

**VIRGIN ISLANDS AQUACULTURE RULES AND REGULATIONS
TITLE 12, CHAPTER 9A, SUBCHAPTER 327**



GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES
DEPARTMENT OF PLANNING AND NATURAL RESOURCES
DIVISION OF FISH AND WILDLIFE

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AQUACULTURE RULES AND REGULATIONS

PROPOSED AQUACULTURE RULES AND REGULATIONS
Submitted this ___ day of ___, 2024

To
GOVERNOR ALBERT BRYAN, JR.
By

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Commissioner
Department of Planning and Natural Resources

Title 3, Chapter 17, Section 291 states in pertinent part that the Department of Agriculture (“VIDA”) “is empowered and has the duty to: (9) administer and enforce laws regulating aquaculture; (13) inspect and regulate, in accordance with law, meat and poultry markets, including cold storage meat and poultry, all imported meats and poultry and meat and poultry foodstuffs, the manufacture, distribution, and sale of animal feeds and feedstuffs, and any animal terminals or depots established in the Territory; (15) promulgate rules and regulations for the effective exercise of its powers and duties.” [3 V.I.C. §§ 291(9), 291(13), 291(15)].

Title 3, Chapter 22, Section 401 states in pertinent part that the Department of Planning and Natural Resources (“DPNR”) “shall administer and enforce all laws pertaining to: (1) fish and wildlife, trees and vegetation and water resources including the protection of safe drinking water; (7) coastal zone management, coastal lands and off-shore islands and cays.” [3 V.I.C. §§ 401(a)(1), 401(a)(7)]. Furthermore, “it is the duty of the Department, and it is empowered to:

(3) foster, promote and undertake programs and projects for the conservation and development of the natural resources of the United States Virgin Islands; [3 V.I.C. §401(b)(3)].

(7) provide for the conservation, maintenance and management of United States Virgin Islands wildlife, the resources thereof, and its habitat, and to make investigations to determine the effects of domestic sewage, industrial wastes and other polluting substances on wildlife and means of alleviating dangerous and undesirable effects of pollution; [3 V.I.C. §401(b)(7)].

Pursuant to Title 3 V.I.C. §401, DPNR is mandated to administer and enforce wildlife laws including the prohibited activities outlined in Title 12 V.I.C. §105, wherein “No person may take, catch, possess, injure, harass, kill, or attempt to take, catch, possess, injure, harass or kill, or sell or offer for sale, or transport or export, whether or not for sale, any indigenous species, including live rock; except that persons holding valid fishing or hunting licenses, scientific or aquarium collecting permits, or indigenous species retention permits, may operate within the scope and under the terms and conditions expressed in those licenses and permits.” [12 V.I.C. §105(a)].

It is the duty of DPNR, and DPNR is empowered, with the approval of the Governor, to “issue rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary or appropriate for the implementation and effectuation of its powers, duties and functions.” [3 V.I.C. §401(b)(16)].

U.S. VIRGIN ISLANDS RULES & REGULATIONS (“V.I.R.R.”)

Title 12. Conservation

Chapter 9A. Commercial Fishing

Subchapter 327. Aquaculture

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ADDITIONS:

CVIR 12-009A-000, Subchapter 327

Pursuant to authority granted in Title 3 V.I.C., Chapter 22, Section 401(b)(16), Title 12 V.I.C., Chapter 1, Sections 1, 81c, and 81d, and Title 12 V.I.C., Chapter 2, Section 105, DPNR submits the rules and regulations as follows as CVIR 12-009A-000, Subchapter 327, Virgin Island Aquaculture Rules and Regulations:

§327-1: Declaration of Policy

The purpose of this chapter is to preserve, manage, and protect farmed fishery resources, to regulate aquaculture and mariculture, and to secure their development in all marine, estuarine, and freshwaters within the jurisdiction of the U.S. Virgin Islands.

Through this chapter, the U.S. Virgin Islands declares that it is the intent of the Legislation to:

- (1) Enhance the growth of aquaculture and mariculture in the territory, while protecting the environment and harvestable marine resources of the U.S. Virgin Islands;
- (2) Expand upon the Department of Agriculture and the Department of Planning and Natural Resource's duty to coordinate and assist the development of aquaculture and mariculture;
- (3) Pursuant to Virgin Islands Act 6471, the Virgin Islands Commission on Aquaculture and Mariculture shall establish a Territory aquaculture and mariculture plan and provide a means of communication between the aquaculture industry and the regulatory agencies.

These rules and regulations are intended to uniform and coordinate procedures for the administration of fisheries management provisions of the Virgin Islands Code (V.I.C.) and the Virgin Islands Rules and Regulations (V.I.R.R.). These rules and regulations are to be interpreted and applied consistent with the V.I.C. and the V.I.R.R. The definitions, policies, and other provisions of the V.I.C. and the V.I.R.R. are to be read together with these rules and regulations.

