) In addition to meeting the criteria in Subsections (a) through (c) of this section, the applicant shall also satisfactorily demonstrate to the Commissioner that:

- (1) adequate safeguards will be implemented to protect the environment (i.e., environmental monitoring, performance bond, etc.); and
- (2) the environment will be enhanced or returned to the condition that existed before the proposed activity occurred.

(e) Upon receipt of an application, the Commissioner may request additional information from the applicant as the Commissioner deems necessary to act on the application and if deemed necessary, may seek public input or hold a public hearing.

(f) The Commissioner, with the concurrence of the National Park Service, may issue the permit, subject to such terms and conditions as determined to be appropriate.

(g) A permit granted under this section is non-transferable and is valid for one year.

(h) The Commissioner may amend, suspend or revoke a permit issued under this section for cause. The Commissioner may deny a permit application, in whole or in part, if it is determined that the permittee or the applicant has acted in violation of the terms or conditions of a permit or of the rules and regulations set forth in this sub-chapter or for other good cause. Any such action must be communicated in writing to the permittee or applicant by certified mail and must set forth the reason(s) for the action.

12 V.I. R. & Regs. § 96-15

96-15. Posting Notice in the Marine Reserve and Wildlife Sanctuary.

The Commissioner shall cause to be prepared suitable signs to be posted at the sanctuary designating the area as a Marine Reserve and Wildlife Sanctuary and giving notice of the activities prohibited by Section 96-12 of these rules and regulations.

12 V.I. R. & Regs. § 96-16

96-16. Enforcement.

A person who violates any provision of these Rules and Regulations is subject to a civil fine provided no penalty assessed shall be in excess of the maximum allowed by V.I. Code Title 12, Section 913(c)(1).

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 97. Establishment of Wildlife or Marine Sanctuaries

12 V.I. R. & Regs. § 97-1

97-1. Propagating.

The Commissioner may for the purpose of propagating, feeding and protecting fish, birds and other wildlife, designate and establish additional wildlife or marine sanctuaries, with public access areas and special management zones within any marine reserve or wildlife sanctuary.

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 98. Posting Notice in Game Preserves and Wildlife Sanctuaries

12 V.I. R. & Regs. § 98-1

98-1. Notices.

Notices shall be of a type and size and placed as approved and directed by the Commissioner.

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 98. Posting Notice in Game Preserves and Wildlife Sanctuaries

12 V.I. R. & Regs. § 98-1

98-1. Purpose; Management Plan; Effective Date.

(a) These regulations are promulgated pursuant to and shall supplement [12 V.I.C Section 98](#). These Marine Park (“Marine Park” or “Park”) Rules and Regulations are promulgated in order to protect territorially significant marine resources, promote sustainability of marine ecosystems including coral reefs, sea grass beds, wildlife habitats and other resources and to conserve and preserve significant natural areas for the use and benefit of future generations, pursuant to V.I. Code Annot. tit. 12, Chapter 1, Section 98, as amended.

(b) The Coastal Zone Management (CZM) Commission (Commission) will review the Management Plan 7 years after initial adoption by the Virgin Islands Legislature, afterward the Management Plan will be reviewed every 5 years. The Commission shall review these Marine Park Regulations at the fifth anniversary of their enactment to determine their effectiveness.

(c) Upon the Effective date of these Rules and Regulations, the Division of Coastal Zone Management shall cause marker buoys to be installed to delineate the boundaries of the St. Croix East End Marine Park and the Recreational, Open, Wildlife Preserve and No-Take Zones therein. The Enforcement provisions of these Rules and Regulations shall go into effect following a 30-day public notice period, which shall begin upon the completion of the installation of the marker buoys.

12 V.I. R. & Regs. § 98-2

98-2. St. Croix East End Marine Park Boundary.

The shoreline boundary is delineated by the highest tide line, and beginning at the western most point of Chenay Bay (17.76103049, -64.6682224), proceeding around the eastern tip of St. Croix, and ending at the western most point of Great Pond Bay (17.71424314, -64.66470456). Following the northwestern boundary latitude line associated with the western-most point of Chenay Bay, 64 degrees 40' 5.6" W (latitude converted to degrees minutes format), the boundary extends geographically north to the three nautical-mile limit and follows the three nautical-mile limit to the latitude line associated with the western-most point of Great Pond Bay, 64 degrees 39' 52.9" W (latitude converted to degrees minutes format), excluding areas under federal jurisdiction.

12 V.I. R. & Regs. § 98-3

98-3. Definitions.

The following definitions apply to the Marine Park Regulations:

“Act” means Act No. 6572 promulgated by U.S. Virgin Islands Government establishing the St. Croix East End Marine Park and authorizing the establishment of other marine parks.

“Adjudication” means the Department of Planning and Natural Resources' process for formulating a final administrative decision.

“Adverse Effect” means any factor, force, or action that independently or cumulatively damages, diminishes, degrades, impairs, destroys, or otherwise harms any Park resource as defined in this section or any of the qualities, values, or purposes for which the Park is designated.

“Airboat” means a vessel operated by means of a motor driven propeller that pushes air for momentum.

“Anchored” or “Anchoring” means that a vessel is held, wholly or partially, by the resistance of the anchor dropped to the bottom and attached to the bow.

“Authorized Permit” means a permit issued by the Department of Planning and Natural Resources that allows for the removal of marine resources for commercial, recreational or scientific purposes within the Park’s boundaries.

“Cast Net Bait Fishing” means

(a) the use of a hand-thrown, conical net made of nylon or monofilament, weighted on the bottom edge, to encircle and catch baitfish, such as herring (a.k.a. sprat and fry) (Family Clupeidae - redear sardine, false pilchard, thread herring and dwarf herring), anchovy (Family Engraulidae - dusky anchovy) and halfbeaks (Family Hemiramphidae - ballyhoo).

(b) the use of a gill net that does not exceed eight (8) feet in depth and a span of six hundred (600) feet.

“Closed” means that all entry or use is prohibited.

“Commercial Activity” means an activity undertaken for financial gain.

“Commission” means the Virgin Islands Coastal Zone Management Commission established by [V.I. Code Annot. Title 12, Section 904\(a\)](#).

“Commissioner” means the Commissioner of the Department of Planning and Natural Resources.

“Committee” means the committee established by [V.I. Code Annot. Title 12 Section 904\(a\)](#) whose jurisdiction includes the park; such committees include the St. Croix Coastal Zone Management Committee, the St. Thomas Coastal Zone Management Committee and the St. John Coastal Zone Management Committee. With respect to the St. Croix East End Marine Park, “Committee” or “CZM Committee” means the St. Croix CZM Committee.

“Conservation ticket” means a form, prescribed by the Commissioner or the Commission, upon which a Notice of Violation or a Notice of Violation and Assessment may be written.

“Concessionaire” means a person operating a concession (business) for profit (i.e. boat tours, guide fishers, kayaking, SCUBA guides, etc.).

“Coral” means the corals of the Class Hydrozoa, Order Milleporina (fire corals); Class Anthozoa, Subclass Octocorallia (gorgonians, telestaceans, soft corals), Subclass Hexacorallia, Order Scleractinia (stony corals), and Order Antipatharia (black corals).

“Coral communities” means the marine habitat where coral growth occurs.

“Decision” means an initial or final decision of the hearing officer.

“Department” means the Department of Planning and Natural Resources.

“Emergency” means an unexpected situation that poses an immediate danger to life, health, property, Park or marine resources and demands immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.

“Existing Management Area” means areas within or near the Park that are managed by other agencies or another Federal or Territorial authority of competent jurisdiction as of the effective date of these Marine Park Regulations where restrictions already exist.

