

United States Virgin Islands



Abandoned and Derelict Vessel (ADV) Legislative and Administrative Review - 2015

NOAA Marine Debris Region:
Caribbean



Definition of a Vessel

U.S. Virgin Island statutes define a “vessel” in Title 12 Conservation under Oil Spill Prevention and Pollution Control, which addresses derelict vessels (12 V.I.C. § 703(12)):

Vessel: includes every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water, whether self-propelled or otherwise, and includes barges and tugs.

Another definition for “vessel” is provided under Title 25 Navigation (25 V.I.C. § 1):

Vessel: includes every description of watercraft, or other artificial contrivance used, or capable of being used, as a means of transportation on water.

Provisions under Title 25 for Mooring and Anchoring of Vessels and Houseboats provide another definition for “vessel”, and one for “unseaworthy vessel” (25 V.I.C. § 402):

Vessel: means every description of watercraft or other artificial contrivance, not more than 150 feet in length, used or capable of being used as means of transportation on water.

Unseaworthy Vessel or Houseboat: means a vessel or a houseboat itself or its appliances or appurtenances that are not safe or adequate for the purposes for which they are intended or ordinarily used.

Definition of an Abandoned and/or Derelict Vessel

U.S. Virgin Island (USVI) statutes do not explicitly define an “abandoned” vessel, but they do define “abandoned vehicle” under Title 19 Health, which is used in relation to solid waste management and includes vessels (19 V.I.C. § 1552(a)).

Abandoned or junked automobile or other motor vehicle: means a motor vehicle that is inoperable or over eight years old and is left unattended on public property for more than forty-eight hours, or a motor vehicle that has remained illegally on public property for more than forty-eight hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of such property for more than forty-eight hours.

USVI navigation law also provides a legal definition for “derelict” vessels and houseboats under 25 V.I.C. § 402(e):

Derelict Vessel and Houseboat: means a vessel or houseboat that has been abandoned, forsaken, or disabled beyond repair.

Formal State Program for Abandoned Vessels

The U.S. Virgin Islands do not have a formal and dedicated program for addressing abandoned and derelict vessels. They do have a number of laws primarily administered by the Department of Planning and Natural Resources that address derelict and abandoned vessels on public and private property in relation to environmental protection, navigational hazards, and public



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health and safety. These laws include those under Title 12 Conservation, Oil spill prevention and control; Title 19, Solid and hazardous waste management; and Title 25 Navigation, Removal of sunken watercraft or other obstructions. These laws outline notification procedures and allow for the removal and disposal of vessels that are in violation of the provisions under these titles.

Although the USVI doesn't have a program or funding dedicated to abandoned or derelict vessels, the Territory does have several special funds, Coastal Protection Fund (12 V.I.C. § 711) and the Marine and Aviation Fund (25 V.I.C. § 132), that were established to help pay for the administration and operating expenses incurred by the Department of Planning and Natural Resources and the USVI Port Authority, respectively.

In USVI, it is unlawful for any person or corporation to store or leave any vessel in a wrecked, junked or substantially dismantled condition or abandoned upon any public waters or port without the consent of the Department of Planning and Natural Resources or docked on private property without the owner's consent (12 V.I.C. § 715). A person in violation of this or any other provision in Title 12, Chapter 17 or any rule, regulation or order of the Department made under this chapter can result in a civil penalty of up to \$ 50,000 (12 V.I.C. § 716). Each day the violation occurs constitutes a separate offense.

Under Title 19, it is also unlawful to place or permit to remain any abandoned or junked boat or vehicle, or any parts, on any private or public property, shoreline or submerged land without consent of the owner (19 V.I.C. § 1563(6)). A violation under this chapter is a misdemeanor, which can result in a \$1,000 fine and/or up to 180 days of imprisonment if convicted.

Designation of Abandoned and/or Derelict Vessels

The laws of the USVI do not outline any specific guidelines for designating a vessel as abandoned or derelict. If a vessel meets the definitions provide above, the Territory can designate it as derelict, abandoned or unseaworthy and remove it or have it removed, depending on which chapter and provisions apply.