§327-2: Definitions

For purposes of this chapter, the following terms shall have the following meanings:

- (a) "Aquaculture" means the form of agriculture devoted to the husbandry, propagation, cultivation, production, growing, harvesting, or maintenance of aquatic organisms in marine, brackish, and freshwater.
 - (1) "Aquaculture" does not include species of ornamental aquatic organisms not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes-discussion on non-commercial aquaculture.
- (b) "Mariculture" is a branch of, and is included within, aquaculture and means the husbandry, propagation, cultivation, production, growing, harvesting, or maintenance for research, development, demonstration, and commercial purposes of aquatic organisms within territory marine waters, in a controlled condition, excluding floating structures that are not anchored.
- (c) "Aquatic organism" means any animal, plant, or algae of any species or a hybrid thereof, at any stage of its life including, but not limited to, gametes, seeds, egg, sperm, larvae, juvenile and adult stages, any one of which is required to be in fresh or salt water during that stage of its life.
 - (1) "Gametes" means the eggs or sperm used by aquatic organisms to reproduce.
 - (2) "Seeds" mean the reproductive units of a flowering aquatic organism that are used to grow or cultivate another of the same type of aquatic organism.

- (3) "Larvae" means the life stage of an aquatic organism that is after an egg or seed has hatched and is still immature.
 - (4) "Juvenile" means the life stage of an aquatic organism that is after the larval stage but has still not reached sexual maturity or adult size.
 - (5) "Adult" means the life stage of an aquatic organism that has reached sexual maturity or adult size.
- (d) "Aquaculture organism" means any aquatic organism that is owned, propagated, cultivated, maintained, grown, harvested, or produced through aquaculture or mariculture.
 - (e) "Aquaculture product" means any product derived from a living or dead aquaculture organism that is offered for sale, sold or otherwise traded. Including, but not limited to, the aquaculture organism as a whole, a piece, its shell, its offspring, or any product derived from the processing of the aquaculture organism.
 - (f) The verb "to process" in all its modes and tenses means to alter the natural physical or chemical state of an aquaculture organism during, or after, any stage of the aquaculture operation.
 - (g) "Stock" means a specific population of a species of aquatic organisms within a defined area. The verb "stocking" means the practice of establishing or supplementing a population of a species of aquatic organisms within a defined area. The rules and regulations herein refer to stock overall unless the stock is called out and defined by the addition of any of the following variations:
 - (1) "Wild stock" means the wild population of a species of aquatic organisms that are not in a confined aquaculture facility within Territorial waters.
 - (2) "Broodstock" means a population of a species of aquatic organisms maintained for breeding purposes.
 - (3) "Cultured stock" means a population of a species of aquaculture organisms that were bred, raised and kept within an aquaculture facility.
 - (h) "Aquaculture operator" means those persons or entities engaging in aquaculture operations and production of aquaculture products or having the control or responsibility for the daily operations of an aquaculture facility.
 - (i) "Aquaculture operations" means any activity done by an aquaculture operator that is related to the production of aquaculture organisms or aquaculture products.
 - (j) "Aquaculture facility" means a facility, structure, system, or process designed primarily for the husbandry, propagation, cultivation, production, growing, harvesting, or maintenance of aquaculture organisms, aquaculture products, and any derivatives or intermediaries therein through aquaculture.
 - (k) "Aquaculture project" means a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals. The discharge from the designated project area will not pollute the aquatic environment and the aquaculture product will not be released in the environment adversely impacting indigenous species.
 - (1) "Designated project area", as used in this definition, means the portions of the waters of the United States Virgin Islands within which the licensee or license applicant plans to confine the cultivated species, using a method or plan or operation (including, but not limited to, physical confinement) which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising

an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.