“Exotic Species” means a species of plant, invertebrate, fish, amphibian, reptile or mammal whose natural zoogeographic range would not have included the waters of the Caribbean and adjacent tropical waters without passive or active introduction to these areas through anthropogenic means.

“Final Administrative Decision” means an order or decision of the Department, by a hearing officer, assessing a civil penalty or permit sanction which is not subject to further Departmental review under these Marine Park Regulations and which is subject to collection proceedings and judicial review in an appropriate court, as authorized by law.

“Fish” when used as a noun, means fish, oysters, clams, conchs, crabs, lobsters, shrimps, turtles and other marine or aquatic animals, mammals, mollusks and crustaceans and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof, as stated in the [Virgin Islands Code Title 12, Section 302](#).

“Fisheries Enhancement Device” means a natural or man-made material at the surface, in the water column or on the bottom, to serve as habitat for the colonization or aggregation of fish.

“Fishing” or “fisheries” means the catching, taking, or harvesting of fish, all acts involved in the use, setting up or operation of any device employed in killing, catching, taking, or harvesting fish, the attempted catching, taking or harvesting of fish; or any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish or any operation within the park in support of, or in preparation for, any activity described in this subparagraph. The verb “to fish” in all its modes and tenses means to take, capture, kill, or harvest or attempt to take, capture, kill or harvest fish by any method or means, whether or not such method or means results in their capture.

(1) *“Recreational Fishing”* means any fishing using hand line or rod and reel from the shoreline or from a vessel not operated for commercial purposes or for the purpose of scientific research. Recreational Fishing must not involve the sale, barter or trade of part or all of the catch.

(2) *“Commercial Fishing”* means the sale, barter, or trade of part or all of a catch.

(3) *“Catch and Release Guide Fishery”* means a for-profit fishery in which guides, registered and licensed to fish in the USVI and The Park, employ rod and reel line fishing techniques from vessels or the shoreline to catch and release inshore recreational gamefish species. Only barbless, single J- hook baits (live, dead or artificial) or barbed or barbless circle hooks may be used.

“Forfeiture” includes, but is not limited to, surrender or relinquishment of any claim to an item by written agreement or otherwise; or loss of any claim to, and transfer of title to an item to the Park or the Department by court order or by order of the Commissioner, pursuant to statute.

“Gray water” means untreated wastewater that does not contain black waste (sewage)

“Hardbottom” means a flat, hard, carbonate-based material having a low percent live cover of scleractinian and milleporid corals. Portions of this habitat type may be covered by a thin veneer of sand with occasional coral and gorgonian outcroppings.

“Hearing Officer” means any person designated by the Commissioner to preside over hearings under these Marine Park Regulations.

“Historical /Cultural Resources” means a structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance to the United States Virgin Islands.

“Idle Speed Only/No Wake Zone” means a portion of the Park where the speed at which a boat is operated does not produce a wake.

“Injure/Injury” means damage, either accidental or intentional, to park, marine, cultural or historic resources within the boundaries of the Marine Park.

“Initial Administrative Decision” means a decision of the Hearing Officer which, under applicable statute and these Marine Park Regulations, is subject to review by the Commissioner, but which becomes the final administrative decision in the absence of such review.

“Live Rock” means any living marine organism or an assemblage thereof attached to a hard substrate, including dead coral, rock, or mollusk shells.

“Marine Life Species” means any species of marine mammal, reptile, seabird, fish, invertebrate, or plant.

“Marine Park Advisory Committee (MPAC)” means a group of stakeholder representatives that provide advisory services to the Commissioner of DPNR, including periodic consultation, effectiveness evaluations, progress reviews, work plan review, and assist in developing management plans.

“Marine Park Office” means an office focused on activities within the Marine Park.

“Marine Protected Area” or **“Marine Park”** or **“Park”** means an area of the marine environment that has been reserved by federal, state, territorial, or local laws or regulations to provide lasting protection for part or all of the natural, historic and cultural resources therein.

“Marine Resource(s)” means all biotic (living organisms, e.g. marine life species) and abiotic (non-living, physical environment, e.g. sand, rock, bedrock) components of the marine environment.

“Military Activity” means any activity conducted by the U.S. Department of Defense with or without participation by foreign forces, other than civil engineering and other civil works projects conducted by the U.S. Army Corps of Engineers.

“Moored” when applied to a vessel, means that the vessel has cast and fastened to a mooring cable which will hold it and not allow it to detach itself therefrom for a greater distance than the length of the cable and where the vessel's anchor has not been cast from the vessel.

“Mooring” means a semi-permanent anchorage installation consisting of an approved mooring system.

“Mooring Areas” mean those areas which are portions of waters within the Park that are designated as such by the appropriate Rules and Regulations.

“Mooring Permit” means a written authorization by the Department of Planning and Natural Resources to place a mooring as defined in [Title 25 Section 405 of the Virgin Islands Code](#). The issuance of a mooring permit is contingent upon payment of the appropriate mooring permit fee.

“Mooring Year” means the period for which a mooring space is assigned.

“No Access Buffer Zone” means a portion of the Park where vessels are prohibited from entering regardless of the method of propulsion.

“No Motor Area” means an area of the Park where the use of internal combustion motors is prohibited. A vessel with an internal combustion motor may access a no motor zone only through the use of a push pole, paddle, sail, electric motor or similar means of operation but is prohibited from using its internal combustion motor.

“No-Take Zone” means an area where all living marine resources are protected through prohibitions on fishing and the removal or disturbance of any living or non-living marine resource, except as necessary for research or monitoring to evaluate Park effectiveness.

“Not available for immediate use” means not readily accessible for immediate use, i.e., by being stowed unbaited in a cabin, locker, rod holder, or similar storage area, or by being securely covered and lashed to a deck or bulkhead.

“Notice of Violation” (“NOV”) means a written notice issued by an Environmental Enforcement Officer, or other authorized personnel, which accuses a respondent of a violation of these Marine Park regulations.

“Notice of Violation and Assessment” (“NOVA”) means a written notice issued by the Commissioner which accuses a respondent of a violation of these Marine Park Regulations and assesses a civil penalty for the violation.

“Officially Marked Channel” means a channel marked by Federal, Territorial, or Park officials with competent jurisdiction with navigational aids except for channels marked idle speed only/no wake.

“Open Zone” means an area where there are no special restrictions on fishing, boating and diving activities, as prescribed by these Marine Park Regulations contained herein and consistent with Title 12, Section 98 of the Virgin Islands Code.

“Owner” means the person listed as owner on the vessel Certificate of Registration or the documentation certificate.

“Park Wildlife” means any species of fauna, including avifauna, which occupy or utilize the Park's resources as nursery areas, feeding grounds, nesting sites, shelter, or other habitat during any portion of their life cycles.

“Party” means a Respondent or the Department. It also includes joint respondents, vessel owners or permit holders and any other persons allowed to participate in any administrative proceeding concerning these rules and regulations.

“Payment Agreement” means any promissory note, security agreement, settlement agreement or other contract, specifying terms according to which a permit holder agrees to pay a Marine Park Civil Penalty.

“Permit” means any license, permit, certificate or other approval issued by the Marine Park office.

“Permittee” means the person to whom a valid permit has been issued by DPNR or any agent or employee of said person authorized to act under the terms of the permit.

“Permitting” means the process for granting, revoking, renewing, denying or otherwise limiting, amending or conditioning a permit.

“Person” means any individual, corporation or governmental body, other than a party, competent to make an oath or affirmation, offer testimony and otherwise assist in the adjudication process.