Responsibility for Removal of Abandoned or Derelict Vessels

Pursuant to 12 V.I.C. § 715(2)(a), the Virgin Islands Department of Planning and Natural Resources is authorized and empowered to remove any derelict vessel from public waters when it constitutes a danger or potential danger to the environment, obstructs or threatens to obstruct navigation, or pollutes the air or water. They also have the authority to remove any abandoned boat, the wreckage or parts, illegally placed or left on any shoreline or submerged land in pursuant to the provisions of Title 12, section 715 (19 V.I.C. § 1559).

The Department of Planning and Natural Resources Department also has the responsibility to remove any sunken vessel that obstructs navigation or other uses of a harbor (25 V.I.C. § 133), and from mooring and anchoring areas (25 V.I.C. § 408). If the Department does remove a vessel pursuant to Title 25, it is at the owner's risk and expense.

When a vessel or houseboat is sunk or wrecked within a designated mooring or anchoring area, the owner is responsible for marking its position and providing for the raising and disposition of the vessel or houseboat within 30 days (25 V.I.C. § 408(b)). The owner is also liable for any damage caused to public property, the environment, or other vessels.



Removal and Disposal Requirements/Guidelines

USVI law does not provide any specific guideline for how an abandoned or derelict vessel will be removed or destroyed, but it does outline the notification and disposal requirements for derelict vessels under Title 12. Additional laws that apply to marinas and mooring/anchoring areas are presented under Specific Location Factors (below).

The Department of Planning and Natural Resources may take or cause a derelict vessel to be taken into custody immediately upon its discovery (12 V.I.C. § 715(2)(b)). At the time they take custody, the Department must:

- (i) publish a notice of intended disposition once in a newspaper of general circulation;
- (ii) when possible, post a notice of intended disposition on the vessel; and
- (iii) serve a duplicate of the notice of intended disposition by certified mail, with a return receipt, on
 - A) the registered owner of the vessel, if known, at the registered owner's last known address or the address on record with any department or the United States Coast Guard; and
 - B) all lien holders who have filed a financing statement indexed in the name of the registered owner, or who are shown on the records of any department or the United States Coast Guard.

If the vessel is not repossessed within 30 days after the Department publishes or mails the notice, the vessel can be disposed of by negotiated sale; however, if two or more prospective purchasers are interested in buying the vessel, it must be sold at public auction to the highest bidder (12 V.I.C. § 715(c)(1)). If no one indicates a desire to purchase the vessel, it can be properly disposed of as junk, donated to a governmental agency, or destroyed.

Differences between Commercial and Recreational Vessel Treatment

USVI statutes do not distinguish between commercial and recreational vessels under the laws addressing abandoned and derelict vessels.

Vessel Size Requirements or Limits

There are no size requirements or limits under the laws specifically for derelict or abandoned vessels, but provisions under Title 25 Navigation define a “vessel” as less than 150 feet.

Funding Sources

The U.S. Virgin Islands created a Coastal Protection Fund under 12 V.I.C. § 711 that can be used by the Department of Planning and Natural Resources to carry out the purposes of Title 12, Chapter 17 Oil Spill Prevention and Pollution Control. The fund is limited to the sum of \$1,000,000 and is maintained by license fees, penalties and other fees and charges related to this chapter, including administrative expenses and costs of pollution removal. The fund can be used to pay for the Department’s administrative and personnel expenses, pollution abatement, equipment and other costs related to the enforcement of this chapter, which includes the removal of derelict vessels. The Department shall request reimbursement to the fund for all costs incurred from the person or persons causing the pollution, and if not paid within 30 days of demand, the USVI Department of Law will take responsibility for collection.

In addition, the USVI has a Marine and Aviation Fund that receives monies from ship dues, pilotage fees, quarantine fees, and other miscellaneous revenue collected through the Territory’s harbors (25 V.I.C. § 132). This fund is used to cover the expenses of harbor



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administration, which includes handling the removal of abandoned and derelict vessels that obstruct navigation and other harbor uses. The USVI Legislature may make grants from the general fund as necessary to supplement the revenues of the Marine and Aviation Fund.

Lead State Agency

The USVI Department of Planning and Natural Resources is the lead agency for abandoned and derelict vessels in the territory.

Email: N/A

Phone: St. Thomas 340-774-3320 St. Croix 340-773-1082

Website: <http://www.digmeonline.com/> or <http://dpr.vi.gov/>

Insurance Requirements for Vessels

The U.S. Virgin Islands do not require vessel owners to carry insurance.