- (l) “Aquaculture processing facility”
- (m) “Authorized Species List” means the document declared by public notice by the commissioner of the Department of Planning and Natural Resources that specifies all species that are licensed to be propagated, cultivated, maintained, grown, harvested, or produced through aquaculture in the U.S. Virgin Islands. All species not listed within the Authorized Species List are prohibited including any species listed as an aquatic nuisance species pursuant to Title 7 V.I.C. § 199(d)(7) or declared by Aquatic Nuisance Subcommittee, unless authorized by letter of appeal to the commissioner of the Department of Planning and Natural Resources.
- (n) “Fish and Game Fund” means the separate and distinct fund of the U.S. Virgin Island Treasury authorized in Title 12 V.I.C. § 81(a) and Title 12 V.I.C. § 81(b). The Fish and Game Fund shall consist of all fines imposed by the courts for violation of the fish, game or conservation laws, and all monies obtained as described in chapter 9A, section 314 of title 12. The money from this fund shall be disbursed therefrom by the Commissioner of Finance, upon request of the Commissioner of the Department of Planning and Natural Resources, only for purposes of wildlife restoration projects and in administering and enforcing the fish, game, and conservation laws.
- (o) “Fish and Wildlife Restoration Trust Fund” means the separate and distinct fund of the U.S. Virgin Island Treasury authorized in Title 12 V.I.C. § 81(d). The Fish and Wildlife Restoration Trust Fund shall consist of all sport and recreational fishing licenses and aquaculture licenses and related fees collected under this title, federal and local grants, fines collected under Title 14 V.I.C. § 192, gifts, donations, bequests of money and such funds as the Legislature may from time to time appropriate.
- (p) “Natural Resources Reclamation Fund” means the separate and distinct fund of the U.S. Virgin Island Treasury authorized in Title 12 V.I.C. § 911(f)(4). The Natural Resources Reclamation Fund shall consist of all licenses and other fees and fines paid pursuant to the provisions of this part, Title 12 V.I.C. § 911 and Title 29 V.I.C. § 296.
- (q) “Virgin Islands Commission on Aquaculture and Mariculture” means the commission that shall oversee Aquaculture and Mariculture in the U.S. Virgin Islands as authorized in Virgin Islands Act 6471.
- (r) “Virgin Islands Aquaculture Council” refers to the body convened by the Virgin Islands Commission on Aquaculture and Mariculture. This commission shall sunset within 18 months of its inception per Virgin Islands Act 6471 and the Virgin Islands Aquaculture Council shall thereafter convene to govern aquaculture in the Virgin Islands per the bylaws created by the Virgin Islands Commission on Aquaculture and Mariculture.
- (s) “Virgin Islands 5-year Aquaculture and Mariculture Plan” means the guiding document for aquaculture in the U.S. Virgin Islands pursuant to Virgin Islands Act 6471.
- (t) “Disease condition” means the presence of contagious pathogens or injurious parasites known or clinically suspected of constituting a threat to the health of native species of aquatic organisms and aquaculture organisms.
- (u) The verb “to fish” in all its modes and tenses means to take or attempt to take aquatic organisms by any method or means, whether or not such method or means results in their capture.

- (v) The verb “to sell” in all its modes and tenses shall include offers for sale, possession for profit, exchange, negotiation, or the engagement in any other activity of a commercial nature.
- (w) The verb “to take” in all its modes and tenses means to harass, harm, pursue, hunt, shoot, kill, trap, capture, intentionally wound, or collect, or attempt to engage in any such conduct.
- (x) “Aquaculture vendor” means any person who offers to buy or sell or maintain possession for profit, exchange, negotiation, or the engagement in any other activity of a commercial nature any aquaculture organisms or aquaculture products.
- (y) “Scientific or educational purposes” means purposes directly related to learning, teaching, training, research, and development that are part of the instructional or research functions performed by an accredited educational or research institution or other authorized educational organization that do not include commercial, professional or any other for-profit purposes.
- (z) “Shoreline” means the area along the coastlines of the United States Virgin Islands 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.
- (aa) “Submerged and filled lands” means all lands in the United States Virgin Islands permanently or periodically covered by tidal waters up to, but not above, the line of mean high tide, seaward to a line three geographical miles distant from the coastline of the United States Virgin Islands, and all artificially made, filled in, or reclaimed lands, salt ponds and marshes which were formerly permanently or periodically covered by tidal waters.
- (bb) “Estuary” or “Estuarine” means that part of a river or gut or other body of water having a tidal connection with the sea, where the sea water is measurably diluted with fresh water derived from land drainage.
- (cc) “Gut” means a natural or constructed waterway or any stream.
- (dd) “Stream” means a body of flowing water that may flow permanently year-round or intermittently depending on seasons or the availability of rainwater.
- (ee) “Marsh” means wetlands that are flooded with water and dominated by grasses and sedges as well as other plants that are adapted to saturated soils.
- (ff) “Salt Pond” means a shallow enclosed or semi-enclosed body of saline water that may be partially or totally restricted by barrier beach formation. Salt ponds may receive freshwater from small streams emptying into their upper reaches and/or small springs in the salt pond itself or inundation by seawater.
- (gg) “Significant natural area” means land and/or water areas within the coastal zone of major environmental value, including fish or wildlife habitat areas, valuable biological or natural productivity areas; and unique or fragile coastal ecological units or ecosystems which require special treatment and protection.
- (hh) “Territorial waters” means the bodies of water that are under the jurisdiction of the U.S. Virgin Island. This includes all inland bodies of freshwater and estuarine waters within the U.S. Virgin Islands as well as the waters that extend to either 3 miles from the shorelines of the Territory or to any international boundary located within such 3-mile limit, whichever distance is shorter.
- (ii) ‘Trust lands’ means all submerged and filled land conveyed pursuant to Public Law 93-435, 88 Statutes 1210, by the United States to the Government of the United States Virgin Islands to be administered in trust for the benefit of the people of the United States Virgin Islands.