“Personal Watercraft” (also known as “water scooter”, “jet-ski”, “wave runner”, “seadoo”, etc.) An engine-driven watercraft, usually driven by an inboard motor powering a water jet pump, capable of quick maneuverability and reaching speeds of up to, and in excess of, forty (40) miles per hour and upon which the driver (and passengers) sits, kneels or stands rather than in the conventional manner of sitting or standing inside of the vessel.

“Prop Dredging” means the use of a vessel's propulsion wash to dredge or otherwise alter the seabed. Prop dredging includes, but is not limited to, the use of propulsion with deflectors or similar means of dredging or otherwise altering the seabed. Prop dredging does not include the disturbance to bottom sediments resulting from vessel operation according to safe boating standards.

“Prop Scarring” means the injury to seagrass or other immobile organisms attached to the seabed caused by operation of a vessel in a manner that allows its propeller or other running gear, or any part thereof, to cause such injury (e.g. cutting seagrass rhizomes).

“Recreational Zone” means an area designated for swimming, snorkeling, diving, boating, shoreline take line fishing, catch and release line fishing, and cast net bait fishing and where activities that would compromise the recreational values of the area are prohibited.

“Recreational Shoreline Fishing” means personal use (take) or catch and release fishing with handline or rod and reel fishing techniques within 100 feet of the shoreline. Only barbless, single J-hook baits (live, dead or artificial), or barbed or barbless circle hooks may be used.

“Seagrass” means any species of marine angiosperms (flowering plants) that inhabit portions of the seabed. These species include, but are not limited to: *Thalassia testudinum* (turtle grass); *Syringodium filiforme* (manatee grass); *Halodule wrightii* (shoal grass); *Halophila decipiens* (paddle grass), *H. engelmannii* (star grass), *H. johnsonii* (Johnson's seagrass); and *Ruppia maritima* (widgeon grass).

“Shoreline” for the purposes of these Rules and Regulations shall mean the area along the coastlines of St. Croix from the seaward line of low tide, running inland a distance of fifty (50) feet; or to the extreme seaward boundary of natural vegetation which spreads continuously inland; or to a natural barrier; whichever is the shortest distance.

“Special-use Permit” means a permit that temporarily allows a permittee to conduct work in a specific area of the Park and includes, but is not limited to scientific research, educational purposes, special events, recovery or restoration of a Park resource, monitoring to prevent use or user conflicts, monitoring to facilitate access and use, or monitoring to promote public use and understanding of Park resources.

“St. Croix East End Marine Park (STXEEMP)” an area established by legislative approval on December 23, 2002 to protect territorially significant marine resources, promote sustainability of marine ecosystems, including coral reefs, seagrass beds, wildlife habitats and other resources and to conserve and preserve significant natural areas for the use and benefit of future generations, as a unit of the territorial system of marine parks.

“St. Croix East End Marine Park Management Plan” means the document that sets forth the management objectives, policies and strategies for managing the St. Croix East End Marine Park and addresses the St. Croix East End Marine Park's administrative structure, resource use, boundaries, use zones, financial support, staffing and monitoring plans, and which was approved by the Virgin Islands Coastal Zone Management Commission on July 19, 2002.

“Traditional Fishing” means those commercial or recreational fishing activities that were customarily conducted within the Park prior to its designation as a protected area in the Management Plan for the Park. These fishing activities include, but are not limited to, the use of fish traps, seine nets, gill nets, trammel nets, spear fishing, hand collection or gigs for conch, lobster, octopus and whelk (with or without the use of scuba gear), bottom longline, etc.

“Vessel” means a watercraft of any description, including, but not limited to, motorized and non-motorized watercraft, airboats, and floatplanes which, while maneuvering on the water, are capable of being used as a means of transportation in/on the waters of the Park. For purposes of this section the terms “vessel,” “watercraft,” and “boat” are interchangeable.

“Wildlife Preserve Zone” means an area where some or all of the biological resources are protected from removal or disturbance; term includes reserves established to protect threatened or endangered species.

12 V.I. R. & Regs. § 98-4

98-4. Prohibited Activities - Park-wide.

(a) The following activities, whether purposeful or not, are prohibited throughout the Park and thus are unlawful for any person to conduct or cause to be conducted:

(1) *Removal of, injury to or possession of coral or live rock*

(A) Moving, removing, taking, harvesting, damaging, disturbing, breaking, cutting, or otherwise injuring, or possessing (regardless of where taken) any living or dead coral, or coral formation, or attempting any of these activities except as permitted pursuant to section 98-7 of these Rules and Regulations.

(B) Harvesting, or attempting to harvest, any live rock from the Park, or possessing (regardless of where taken) any live rock within the Park, except as permitted pursuant to section 98-7 of these Rules and Regulations.

(2) Alteration of, or construction on, the seabed

Drilling into, dredging, or otherwise altering the seabed of the Park, or engaging in prop dredging; or constructing, placing or abandoning any structure, material, or other matter on the seabed of the Park, except as an incidental result of:

- (A) Anchoring vessels in a manner not otherwise prohibited by these Marine Park Regulations;
- (B) Traditional fishing activities not otherwise prohibited;
- (C) Installation and maintenance of navigational aids by, or pursuant to, valid authorization by any Federal and/or Territorial authority;
- (D) Construction, repair, replacement, or rehabilitation of docks, piers, or marinas with less than ten slips authorized by any permit, approval, or other authorization issued by the Commissioner, the Committee or any Federal agency;
- (E) Scientific investigations permitted in compliance with section 98-7 of these Rules and Regulations;
- (F) Establishment of artificial reefs and fisheries enhancement devices;
- (G) Installation or maintenance of mooring or marker buoys.

(3) Discharge or deposit of certain materials

Within the boundary of the park, discharging, depositing, placing, or abandoning, or allowing the discharge, deposit, placement or abandonment of, any natural or man-made material that a person or vessel has brought into the Park from outside of the Park except:

- (A) Fish, fish parts, chumming material, or bait used or produced incidental to and while conducting a traditional fishing activity in the Park;
- (B) Water generated by routine vessel operations (e.g. deck wash down and graywater) excluding oily wastes from bilge pumping;
- (C) As permitted pursuant to section 98-7 of these Rules and Regulations, or other valid permit issued by a Federal or Territorial agency with jurisdiction to issue said permit.

(4) Method of Operating Vessels

- (A) Operating a vessel in such a manner as to strike or otherwise injure coral, seagrass, or any other immobile organism attached to the seabed, including, but not limited to, operating a vessel in such a manner as to cause prop scarring;
- (B) Having a vessel anchored or moored in a manner inconsistent with these Marine Park Regulations;
- (C) Except in officially marked channels, operating a vessel in a manner which creates a wake:
 - (i) Within an area designated idle speed only/no wake;
 - (ii) Within 100 yards of navigational aids indicating emergent or shallow reefs (international diamond warning symbol);
 - (iii) Within 100 feet of the red and white "divers down" flag (or blue and white "alpha" flag in Federal waters); or
 - (iv) Within 100 feet of stationary vessels.
 - (v) Operating vessels in such a manner as to harass, or injure or to take wading, roosting, or nesting birds, turtles, or marine mammals.
 - (vi) Operating vessels in such a manner which endangers any life limb, marine resources or property.

(5) Diving without a flag

The red and white “divers down” flag or the blue and white “alpha” flag must be flown in a conspicuous manner while SCUBA diving.

(6) The release of exotic species

Introducing or releasing an exotic species of plant or animal.