Specific Location Factors, Limitations and Additional Information

Within the harbors of USVI, whenever a sunken vessel, boat, watercraft, raft or other similar object obstructs or endangers navigation, or the use of any piers, wharfs, bulkheads, or their approaches for more than 30 days, it can be declared abandoned and removed by the Assistant Commissioner for Marine and Aviation Services (Commission) without liability to the owner (25 V.I.C. § 133). Prior to removing the vessel, the Commission is required to publish a notice, addressed "To Whom It may Concern", in a newspaper with distribution in the judicial division in which the vessel is located that states the vessel must be removed.

If no one claims the vessel within 30 days, or when the legal abandonment of the vessel or obstruction can be established, the vessel can be removed. During the waiting period, the Commission can, at its discretion, solicit proposals by public advertisement for the removal of a vessel, and have it removed as soon as possible after the expiration of the 30 day notice period if it has not already been removed. The contract must be awarded to the bidder whose proposal is the most advantageous to the Government of the Virgin Islands. Both the solicited proposals and contracts can be conditioned such that the vessel, and all property and cargo on it, become the property of the contractor. Once these requirements have been met, the Commission can remove, break-up, sell, or otherwise dispose of the vessel subject to the provisions of applicable Federal law. Any money received from the disposal of vessels removed under this section, or from any contractor for the removal, is deposited into the Marine and Aviation Fund.

Mooring and Anchoring Areas in the USVI also have specific laws in place, under Title 25, concerning derelict vessels (25 V.I.C. § 408). It is unlawful to moor or anchor a derelict or unseaworthy vessel (or houseboat) in a designated mooring or anchoring area. Any unseaworthy or derelict vessel found in a designated mooring or anchoring area can be removed by the Department Planning and Natural Resources in accordance with the provisions of 25 V.I.C. § 404. The Department will also deny a mooring permit to any vessel considered to be unseaworthy or derelict.

The owner of any sunk or wrecked vessel within a designated mooring or anchoring area is responsible for marking its position and providing for the raising and disposition of the vessel within thirty (30) days (25 V.I.C. § 408(b)). The owner is also liable for any damage caused to public property, the environment, and other vessels. Whenever a designated mooring or anchoring area is obstructed or endangered by a sunken or wrecked vessel, and the vessel has



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been there for more than 30 days after notice to remove the vessel has been given, or whenever the abandonment is legally established, the Department can remove and dispose of it at the expense of the owner or resident agent. If the vessel is a hazard to marine traffic or the environment, it can be removed sooner. Fines for violating the provisions of this chapter can be as high as \$10,000 for each offense (25 V.I.C. § 408(e)).

Prior to removing a vessel pursuant to 25 V.I.C. § 408, the Department of Planning and Natural Resources is required to notify the owner, or the resident agent, at their last known address (25 V.I.C. § 404). If the Department cannot identify or locate the owner, they must undertake to notify the owner by the best method available under the circumstances of the particular case. Reasonable efforts to locate unidentified or absent vessel owners include publishing the notice in a newspaper of general circulation throughout the United States Virgin Islands, posting a notice in a conspicuous place at the vessel's location, and, if practical, on board the vessel. The notice must be posted for at least 14 days before the vessel can be removed, except in emergency situations. "Emergency" meaning any situation where the vessel is a hazard to navigation, a pollution or environmental threat, or poses an imminent danger or risk to public safety, health and welfare.

Prioritization Scheme

The U.S. Virgin Islands do not have a prioritization scheme for removing abandoned or derelict vessels. The Department of Planning and Natural Resources has the authority to immediately take or cause a derelict vessel to be taken into custody upon discovery and remove it without notice if it is considered a hazard to navigation, the environment, or to the public's health and safety.

Legislation and Administrative Codes

The laws and administrative codes referenced in this document can be accessed from:

U.S. Virgin Islands Statutes and Administrative Code (2015):

<http://www.lexisnexis.com/hottopics/vicode/>

These Legislative and Administrative Reviews are intended for informational purposes only. They are summaries and not meant to be legal references, and should not be used as such. See the official state statutes and administrative codes for current state laws and rules and regulations for any legal references.