- (jj) “Water column” means the vertical extent of water, including the surface thereof, above a designated area of submerged and filled land.
- (kk) “Structure” means anything constructed or erected which requires location or placement on or in the ground, the submerged land, or coastal waters, or which is attached to something located in or on the ground, the submerged lands, or coastal waters.
- (ll) The word “shall” is mandatory, not directory.
- (mm) “Normal working hours” means the hours of normal business operations as will be defined by the regulatory agency.

§327-3: Duties of the Divisions

(a) The Department of Planning and Natural Resources is hereby designated as the lead agency in encouraging the development of aquaculture in the territory. The Department of Planning and Natural Resources shall have and exercise the following functions, powers, and duties with regard to aquaculture. The Department of Natural Resources shall:

- (1) Coordinate the development, revision, and implementation of a territorial aquaculture plan. The plan shall include prioritized recommendations for research and development as suggested by the Virgin Islands Commission on Aquaculture and Mariculture and institutional research, extension, and service programs.
- (2) Develop memoranda of agreement, as needed, with the Department of Planning and Natural Resources and divisions therein, and other groups as provided in the territorial aquaculture plan.
- (3) Oversee and provide representation to the Virgin Islands Commission on Aquaculture and Mariculture and thereafter the “Aquaculture Council” which the Commission on Aquaculture and Mariculture will convene.
- (4) Forward the revised territorial aquaculture plan to the commissioner and to the chairs of the legislative committees.

(b) The Department of Natural Resources, pursuant to Title 3 V.I.C. §401, and the Department of Agriculture, pursuant to Title 3 V.I.C. §291, shall jointly have and exercise the following functions, powers, and duties with regard to aquaculture. The Department of Natural Resources and the Department of Agriculture shall:

- (1) Issue or deny, aquaculture licenses that identify aquaculture producers and aquaculture products and collect all related fees. The Department of Agriculture shall be a co-signatory on all licenses.
- (2) Provide developmental assistance to the various sectors of the aquaculture industry as determined in the territorial aquaculture plan.
- (3) Provide technical assistance, including demonstrations, to aquaculture operators.
- (4) Assist persons seeking to engage in aquaculture when applying for the necessary licenses and serve to resolve complaints or otherwise resolve problems arising between aquaculture producers and regulatory agencies.
- (5) Develop and propose the legislation necessary to implement the territorial aquaculture plan or to otherwise encourage the development of aquaculture in the territory.
- (6) Enter into memorandum of understanding with other territorial or federal agencies to further the promotion of aquaculture in the Territory.
- (7) Employ such persons as are necessary to perform its duties under this part.

(c) In addition, the Department of Planning and Natural Resources shall act in cooperation with other territorial agencies and programs to:

- (1) Identify and designate government lands and waters that would be suitable for aquaculture development, including suitability for leasing for aquaculture purposes.
- (2) Enforce laws regulating aquaculture or mariculture or any laws adopted pursuant to this act.
- (3) Issue, collect and disburse all fees, interest, and penalties pursuant to this act.

§327-4: Jurisdiction

(a) For the purpose of these rules and regulations, the jurisdiction of the Territory shall include all inland bodies of freshwater, estuarine waters and Territorial waters, which shall extend to either 3-miles from the shorelines of the Territory or to any international boundary located within such 3-mile limit, whichever distance is shorter.

(b) Lands and submerged lands located in the Territory which have been designated as protected, including those lands and submerged lands under the jurisdiction of the Department of the Interior, and lands and submerged lands designated by the Territory as protected, including but not limited to designated marine parks, are subject to these provisions as well as supplemental regulations related to their federal or territorial designation which may restrict the right to perform aquaculture related activities within designated areas. The more restrictive of the regulations shall be applicable.

§327-5: Aquaculture as Farming

Persons engaged in aquaculture are farmers, and aquaculture products are agricultural products. No person may engage in aquaculture, and no equipment, vessel, or other device may be used in aquaculture in the Territory unless registered, permitted, or licensed in accordance with the provisions of this chapter.

§327-6: Registration and Licensing

(a) Every aquaculture operator of a suitable species of aquaculture organism shall obtain a license from the Department of Planning and Natural Resources and the Department of Agriculture jointly for each aquaculture facility owned or operated by the aquaculture operator. Each license shall be renewed annually. An application for a license shall be on a form furnished by the Department of Planning and Natural Resources and the Department of Agriculture. The license shall solicit such information as the Department of Planning and Natural Resources and the Department of Agriculture shall deem reasonably pertinent. Each year thereafter, each aquaculture license must be renewed with a fee.

(b) The information that the applicant for an aquaculture license is required to submit is subject to declaration by the Commissioner of the Department of Planning and Natural Resources. This information shall include, but is not limited to:

- (1) Applicant's name/title.
- (2) Company name.
- (3) Complete mailing address.
- (4) Legal property description of all aquaculture facilities.
- (5) Actual physical street address for each aquaculture facility.
- (6) Description of aquaculture production facilities, including a storm preparedness plan.
- (7) Aquaculture organisms to be owned, propagated, cultivated, maintained, grown, harvested, or produced.
- (8) Aquaculture products to be produced.
- (9) Annual registration fee.