(7) Damage or removal of markers

Marking, defacing, damaging, moving, removing, or tampering with any official Park signs, notices, or placards, whether temporary or permanent, or any navigational aids, monuments, stakes, posts, mooring buoys, boundary buoys, trap buoys, scientific equipment or other property or equipment belonging to the Government of the Virgin Islands or any of the departments under its supervision without proper authorization.

(8) Movement of, removal of, injury to, or possession of the Park's historical or cultural resources

Moving, removing, injuring, possessing, or attempting to move, remove, injure, or possess, any Park historical resource.

(9) Taking or possession of marine life species

Taking, possessing, or landing any marine life species or part thereof, within the Park in any manner inconsistent with these Rules and Regulations.

(10) Commercial activity

The sale of any consumer item, or the conduct of any commercial activity except as authorized by special permit issued by the Marine Park Office.

(11) Interference with law enforcement

Interfering with, obstructing, delaying or preventing an investigation, search, seizure, or disposition of seized property in connection with the enforcement of these Marine Park Rules and Regulations or a permit issued under these rules.

(12) Anchoring vessels in hardbottom or coral communities

The anchoring of vessels is permitted in sand only. Anchoring is prohibited in hardbottom or coral communities.

(b) Notwithstanding the prohibitions in this section and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by, and conducted in accordance with the scope, purpose, terms, and conditions of a Park permit issued pursuant to Section 98-7 of these Marine Park Regulations.

(c) Notwithstanding the prohibitions in this section, and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by a valid Federal, or Territorial lease, permit, license, approval, or other authorization in existence on the effective date of these Marine Park Regulations, or by any valid right of recreational use or access in existence on the effective date of these Marine Park Regulations, provided that the holder of such authorization or right complies with Section 98-7 and with any terms and conditions on the exercise of such authorization or right imposed by the CZM Committee as a condition of a permit, as he or she deems reasonably necessary to achieve the purposes for which the Park was designated.

(d) Notwithstanding the prohibitions in this section and in Section 98-7, and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by any valid Federal or Territorial lease, permit, license, approval, or other authorization issued after the effective date of these

Marine Park Regulations, provided that the applicant complies with Section 98-7, the St. Croix CZM Committee notifies the applicant and authorizing agency that he or she does not object to the issuance of the authorization, and the applicant complies with any terms and conditions the St. Croix CZM Committee deems reasonably necessary to protect the Park's resources and qualities. Amendments, renewals and extensions of authorizations in existence on the effective date of these Marine Park Regulations constitute authorizations issued after the effective date of these Marine Park Regulations.

(e) The prohibitions contained in this section do not apply to Environmental Enforcement Officers while performing enforcement duties and/or responding to emergencies that threaten life, property, or the environment in their official capacity.

(f) Notwithstanding paragraph (a) of this section, in no event may a permit issue under Section 98-7, authorizing, or otherwise approving, the exploration for, leasing, development, or production of minerals or hydrocarbons within The Park, the disposal of dredged material within the Marine Park or the discharge of medical or hazardous waste, discharge of solid waste, burning or stockpiling of debris, or the discharge or disposal of untreated or primary treated sewage.

12 V.I. R. & Regs. § 98-5

98-5. Prohibited Activities by Park Zones.

(a) In addition to the prohibitions set forth in Section 98-4, which apply park-wide, the following Marine Park Regulations apply with respect to activities conducted within the Park zones described in this section and in Appendix (II) to these Marine Park Regulations. Activities located within two or more overlapping Park zones are concurrently subject to the Marine Park Regulations applicable to each overlapping zone.

(b) No-Take Zone

Operating a vessel greater than 150 feet in registered length is prohibited in all No-Take Zones, except if such vessel is a public vessel and its operation is essential for national defense, law enforcement, or responses to emergencies that threaten life, property, or the environment.

(1) Removing, taking, damaging, breaking, cutting, spearing or similarly injuring any marine resource, by hand or by hand gear is prohibited.

(2) Fishing is prohibited. No commercial or recreational fishing is allowed. Gear capable of harvesting fish that may be aboard a vessel in a No Take Zone, must be stowed in such a manner that it is not available for immediate use when entering and during transit through No Take Zones. Vessels measuring 150 feet or less may transit through a No Take Zone with legally harvested fish or other catch, provided that all fishing gear is stowed on board such that it is not available for immediate use.

(3) The removal of or injury to any living or nonliving marine resource, except as necessary for research or monitoring to evaluate Park effectiveness is prohibited.

(4) Operating a personal watercraft, operating an airboat, or water skiing is prohibited.

(c) Wildlife Preserve Zone

(1) With respect to vessel traffic, marine portions of the Wildlife Preserve Zone listed in Appendix II to these Marine Park Regulations or portions thereof may be designated by the Committee to be "idle speed only/ no-wake," "no-motor" or "no-access buffer" areas or "closed". The Marine Park Coordinator, in cooperation with other Federal and Territorial resource management authorities, as appropriate, shall post signs conspicuously, using mounting posts, buoys, or other means according to location and purpose, at appropriate intervals and locations, clearly delineating an area as an "idle speed only/no wake," a "no-motor," or a "no access buffer" area, and allowing instant, long-range recognition by boaters. Such signs shall display the official logo of the Park.

(2) The following activities are prohibited within the Wildlife Preserve Zone listed in Appendix II to these Marine Park Regulations:

(A) operating a vessel at a speed greater than idle speed only/no wake in those marine portions of the Wildlife Preserve Zone designated as an "idle speed only/no wake" area in Appendix II to these Marine Park Regulations,

(B) using an internal combustion motor or engine in those marine portions of the Wildlife Preserve Zone designated as a "no-motor" area which will be listed in Appendix II to these Marine Park Regulations. Persons may access a "no-motor" area only through the use of a push pole, paddle, sail, electric motor or similar means of propulsion.

(C) entering by vessel those marine portions of the Wildlife Preserve Zone designated as a "no-access buffer" area which will be listed in Appendix II to these Marine Park Regulations,

(D) using gill or trammel nets

(3) The Committee shall coordinate with other Federal and Territorial resource management authorities, as appropriate, in the establishment and enforcement of access restrictions described in paragraph (c)(2)(A) - (D) of this section in the marine portions of the Wildlife Preserve Zone.

(4) The Committee may modify the number and location of access restrictions described in paragraph (c) (2)(A) - (D) of this section within the marine portions of the Wildlife Preserve Area if the Committee finds that such action is reasonably necessary to minimize disturbances to Park wildlife, or to ensure protection and preservation of Park wildlife consistent with the purposes of the Park designation and other applicable laws governing the protection and preservation of Park's wildlife resources. The Committee will effect such modification by:

(A) Publishing a notice and an opportunity for public comments in a newspaper of general circulation in the Virgin Islands;

(B) Posting a notice regarding the time and place where maps depicting the precise locations of such restrictions will be made available for public inspection; and

(C) Posting official signs delineating such restrictions.

(d) *Recreational Zone*

(1) This zone provides an area for swimming, snorkeling, diving, and boating, shoreline recreational take line fishing.

(2) Catch and release guide fishing and cast net bait fishing are allowed only with a valid Marine Park Permit issued pursuant to Section 98-7 of these Rules and Regulations. Gill nets used for bait fishing cannot exceed eight (8) feet in depth and a span of six hundred (600) feet.

(2) All other traditional fishing methods, as defined in Section 98-3, are prohibited.

12 V.I. R. & Regs. § 98-6

98-6. Emergency Regulations.