(c) Prior to approval and issuance of any license, the Department of Planning and Natural Resources and the Department of Agriculture shall inspect each aquaculture facility and aquaculture processing facility subject to the license to determine that aquaculture organisms at the facility are in compliance with the rules and regulations adopted pursuant to the V.I.C. and the V.I.R.R. Inspection criteria shall include, but is not limited to:

- (1) The species of aquaculture organism to be raised, maintained, or harvested at the facility.
- (2) Whether the species is established within the U.S. Virgin Islands.

- (3) The physical location and size of the facility.
 - (4) The topography of the facility and the surrounding area.
 - (5) The approximate number of individual aquatic organisms at the facility.
 - (6) The facility's operational plan.
 - (7) The type of impoundment at the facility.
 - (8) The filtering or treatment system to be used to prevent the passage of eggs, larvae, juveniles, adults, waste, and unpurified water from the facility into areas or waters outside the facility.
 - (9) The emergency plan to become operational in the event of flooding, storms or other natural or manmade disasters.
 - (10) The most current best management practices for the type of facility.
- (d) The Department of Planning and Natural Resources shall send notices of registration to all aquaculture operators of record requiring them to register for an aquaculture license. Renewal notices shall be sent to the registrant 60 days preceding the termination date of the certificate of registration. Prior to the termination date, the registrant must return a completed renewal form with fee, pursuant to these rules and regulations, to the Department of Planning and Natural Resources.
- (e) Any person whose aquaculture license has been revoked or suspended must reapply to the Department of Planning and Natural Resources for certification.
- (f) Pursuant to Title 12 V.I.C. § 312 the Commissioner of the Department of Planning and Natural Resources shall set the fee amount prior to the yearly registration period. Additionally, all fees and monies received during registration shall be deposited in the Fish and Wildlife Restoration Trust Fund created under Title 12 V.I.C. § 81(d).
- (g) Pursuant to Title 12 V.I.C. § 186 and Title 12 V.I.R.R. § 184-42, all aquaculture projects and aquaculture facilities are required to have an additional Territorial Pollutant Discharge Elimination System (TPDES) permit if they are designated as a concentrated aquatic animal production facility as defined in Title 12 V.I.R.R. § 184-2.

§327-6: Registration and Licensing for Aquaculture Vendors

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§327-7: Records

(a) The aquaculture operator shall maintain a record of sales of aquaculture organisms for at least twelve (12) calendar months. The sale records are open for inspection at any time for the duration of its operation by designated employees of the Department of Planning and Natural Resources and the Department of Agriculture during normal business hours. The required information is subject to declaration by the Commissioner of the Department of Planning and Natural Resources and shall include, but is not limited to, the following information:

- (1) invoice number;
- (2) date of sale;
- (3) name and address of the seller;
- (4) name and address of receiver; and
- (5) number and weight of whole or partial aquaculture products, by species, contained in the shipment.

(b) An aquaculture vendor who operates an aquaculture processing facility shall maintain a copy of the invoice for the purchase to the Department of Natural Resources and the Department of Agriculture for at least twelve (12) calendar months of the purchase. The seller and the buyer of

aquaculture products should maintain continuous records of sales and purchases. The required information is subject to declaration by the Commissioner of the Department of Planning and Natural Resources and shall include, but is not limited to, the following information:

- (1) the invoice number;
- (2) the date of the sale;
- (3) the name and address of the seller;
- (4) the physical location of the aquaculture facility from which the aquaculture organisms were collected;
- (5) the buyer's name and address and the name and address of the buyer's aquaculture processing facility; and
- (6) the number of aquaculture organisms sold.

§327-8: Authorized and Prohibited Species

Only species designated on a list of Authorized Aquaculture Species, as declared by the Commissioner of the Department of Planning and Natural Resources, shall be permitted for use as aquaculture products. In addition:

- (a) Each aquaculture operator is authorized to produce only the aquaculture products declared on their aquaculture license.
- (b) The use of any non-designated species as an aquaculture product is prohibited.
- (c) The use of any species on the list of aquatic nuisance species in the USVI Invasive Species Action Plan, as declared by the Commissioner of the Department of Natural Resources, for aquaculture purposes, is prohibited.
- (d) The husbandry, propagation, cultivation, production, growing, harvesting, or maintenance of endangered species for conservation purposes is only permitted through an additional "Conservation Permit" as consistent with Title 12 V.I.C. § 106 and any and all related Federal laws and regulations.

§327-9: Conservation Officers

Conservation officers have the powers and authorities set forth in Title 12 V.I.C. § 99a and Title 12 V.I.C. § 305 including without limitation the authority to enforce these regulations.