All Park activities are subject to immediate temporary regulation or prohibition where such temporary regulation or prohibition is necessary to prevent or minimize the destruction of, loss of, or injury to life, public health, or a Park resource or quality or to minimize the imminent risk of such destruction, loss, or injury. Such emergency Marine Park Regulations or prohibitions shall not take effect in the Park's Territorial waters until approved by the Committee. Any temporary regulation may be in effect for up to ninety (90) days, with one

90-day extension. Additional or extended action, if warranted, is at the discretion of the Committee with notice in local newspapers, notice to mariners, and press releases.

12 V.I. R. & Regs. § 98-7

98-7. Permits - Application Procedures and Issuance Criteria.

(a) When required, terms and conditions

(1) On or after the effective date of these Marine Park Regulations, any person wishing to perform or undertake any commercial activity, or scientific research or other activity that involves any extraction or alteration of or addition to any Marine Park resource in the Park (excluding recreational fishing) shall obtain a Department of Planning and Natural Resources permit for such activity in addition to obtaining any other permit required by law from any public agency or under [12 V.I.C. § 910 \(d\)](#) of the Coastal Zone Management Act, if applicable, prior to performing or undertaking such activity. Said permit will be effective for one year.

(2) For the purposes of scientific research, the required Department of Planning and Natural Resources permit for the purposes shall be the permit issued by the Division of Fish and Wildlife pursuant to Title 12, Chapter 2, Section 106 of the Virgin Islands Code, except that the approval of the Director of Coastal Zone Management is also required for all research activities in the Marine Park and the permit will also include the requirement that the results of all research or other scientific activity be furnished to the Marine Park Office within a specified timeframe.

(3) In the case of persons performing commercial activities within the Park, including catch and release guide fishing and cast net bait fishing, the DPNR permit shall be a Concessionaire Permit obtained from the Coastal Zone Management Director, in addition to obtaining all additional permits and licenses required by the Virgin Islands Code. The Concessionaire Permit shall be available at the Marine Park Office. The Commission shall have the authority to set fees for the Concessionaire Permit after a public hearing held in accordance with the Rules and Regulations governing Coastal Zone Management Committee meetings, Title 12, Chapter 21 of the Virgin Islands Code.

(4) The Director shall approve an application for a permit under this section, subject to appropriate terms and conditions, if the Director finds that:

(A) The applicant, or agent has obtained any other applicable licenses or permits, permanent, temporary or otherwise as may be required by Title 12 or Title 27 of the Virgin Islands Code to conduct and complete the proposed activity;

(B) For a scientific activity permit, the applicant has adequate financial resources available to conduct and complete the proposed activity;

(C) The duration of the proposed activity is no longer than necessary to achieve its stated purpose;

(D) The methods and procedures proposed by the applicant are appropriate to achieve the proposed activity's goal in relation to the activity's impacts on Park resources and qualities;

(E) The proposed activity will be conducted in a manner compatible with the primary objective of protection of Park resources and qualities, considering the extent to which the conduct of the activity may diminish or enhance Park resources and qualities, any indirect, secondary or cumulative effects of the activity, and the duration of such effects;

(F) It is necessary to conduct the proposed activity within the Park to achieve its purposes; and

(G) The reasonably expected value of the activity to the furtherance of Park goals and purposes outweighs any potential adverse impacts on Park resources and qualities from the conduct of the activity.

(H) Further research or monitoring related to Park resources and qualities;

- (I) Further the educational value of the Park;
- (J) Further the natural or historical resources value of the Park;
- (K) Assist in managing the Park; or
- (L) Otherwise further Park purposes, including facilitating multiple use of the Park, to the extent compatible with the primary objective of resource protection.

(b) No person or vessel may utilize any moorings located within the Park without obtaining a mooring permit from the Marine Park Office. The Commission has the authority to set the amount of permits that will be issued per year and the amount that will be charged for the permit fees after a public hearing called for that purpose.

(c) *When may be waived*

Where immediate action by a person or public agency is required in order to prevent or minimize the destruction of, loss of, or injury to life, public health, or a Park resource or to minimize the imminent risk of such destruction, loss, or injury, the requirement of obtaining a permit under this section may be waived by the Commissioner or the Committee.

12 V.I. R. & Regs. § 98-8

98-8. Marine Park Office; Marine Park Advisory Committee.

(a) *Marine Park Office*

(1) The Marine Park Office is an Office within the Division of Coastal Zone Management responsible for overseeing the daily operations of the Park.

(2) The Marine Park Office will be headed by the Marine Park Coordinator, to be named by the Commissioner of the Department of Planning and Natural Resources, who will oversee the daily management and function of the Park. The Marine Park Coordinator will develop the Standard Operating Procedures (SOPs) that will serve as a reference for all activities conducted by Park staff. These SOPs should anticipate events related to user/visitor conflicts as well as protocols for data collection, storage, and analyses. The main function of the SOPs is to provide the details of the daily operations of the Park.

(b) *Marine Park Advisory Committee*

(1) The Marine Park Advisory Committee (MPAC) serves as a liaison between the appropriate Committee of the CZM Commission and the Marine Park Office, and provides advisory services, including periodic consultation, effectiveness evaluations, progress reviews, assists in developing management plans, and engages in public outreach initiatives to keep both direct stakeholders and the general public educated and informed about the Marine Park. The MPAC will be composed of the following individuals:

(A) Staff from the Department of Planning and Natural Resources (DPNR), including the Coastal Zone Management Division, Division of Fish and Wildlife, Division of Environmental Protection, and Division of Environmental Enforcement, to be designated by the respective offices.

(B) Representatives from stakeholder groups that may include, but not be limited to: involved government agencies, local scientists, fishers (commercial and recreational), Fishery Advisory Council members, dive operators, tour operators, boaters, hoteliers, landowners, and non-governmental organizations.

(C) Potential MPAC members will be recommended to the Commissioner of DPNR for appointment by the MPAC Chairman, or may be appointed by the Commissioner directly; the term of appointment to the MPAC is two years upon appointment by the Commissioner or until such time as there is a replacement appointed. The composition of the MPAC should ensure even representation of all member groups.

(D) The MPAC will promulgate by-laws, subject to the approval of the Commissioner, to govern its composition and decision making procedures.

(2) *Coordination between the Marine Park Coordinator and the MPAC.* Decisions relating to the Standard Operating Procedures and permits issued pursuant to Section 98-7 of these Rules and Regulations shall be summarized in a report and submitted to the MPAC for the MPAC's information, comments and recommendations. The MPAC shall then submit the report with recommendations and/or recommended changes, if any, to the appropriate Committee of the Commission.

12 V.I. R. & Regs. § 98-9

98-9. Enforcement.

(a) The Marine Park Office, its agents or Enforcement Officers of the Department of Planning and Natural Resources may issue a verbal or written order to any person they observe undertaking activities in violation of these Rules and Regulations to cease and desist with such activities. These activities shall include but are not limited to the following:

(1) Undertaking, or in any manner threatening to undertake, any activity within the Park that is prohibited by these Rules and Regulations.

(2) Undertaking, or in any manner threatening to undertake, any activity that may require a Park permit without first securing such a permit.

(3) Any activity which is inconsistent with or in violation of any provision of a Park permit.

In the case of a verbal Cease and Desist Order issued pursuant to this subsection, said order shall be effective upon issuance of the verbal order, provided that the verbal order shall be followed by a written Cease and Desist Order served within 2 business days following the issuance of a verbal Cease and Desist Order.

(b) The Commissioner, the Committee or the Committee's designee may issue a written order directing any person to cease and desist from any activity which may constitute a violation of these Marine Park Regulations.

In the case of a written Cease and Desist Order issued pursuant to this subsection, said order shall be effective upon issuance by the Committee, its designee or the Commissioner, and shall be served by certified mail or by hand delivery upon the person or persons whose activity may constitute a violation of these regulations, upon the permittee, or upon the agent or agents of any such persons.

(c) A written Cease and Desist Order shall state the alleged violation and may state the steps necessary to ensure compliance with the relevant Marine Park Regulations.

(d) A Cease and Desist Order shall state the time and place for a hearing for the purpose of determining the facts relating to the alleged violation of the Marine Park Regulations and of determining an appropriate remedy. The hearing shall be scheduled for a date no later than seven (7) working days after issuance of the written order, provided that a reasonable postponement may be granted on the request of the person to whom the order is directed. A hearing is required regardless of whether the person or persons whose activity is alleged to constitute a violation of the Marine Park Regulations chooses to attend or be represented, provided that the hearing may be cancelled if the violation is remedied prior to the date of the hearing.

(e) When a Cease and Desist Order is issued by the CZM Committee, the Committee shall appoint a designee, who shall be the presiding officer at the hearing. If the presiding officer designee deems it necessary, he/she may arrange for a verbatim transcript of the hearing to be prepared.

(f) At any hearing, the person or persons whose activity is alleged to constitute a violation of these Marine Park Regulations shall have an opportunity to be heard, to present evidence, and to cross-examine witnesses.

(g) Promptly after the hearing, the presiding officer shall make a determination in writing, which shall be accompanied by findings of fact and conclusions of law in support thereof. When a Cease and Desist Order is issued by the Commissioner, the Committee or its designee, the entity that issued the Order shall have the opportunity to review and amend said determination and the supporting findings and conclusions. Said determination, together with supporting findings and conclusions, shall be promptly served on all persons upon whom the Cease and Desist Order was served and shall be made available to other interested persons. If the presiding officer determines that a violation has occurred, then the determination may also include:

- (1) In the case of violation of an existing Park permit, an order that the violations be remedied by fulfilling the requirements and conditions of the Park permit (including restoration); or that a modification to the Park permit be applied for;
- (2) In the case of undertaking of activity without obtaining a Park permit, an order that application be made for a Park permit and/or that appropriate remedial action be taken at the site of the violation;
- (3) A statement that the Cease and Desist Order shall remain in effect until lifted by the entity that issued the Order only after the prescribed steps are taken that are designed to ensure compliance with these Marine Park Regulations;
- (4) A recommendation on whether a revocation proceeding be instituted;
- (5) A recommendation on whether the violations be prosecuted by the Attorney General or other appropriate authority before the appropriate court or administrative tribunal; and
- (6) Any other appropriate statement, order of remedial action, or recommendation.

If the presiding officer determines that there has not been a violation of these Marine Park Regulations, then the Cease and Desist Order shall immediately terminate.

(h) Enforcement officers may issue conservation tickets for any violation of these Marine Park Rules and Regulations that they observe, pursuant to the authority vested in them under Title 12, Chapter 99a of the Virgin Islands Code.

12 V.I. R. & Regs. § 98-10

98-10. Revocation of Marine Park Permit.

- (a) Failure of a permittee or applicant to comply with the requirements of these Marine Park Regulations or the provisions of a Marine Park permit shall constitute grounds for revocation of the permit.
- (b) When the Committee, the Commissioner or the Marine Park Coordinator has reason to believe that grounds for revocation exist or requests a designee to investigate whether such grounds exist, the Committee, Commissioner, Coordinator or the designee shall conduct an investigation if such investigation has not previously been conducted. If the investigation results in a determination that grounds for revocation exist, the Committee or its designee shall consider the matter. Otherwise, the Committee, or its designee, shall report the results of the investigation on its own motion, and determine that sufficient grounds exist to consider the matter.
- (c) Upon the Committee's or the Committee designee's determination to schedule a hearing, notice containing the following information shall be served by certified mail or hand delivery upon the permittee or his authorized agent or representative and shall be published in a newspaper of general circulation and shall include:
 - (1) Identification of the Marine Park permits in question;
 - (2) The grounds which gave rise to the determination that a hearing should be held;

- (3) The place of the hearing; and
- (4) The time of the hearing, which shall be at least fifteen (15) working days after notice is served on the permittee.
- (d) The failure of the permittee to appear or be represented at the hearing may result in a decision to revoke being rendered in his absence.
- (e) The Chair of the Committee or the Chair's designee shall preside at the hearing, at which a quorum of the Committee shall be in attendance. The presiding officer shall cause a verbatim transcript of the hearing to be prepared.
- (f) At the hearing, the permittee and the Marine Park Office shall each have an opportunity to be heard, to present evidence, and to cross-examine witnesses; the Committee shall have an opportunity to question witnesses.
- (g) Promptly after the hearing, the Committee shall make its determination in writing, which shall be accompanied by findings of fact and conclusions of law in support thereof. Said determinations, together with supporting findings and conclusions, shall be promptly served on the permittee. The Committee may determine either to revoke the permit or to take other appropriate action including but not limited to:
 - (1) Requiring the permittee to apply for an amendment to the permit;
 - (2) Ordering that violations of the permit be remedied by a particular date (including restoration);
 - (3) Ordering the permittee to cease and desist from further violations of the terms and conditions of the permit or these Marine Park Regulations.

12 V.I. R. & Regs. § 98-11

98-11. Hearings and Due Process Procedures.

- (a) With regards to cease and desist orders and violations of these regulations where a conservation ticket is not issued by an enforcement officer, the requirements of due process are met when the responding party charged with violating these regulations is afforded:
 - (1) Timely and adequate notice;
 - (2) A right to a hearing or other opportunity to confront adverse witnesses and present oral evidence on its behalf;
 - (3) The right to be accompanied, represented and advised by counsel or other representative;
 - (4) A determination or decision based solely on the record and that identifies the evidence relied upon and specifies the reasons for the decision;
 - (5) An impartial decision-maker.
- (b) *Written Warnings.*
 - (1) A written warning may be issued by the Department in lieu of other law enforcement action that could be taken for violation of these regulations if the Department determines that the violation was minor in scope and resulted in no harm to marine resources. The written warning shall:
 - (A) State that it is a written warning;
 - (B) State the factual and the statutory or regulatory basis for its issuance;
 - (C) Advise the violator of its effect in the event of a future violation;

(D) State that the warning is kept on file for reference in determining the appropriate legal or administrative action to take if there is a subsequent violation;

(E) Inform the violator of the right of review and appeal.

(2) The Marine Park Office will maintain a record of written warnings that are issued.

(3) If, within 120 days of the date of service of the written warning, further investigation discloses a prior written warning of a violation by the respondent for the same offense within three (3) years from the date of service, or that the violation is more serious than realized at the time the written warning was served, the Department of Planning and Natural Resources may withdraw the warning and commence any other enforcement which may be taken under these regulations.

(4) The written warning will be noted on the face of and attached to all Marine Park permits issued, transferred or assigned to the respondent.

(c) Notice of Violation and Assessment.

A Notice of Violation and Assessment ("NOVA") is issued by the Committee's designee and served personally or by mail, return receipt requested, upon each respondent. A copy of the NOVA is similarly served upon the permit holder, if the holder is not the respondent. The NOVA is required to contain:

(1) A concise statement of the facts believed to show a violation of these Marine Park Regulations;

(2) Specific reference to the regulation, permit or order allegedly violated;

(3) The findings and conclusions upon which the Department of Planning and Natural Resources bases the assessment;

(4) The amount of the civil penalty assessed; and

(5) A copy of the Marine Park Regulations in this section governing the proceedings.