§327-10: Inspection

- (a) The Department of Planning and Natural Resources may conduct an investigation if it has reason to believe that a violation of the V.I.C. or the V.I.R.R. may have or will occur or has occurred. In connection with any such investigation, the Department of Planning and Natural Resources may compel the attendance of witnesses or the production of documents and records anywhere in the Territory. The Department of Planning and Natural Resources may enforce these rules and regulations through the assistance of the U.S. Virgin Islands Police Department (V.I.P.D.) as pursuant to Title 12 V.I.C. § 122.
- (b) The Department of Planning and Natural Resources shall have access, during normal working hours, to any premises where there is reason to believe that aquaculture organisms are being produced, maintained, harvested, processed, or marketed. The Department of Planning and Natural Resources may examine any facility and any records relating to the production, maintenance, harvesting, processing, or marketing of aquaculture organisms. In accordance with Title 12 V.I.C. § 99a, the entrance on the premises under the provisions of these Rules and Regulations shall not be deemed to be criminal trespass under any state law or local ordinance.
- (c) In addition aquaculture organisms and aquaculture products are subject to the health and sanitary standards pursuant to Title 7 and Title 19 V.I.C. Part VI and VII and all accompanying V.I.R.R. in addition to all Federal laws and regulations.

(d) If any person is found guilty of violating the rules and regulations or found guilty of a criminal violation related to the rules and regulations under Title 7. Agriculture or Title 12. Conservation of the V.I.C., the person found guilty shall reimburse the department the cost of the investigation.

§327-11: Prohibited Acts

It is unlawful for any aquaculture operator to violate any provision of these rules and regulations or related provisions of V.I.C. or V.I.R.R. Additionally, it is unlawful for any aquaculture operator to:

- (a) Transport or store in the same container any aquaculture organism or aquaculture product with any wild aquatic organism or product.
- (b) Transport by vessel over water both wild and aquaculture products of the same species at the same time.
- (c) Fail to notify the Department of Planning and Natural Resources at least three calendar days prior to the placing of any aquaculture organism or other aquatic organism into Territory waters.
- (d) Fail to notify the Department of Planning and Natural Resources at least three calendar days prior to removing any aquaculture organism, aquaculture product or other aquatic organism from an aquaculture facility.
- (e) Fail to notify the Department of Planning and Natural Resources immediately upon discovering that a disease condition exists within an aquaculture facility.
- (f) Fail to notify the Department of Planning and Natural Resources immediately upon determining that an aquaculture facility has been damaged and the threat of the unintentional release of aquaculture organism, aquaculture product or stock exists.
- (g) Fail to remove all enclosures and associated infrastructure from Territory waters within 60 calendar days of an aquaculture license expiration or revocation.
- (h) Construct an aquaculture facility in a manner different from the approved aquaculture license application.
- (i) Conduct aquaculture operations in a manner different from the approved aquaculture license application.
- (j) To propagate endangered species or invasive species without authorization from the Department of Planning and Natural Resources.

In addition, an aquaculture license issued under this section is not a defense to prosecution for any conduct not specifically authorized by the aquaculture license.

§327-11: Penalties

- (a) Pursuant to Title 12 V.I.C. § 325, any person who violates or knowingly counsels, aids or assists in a violation of any provision of this chapter or of any rule or regulation promulgated thereunder or knowingly shares in any of the proceeds of said violation by receiving or possessing aquaculture organisms or aquaculture products, shall be deemed to have incurred the penalties imposed thereby upon the person guilty of such violation.
- (b) Any person violating any provision of these rules and regulations or related provisions of V.I.C. or V.I.R.R, unless otherwise provided, is guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than five hundred (\$500) dollars or to imprisonment for not more than one (1) year, or to both such fine and imprisonment.
- (c) Pursuant to Title 12 V.I.C. § 99a(b) that a fine for violations related to Title 12 Conservation as prescribed by the Territorial Court of the Virgin Islands, shall be known as a “conservation ticket.”
- (d) Pursuant to Title 12 V.I.C. § 99a(c)(3) and Title 12 V.I.C. § 99a(f), the Department of Planning and Natural Resources, in conjunction with the Territorial Court, shall establish and specify the suitable amount of fines to be imposed for first, second, and subsequent offenses; provided that such fines shall be within the limits declared by the V.I.C. and V.I.R.R.

(e) Pursuant to Title 12 V.I.C., Chapter 9A, § 305(c) and Title 25 V.I.C., Chapter 15, § 303(b) provide, in pertinent part, that: “The powers duties and authority ... of the Territorial Court ... conferred by title 12, chapter 1, subchapter VIII of the code [regarding] conservation tickets and conservation offenses ... shall apply equally to violations committed under these rules and regulations ”; and all increases made to the fines scheduled herein are within the limits declared by Chapters 1 and 9A of Title 12, and Chapter 15 of Title 25 of the Virgin Islands Code and are contemplated to act as deterrents to violations of the conservation laws, and as appropriate punishment for such violations.

(f) Any penalty imposed under this chapter shall be in addition to the suspension or revocation of licenses, permits, certificates or registrations as authorized by this chapter, and to any confiscation and forfeiture proceedings authorized under Title 12 V.I.C. Chapter 9A.

(g) All penalties, fines and monies received shall be deposited in the Fish and Game Fund created under Title 12 V.I.C. § 81(a).

(h) The aforementioned conservation fines, penalties, and imprisonments are valid punishments for all, but not limited to, the following types of prohibited acts: polluting of territory or federal waters, operating an aquaculture operation without a required license, operating an aquaculture operation of an aquatic species not specified in their respective license, taking of aquatic organisms for aquaculture purposes without a required license or permit, and noncompliance with Territory or Federal aquaculture health standards.

§327-12: Use of Stock

Pursuant to Title 12 V.I.C. § 317, an additional permit must be issued by the Department of Planning and Natural Resources, Division of Fish and Wildlife, for the collection of any wild stock or use for any organisms which are naturally occurring in the U.S. Virgin Islands to be used in aquaculture in the U.S. Virgin Islands. The applicant must state the species and quantity that are requested for stocking; the origin of that stock and the regulated aquatic life taken from the wild may only be used for stocking into the aquaculture facility as juveniles or used as adults as broodstock. The licensee may not sell or offer for sale any regulated aquatic organisms imported for culture or taken from the wild that is less than the minimum size as specified by the V.I.C. or the V.I.R.R., for the species in territorial or federal waters, at the time of taking.

§327-13: Transportation and Sale of Aquaculture Products

(a) Aquaculture organisms and aquaculture products shall be identified and recorded while possessed, processed, transported, or sold as provided in this subsection.

(b) Aquaculture organisms and aquaculture products shall be identified by an aquaculture license and registration number from harvest to point of sale. Any person who possesses aquaculture organisms or aquaculture products must show, by appropriate receipt, bill of sale, bill of lading, or other such manifest where the product originated.

(c) Each aquaculture registrant who sells food products labeled as "aquaculture or farm raised" must have such products containerized and clearly labeled. Label information must include the name, address, and aquaculture license number. This requirement is designed to distinguish the identity of wild and aquaculture products.

(d) Aquaculture organisms and aquaculture products shall be transported in containers that separate such products from wild stocks and shall be identified by tags or labels that are securely attached and clearly displayed.

(e) Aquaculture organisms and aquaculture products are subject to the health and sanitary standards pursuant to Title 19 V.I.C. Part VI and VII and the accompanying V.I.R.R as well as any and all related Federal laws and regulations.

(f) NOTE for Commission on Aquaculture and Mariculture: Need to develop RR on specific seasonal or spatial limits for harvest within the 5-year plan– in addition health and care rules and regulations for organisms related with aquaculture facilities must be clearly delineated within the 5-year plan.

§327-14: Aquaculture Facility Protections

(a) A person, other than the owner or operator of an aquaculture facility, may not fish within or take from an aquaculture facility without the consent of the owner or operator.

(b) A person may not unlawfully acquire or otherwise exercise control over cultured species with intent to deprive the owner of the cultured species.

§327-15: Commission on Aquaculture and Mariculture

As authorized in Virgin Island Act 6471, the Virgin Island Commission on Aquaculture and Mariculture shall:

(a) Research, create, and recommend a Virgin Islands 5-year Aquaculture and Mariculture Plan to the Governor and to the Legislature.

(b) Convene the Virgin Islands Aquaculture Council once the Virgin Islands 5-year Aquaculture and Mariculture Plan has been recommended to the Governor and to the Legislature.

(c) Establish bylaws and duties for the Virgin Islands Aquaculture Council.

§327-16: Aquaculture Council

The duties of the Virgin Island Aquaculture Council are subject to the bylaws set by the Virgin Island Commission on Aquaculture and Mariculture. The Virgin Island Aquaculture Council shall, at a minimum, have the following duties:

(a) Research, update, and recommend each 5 years after the promulgation of these rules and regulations an updated Virgin Islands 5-year Aquaculture and Mariculture Plan to the Governor and to the Legislature. The Virgin Island Aquaculture Council shall consider and research all, but not limited to, the following subject matter areas:

(1) the encouragement of new businesses or firms to locate to the Territory, whether by tax incentives, annual grants in-kind, or otherwise;

(2) the interest of local private investors and firms in the industry;

(3) the prospect of providing meaningful employment opportunities;

(4) the determination of the most preferable locations in which to situate the industry;

(5) the study of possible aquatic diseases which could affect the industry, along with methods to withstand such a possibility;

(6) the study of whether or not to regulate the promotion, marketing, and quality control of saltwater or freshwater organisms produced in the territory and utilized commercially;

(7) the regulation or processing of such organisms either on the water or on the shore, or both;

(8) the study of the regulation of aquaculture facilities;

(9) the study of whether or not to provide documentation standards and statistical record requirements to commercial saltwater or freshwater organism catches; and

(10) the identification of the fish species or other aquatic organisms having significant potential for culturing on a commercial basis while at the same time providing for the protection of the breeding stock.