(6) The NOVA is also required to advise the respondent of his rights upon receipt of the NOVA.

In assessing a civil penalty, the Committee's designee takes into account information available concerning any factor to be considered under the Marine Park Regulations and any other information that justice or the fulfillment of the purposes of the Marine Park Regulations requires.

(d) Appeal of a Notice of Violation. A NOVA may be appealed as follows:

(1) Within thirty (30) days of service of the NOVA, a written request seeking review must be addressed to the Chair of the St. Croix Committee and delivered to the Department of Planning and Natural Resources' main office.

(2) The request must present the facts and circumstances that explain or deny the violation described in the NOVA.

(3) The Committee may, using appropriate discretion, affirm, expunge or modify the NOVA and will notify the person of the decision in writing. The decision constitutes the final action.

(e) Procedure upon receipt of a NOVA.

(1) The respondent has thirty (30) days from the receipt of the NOVA in which to respond. During this time the respondent may:

(A) Accept the penalty by taking the actions specified in the NOVA;

(B) Seek to have the NOVA amended, modified, or rescinded under clause (2) of this subsection;

(C) Request a hearing under clause (5) of this subsection;

(D) Request an extension of time under clause (3) of this subsection;

(E) Take no action, in which case the NOVA becomes final in accordance with subsection (f) of this section.

(2) The respondent or the permit holder may seek amendment or modification of the NOVA to conform to the facts or law as that person sees them by notifying the Committee's designee specified in the NOVA. Where amendment or modification is sought, the Committee's designee will either amend the NOVA or decline to amend it, and so notify the respondent or permit holder, as appropriate, in writing.

(3) The respondent, within the 30-day period specified in clause (1) of this section, may request an extension of time to respond. The Committee's designee may grant an extension of up to 30 days, unless the Committee's designee determines that the respondent could, exercising reasonable diligence, respond within the 30-day period. Where the Committee's designee does not respond to the request within three working days of its receipt, the request is granted automatically for the extension requested, up to a maximum of thirty (30) days. A response to the request by telephone within three working days of receipt followed by a written confirmation is an effective response.

(4) The Department may, for good cause, grant an additional extension beyond the 30-day period specified in clause (3) of this subsection.

(5) Where the respondent or the permittee desires a hearing, he shall mail to the address specified in the NOVA or serve in person a written and dated request. The request shall include a copy of the NOVA or refer to the relevant Marine Park case number. The Department's official shall promptly forward the request for hearing to the Marine Park Office for scheduling.

(6) Any denial, in whole or part, of any request under this subsection that is based on untimeliness is required to be in writing.

(f) Final Committee Decision.

(1) If no request for hearing is timely filed, the NOVA becomes effective as the final administrative decision and order of the Department of Planning and Natural Resources on the thirtieth (30th) day after service of the NOVA or on the last day of any delay period granted.

(2) Where a request for hearing is timely filed the date of Final Decision is 30 days after service of the written decision upon the respondent.

(g) Payment of Final Assessment.

(1) Respondent shall make full payment to the Department of Planning and Natural Resources of the assessed civil penalty within thirty (30) days of the date upon which the assessment becomes effective as the Final Decision and Order of the Department of Planning and Natural Resources. The respondent is required to mail or deliver the assessed amount to the Department by certified check or money order that is payable in United States currency and is made payable to the Department of Planning and Natural Resources.

(2) Upon any failure to pay the assessed civil penalty, the Department may request the Department of Justice to recover the amount assessed in the Territorial or District Court of the Virgin Islands, or may act under subsection (h) of this section.

(h) Compromise of Civil Penalty.

The Committee or its designee, in its discretion, may compromise, modify, remit, or mitigate with or without conditions, any civil penalty imposed, or which is subject to imposition.

(i) Factors Considered in Assessing Penalties.

Factors to be taken into account in assessing a penalty may include the nature, circumstance, extent, and gravity of the alleged violation; the respondent's degree of culpability; any history of prior offenses; and such other matters as justice may require.

(j) *Administrative Hearing.*

Scope of Applicability. This section sets forth the procedures governing the conduct of hearings and the issuance of initial and final decisions of the Department of Planning and Natural Resources in administrative proceedings involving alleged violations of these Marine Park Regulations.

(k) *Case Docketing.*

Each request for hearing, promptly upon its receipt for filing in the Department of Planning and Natural Resources is assigned a docket number and, thereafter, the proceeding is referred to by this number. Written assignment of a hearing to a hearing officer and notice of date, time and place of the hearing must be promptly given to the parties.

(l) *Duties and Powers of the Hearing Officer.*

The hearing officer is designated by the Department and has all powers and responsibilities necessary to preside over the parties and the proceeding, to hold pre-hearing conferences, to conduct the hearing, and to make the decision in accordance with these Marine Park Regulations, including but not limited to, the authority and duty to do the following:

- (1) To rule on a request to participate as a party in the proceeding by allowing, denying or limiting the participation (the ruling considers the views of the parties and is based on whether the requester can be expected to contribute materially to the disposition of the proceedings);
- (2) to schedule the time, place and manner of conducting the hearing, to continue or adjourn the hearing to a later date or different place, and reopen the hearing at any time before issuance of the decision, all at the hearing officer's discretion, having due regard for the convenience and necessity of the parties and witnesses;
- (3) To schedule and regulate the course of the hearing and the conduct of the participants;
- (4) To administer oaths and affirmations to witnesses;
- (5) To rule on motions, procedural requests, and similar matters;
- (6) To examine and cross-examine witnesses and introduce into record on the hearing official's own initiative, documentary or other evidence;
- (7) To rule on requests for appearance of witnesses or production of documents or requests for admissions and take appropriate action upon failure of a party to effect the appearance or production of a witness or document ruled relevant and necessary to the proceedings; as authorized by law, issue subpoenas for the appearance of witnesses or production of documents;
- (8) To take official notice of any matter not appearing in evidence that is among traditional matters of judicial notice; or technical or scientific facts within the general specialized knowledge of the Department of Planning and Natural Resources as an expert body; or any reasonably available public document on condition that the parties are advised of the matter noticed;
- (9) To prepare and submit a decision or other appropriate disposition document and certify the record;
- (10) To grant preliminary or interim relief.

(m) *Disqualification of Hearing Official.*

- (1) The hearing official may withdraw from a particular case when the hearing official considers himself disqualified.
- (2) A party may in good faith request the hearing officer to withdraw on the ground of personal bias or other disqualification. The party seeking the disqualification is required to file with the hearing officer a timely affidavit or statement setting forth in detail the facts alleged to constitute the grounds for disqualification, and

the hearing officer is required to rule on the matter. If the hearing officer rules against disqualification, the hearing officer is required to place all matters relating to such claims of disqualification in the record.

(n) Appearances.

(1) A party may appear in person or by or with counsel or other representative.

(2) Where a party fails to appear after proper notice, the hearing officer may consider the failure of the party to appeal a waiver of any right to a hearing and consent to the making of a decision on the record.

(o) Conduct of the Hearing.

(1) The hearing officer shall provide the respondent with an opportunity for a fair, open and impartial hearing. The respondent has the right and the hearing officer is required to afford the opportunity to defend and meet the claims or allegations of violations by argument, proof, and cross-examination of witnesses. The hearing officer shall make findings of fact and conclusions of law and enter an order in accordance with the facts proved at the hearing. The Department, in accordance with well-settled, law, is not held to strict conformity with judicial procedure required in a court of law and a hearing may be fair even though informal or summary. However, the hearing officer shall provide a hearing in which ample opportunity is given to all parties to present any evidence and argument. The hearing officer, before entering his order on the basis of the record and recommendations, shall provide opportunity to the parties to submit for his consideration exceptions to the recommended findings or conclusions and supporting reasons for the exceptions, such submission to be made within ten (10) days of issuance. The hearing officer shall issue written notice of the order binding on all parties unless appealed or otherwise presented for judicial review to the courts within thirty (30) days after notice has been sent to the respondent.

(p) Initial and Final Decision.

(1) The hearing officer shall issue a written decision upon the record in the case, setting forth:

(A) Findings and conclusions, and the reasons or basis for them on all matters of fact, law or discretion presented in the record, and the rulings on any proposed findings or conclusions presented by the parties;

(B) A statement of facts noticed or relied upon in the decision; and

(C) Such other matters, as the hearing officer considers appropriate.

(2) The hearing officer may at the termination of the hearing announce the decision, subject to later issuance of a written decision.

(3) The hearing officer shall serve the written decision on each of the parties personally or by mail, return receipt requested and shall promptly certify to the CZM Committee, that the record including the original copy of the decision as complete and accurate.

(4) Unless the hearing officer orders a stay or unless a petition for discretionary review is filed or the Committee or its designee issues an order to review upon his own initiative, an initial decision becomes effective as the final administrative decision of the Department of Planning and Natural Resources thirty (30) days after service.

(q) Administrative Review of Decision.

(1) Subject to the requirements of this section, any party may petition for review of an initial decision of the hearing officer within thirty (30) days after the date the decision is served. The petitioner shall address the petition to the Committee and file it at the main office of the Department of Planning and Natural Resources.

(2) Review by the CZM Committee of an initial decision is discretionary and is not a matter of right. A petition for review is to be served upon all parties. Where a party files a timely petition for discretionary review, or action to review is taken by the CZM Committee upon its own initiative, the effectiveness of the initial decision is stayed until further order of the CZM Committee.

- (3) Petitions for discretionary review may be filed only upon one or more of the following grounds:
- (A) A finding of a material fact is clearly erroneous based upon the evidence in the record;
 - (B) A necessary legal conclusion is contrary to law or precedent;
 - (C) A substantial and important question of law, policy or discretion is involved, including the amount of the civil penalty; or
 - (D) A prejudicial procedural error has occurred.
- (4) Each issue is required to be separately numbered, concisely stated, and supported by detailed citations to the record, statutes, and Marine Park Regulations. Issues of law or fact not argued before the hearing official may not be raised on review unless they were raised for the first time in the initial decision or that could not reasonably have been foreseen and raised by the parties during the hearing. The Commissioner shall not consider new or additional evidence that is not a part of the record before the hearing officer.
- (5) No oral argument on petitions for discretionary review is allowed.
- (6) Where the CZM Committee declines to exercise discretionary review, the order is served on all parties personally or by mail, return receipt requested. The date upon which the hearing officer's decision becomes effective as the final decision of the Department of Planning and Natural Resources must be specified. The Commissioner need not give reasons for declining review.
- (7) Where the CZM Committee grants a petition for discretionary review, the Committee Chair will issue an order specifying the issues to be argued in written form and the date by which written arguments are to be filed. No oral argument is permitted.
- (8) After the expiration date for filing briefs under clause (7) of this subsection, the Committee Chair shall transmit the decision to each of the parties either personally or by mail, return receipt requested. The Commissioner's decision becomes the final administrative decision on the date it is served, unless otherwise provided in the decision.

12 V.I. R. & Regs. § 98-12

98-12. Penalties and Fine.

(a) Penalties shall be as provided by Title 12, Section 913 of the Virgin Islands Code, or as amended hereafter. Civil penalties shall be assessed by the Department of Planning and Natural Resources and the Coastal Zone Management Division by Notice of Violation and Assessment pursuant to the Civil Penalty Policy and Matrix of the Department of Planning and Natural Resources, Title 12 Chapter 21 of the Virgin Islands Rules & Regulations until such time as the Marine Park Office develops its own Civil Penalty Policy. In no event may penalties assessed be in excess of those provided by statute.

(b) Any penalty imposed shall be in addition to the suspension or revocation of any license, permit, certificate, or registration as authorized by law and to any confiscation and forfeiture proceedings authorized by law.

Appendix I.

1. St. Croix East End Marine Park Map
2. Boundary Coordinates of the St. Croix East End Marine Park and its Wildlife Preserve Zone, No-Take Zone, Open Zone, and Recreational Zone (Reserved)

Appendix II

1. Wildlife Preserve Zone Access Restrictions (Reserved)

Title 12. Conservation

Chapter 1. Wildlife and Marine Sanctuaries

Subchapter 99. Penalties

12 V.I. R. & Regs. § 99-1

99-1. Penalties.

Penalties for violations shall be assessed by a Notice of Violation (or other method authorized by the Commissioner), provided no penalty assessed shall be in excess of the maximum allowed by Title 25 V.I.C. § 99, as amended from time to time.

SPECIES OBSERVED USING MANGROVE WETLAND AT BENNER BAY DURING REGULAR WILDLIFE OBSERVATIONS CONDUCTED FROM MARCH 1988 TO OCTOBER 1988

Bird Species List of Benner Bay

Salt Pond: "COMPASS POINT POND"

POND		MANGROVE	
MONTH	SPECIES	NUMBER	(SPECIES ONLY)
MAR	Black-necked stilt	7	-
	Snowy egret	6	
	American egret	1	
	Little blue heron	4	
	Osprey	1	
	Great blue heron	1	
	Magnificent frigatebird	2	
APR	Laughing gull	2	Green-throated carib hummingbird
	Snowy egret	2	
	Little blue heron	1	Mongoose
	Green heron	1	
	Magnificent frigatebird	17	
	Black-necked stilt	1	
MAY	Black-necked stilt	1	Bananaquit
			Great blue heron
			Spotted sandpiper
			Green-throated carib hummingbird
JUN	Black-necked stilt	2	Pearly-eyed thrasher

	Little blue heron	2	Bananaquit
	Laughing gull	3	Yellow warbler
	American egret	1	Yellow-crowned night heron
	Bahama duck	2	Green-throated carib hummingbird
	Great blue heron	1	
	Yellow-crowned night heron1		
JUL	Lesser yellowlegs	2	Gray kingbird
	Little blue heron	1	Bananaquit
	Black-necked stilt	3	Yellow warbler
	Green heron	1	Ground dove
	Clapper rail	2	Zenaida dove
			Pearly-eyed thrasher
			Yellow-crowned night heron
			Mongoose
AUG	Black-necked stilt	6	Pearly-eyed thrasher
	Bahama duck	33	Gray kingbird
	Lesser yellowlegs	3	Ground doves
	Greater yellowlegs	15	Yellow warbler
	Laughing gull	1	Grassquit
			Green-throated carib hummingbird
SEP	Little blue heron	6	Ground dove
	Snowy egret	2	Bananaquit
	Black-necked stilt	2	Grassquit
	Spotted sandpiper	4	Yellow warbler
	Greater yellowlegs	2	Green-throated carib hummingbird
	Black-bellied plover	1	
	Wilson's plover	2	
	Semipalmated sandpiper	3	
	Lesser yellowlegs	2	
OCT	Little blue heron	6	Little blue heron
	Yellow-crowned night heron2		Snowy egret

Snowy egret	6	Kingfisher
American egret	1	Green heron
Green heron	5	Yellow warbler
Lousiana heron	1	Zenaida dove
		Northern waterthrush
		Glossy cowbird
		Black-bellied plover
		Spotted sandpiper
		Pearly-eyed thrasher
		Mongoose