(b) Ensure propagation of rules and regulations that clearly define the role of governing agencies and streamline the process for which aquaculture can be permissible in the U.S. Virgin Islands.

(c) Convene at least one meeting and additional public hearing session per year to discuss research and progress regarding aquaculture in the U.S. Virgin Islands.

§327-17: Authority to Lease or use Submerged lands and Water Column for Aquaculture or Mariculture Activities

Pursuant to Title 12 V.I.C. § 903, the submerged and filled lands and relating water column surrounding the United States Virgin Islands have been conveyed in trust and are held in trust by the Government of the U.S. Virgin Islands for the benefit of the people of the U.S. Virgin Islands. In addition, pursuant to Title 12 V.I.C. § 911 the Government of the U.S. Virgin Islands has the authority to lease these submerged and filled lands through permit or license through the Department of Planning and Natural Resources Division of Coastal Zone Management. Additionally, all fees and monies received during permitting, licensing, and registration of the lease shall be deposited in the Natural Resources Reclamation Fund created under Title 12 V.I.C. § 911(f)(4).

§327-18: Application to Lease Submerged Land and Water Column

Pursuant to Title 12 V.I.C. § 911, any applicant desiring to lease a portion of the submerged and filled lands of the U.S. Virgin Islands for the purpose of conducting aquaculture activities shall file a written application with the Department of Planning and Natural Resources Division of Coastal Zone Management, in such a form as it may prescribe. The required information that the applicant is required to submit shall include, all information required for a CZM (minor/major?) permit and is not limited to:

- (a) The name and address of the applicant.
- (b) A reasonably concise description of the location and amount of submerged land desired and, after the lease is approved, a field survey of the leased area and assurances that the site is properly posted pursuant to the conditions of the lease and
- (c) A description of the aquaculture activities to be conducted, including a specification of whether such activities are to be experimental or commercial and an assessment of the current capability of the applicant to carry on such activities.
- (d) Such other information as the Department of Planning and Natural Resources Division of Coastal Zone Management may by regulation require.
- (e) The lease contract.

§327-19: Federal Consistency Requirements for Aquaculture Operations

Aquaculture Licensing within the U.S. Virgin Islands requires consistency with the following federal agencies and regulations:

- (a) U.S. Food and Drug Administration (FDA), under the Federal Food, Drug, and Cosmetic Act (FDCA) (21 U.S.C. § 301 et seq.) and the PHS Act (42 U.S.C. § 243).
- (b) U.S. Army Corps of Engineers (USACE) under the Rivers and Harbors Act of 1899 (RHA) [33 U.S.C. §403], the Outer Continental Shelf Lands Act (OCSLA) [43 U.S.C. §1333(a)(1)], and the Clean Water Act (CWA) (33 U.S.C. §1344).
- (c) U.S. Environmental Protection Agency (EPA) under the Clean Water Act Sections 301, 318, 402, and 403 (see 33 U.S.C § 1251 et seq.), and subject to the regulatory requirements of 40 CFR § 122.24, 40 CFR § 122 Appendix C, 40 CFR Part 451, and 40 CFR Part 125, Subparts B and M.
- (d) National Marine Fisheries Service (NMFS) under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq.).
- (e) Bureau of Ocean Energy Management (BOEM) under the Outer Continental Shelf Lands Act (43 U.S.C. § 1331 et seq.), and further defined in 30 CFR Parts 500-599.
- (f) Bureau of Safety and Environmental Enforcement (BSEE) under the Outer Continental Shelf Lands Act (43 U.S.C. § 1331 et seq.), and further defined in 30 CFR Parts 200-299.

- (g) National Marine Fisheries Service (NMFS) under the Magnuson-Stevens Fishery Conservation and Management Act, the Fish and Wildlife Coordination Act (16 U.S.C. § 661 et seq.), the Endangered Species Act (16 U.S.C. § 1531 et seq.), and the Marine Mammal Protection Act (16 U.S.C. § 1361 et seq.).
- (h) U.S. Coast Guard (USCG) under 14 U.S.C. § 542.
- (i) U.S. Fish and Wildlife Service (USFWS) under the Fish and Wildlife Act (16 U.S.C. §§ 742a et seq.), the Fish and Wildlife Conservation Act (16 U.S.C. §§ 2901 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. §§ 661 et seq.), the National Wildlife System Administration Act (16 U.S.C. § 668dd et seq.), the Endangered Species Act (16 U.S.C. §§ 1531 et seq.), the Migratory Bird Treaty Act (16 U.S.C. §§ 703 et seq.), and the Marine Mammal Protection Act (16 U.S.C. §§ 1361 et seq.).