

Chairman Lewis Jones, Jr. called the meeting to order at 2:00 P. M., in the St. Mary's County Courthouse.

Present were: Commissioners H. C. Byrd, Milton T. Hickman, N. G. Ball and Jeremiah Valliant; K. Thomas Everngam, Legal Officer, and Robert M. Norris, Jr., Executive Secretary. Commissioner George J. Weems entered at 4:00 P.M.

Chairman Jones declared the meeting open for a public hearing on proposed soft shell clamming regulations. Fifty-two persons, whose names are listed in transcript attached hereto, were in attendance. This public hearing lasted until 3:50 P.M.

After recess following the public hearing, the Commission reconvened in executive session at 4:05 P. M. in the Circuit Courtroom, in the St. Mary's County Courthouse, Leonardtown, Maryland.

Chairman Jones recognized Senator Raley, who asked about procedure for having similar legislation introduced in Maryland Legislature to that recently passed in the Virginia Legislature concerning soft shell clamming. Chairman Jones said he has discussed this with Governor Tawes and has been assured it will be introduced as a Legislative Bill from Governor Tawes' office at opening of Maryland Legislative Session in January 1965 and hoped that Senator Raley would use his good offices in following the Bill through to passage.

Senator Raley suggested since Charles County, through spokesmen at today's public hearing and previously, have indicated that they desire no clamming at present in waters adjacent to their shores; that Senator Parran be reassured by the Commission that such water areas adjacent to Charles County will be closed to soft shell clamming. At this time, Senator Raley withdrew from the meeting.

The following minor changes in Proposed Regulations V, Soft Shell Clams, were suggested as a result of findings at public hearing.

Section 1. (a) The word "shall" to be substituted for word "may", making that portion read, "****preceding the date of his application shall be granted a license****."

Section 1. (b) The word "shall" to be substituted for word "may", making that portion read, "****the Potomac River Fisheries Commission shall issue a hydraulic or mechanical soft shell clam dredge license****."

Section 4. (c) Strike out the words "to take or catch" (in third line), making the beginning of that section read, "It shall be unlawful for any person licensed hereunder to take or catch soft shell clams with any hydraulic or mechanical dredge or rig in the waters of the Potomac River or have in possession aboard a vessel in excess of forty (40) bushels****".

Section 5. (a) Reverse the words "open" and "close"; strike out the words "the soft shell clamming areas of"; add the words "or permit"; substitute the words "be deemed" for the word "seem"; add the words "or other seafood" and "or preventive"; making the section read: "(a) Authority to open and close clamming areas. The Potomac River Fisheries Commission may close and open any portion of the Potomac River and prohibit or permit the taking or catching of soft shell clams thereon whenever in the judgment of the Potomac River Fisheries Commission it shall be deemed necessary or desirable to protect or promote the growth of soft shell clams or other seafood or to restrict the manner or method of taking clams in any area, or to protect the development and growth of clams or to establish seed beds, or to take any restorative or preventive measures which the Commission may deem best. Said area or areas may be closed for a period of time or may be closed for so many days of the week."

Section 7. The words "Prohibited Areas" to be substituted for the words "Area to Work" and immediately following this heading, strike out the following entire sentence, "All that area of the Potomac River within the jurisdiction of the Potomac River Fisheries Commission."

(2) the words "fish nets" to be added making this portion read, "within 50 feet of any bulkhead, fish nets, wharf or pier***".

Section 10. Penalty. Strike out the words "as provided in Regulation I, Section 6, of the Potomac River Fisheries Commission and ***", making this portion read, "The penalty for a violation of the foregoing Regulations shall be as set forth in Article V, Section 2, of the Potomac River Compact of 1958."

Under proposed changes in existing regulations, in Regulation III, Section 12(a) add the words "one (1) hour before", making this portion to read, "Crabbing at Night. It shall be unlawful for any person to commercially take or catch crabs between sunset and one (1) hour before sunrise, or to land or unload crabs earlier than sunrise or later than sunset."

Commissioner Byrd offered motion, seconded by Commissioner Valliant that the above minor changes in Proposed Regulation V be approved. Motion carried unanimously.

Commissioner Byrd offered motion, seconded by Commissioner Valliant, that Proposed Regulation V, as amended and Proposed Amendment to Regulation III, Section 3 and Section 12(a), be adopted to become effective immediately upon adoption by the Maryland Legislature of an Act similar to House Bill No. 21 offered December 2, 1964 and adopted by the Virginia Legislature. Motion carried unanimously.

Commissioner Hickman offered motion, seconded by Commissioner Valliant, that a copy of Proposed Regulations, as amended, be attached to and be made a part of the Minutes of this meeting.

Motion was offered and seconded that a copy of the transcript of the Public Hearing held immediately preceding this meeting be attached to and made a part of these Minutes. Motion approved.

Chairman Jones presented written request from Herbert Wilkerson and Son, Potomac Beach, Virginia, that they be allowed to take up oysters from a small area in the Potomac River adjacent to Potomac River Fisheries Commission jurisdictional line at mouth of Rosier Creek. This area lies next to their oyster ground leased from the Commission of Fisheries of Virginia. Said oysters were planted as seed in 1962 by mistake on the Potomac River side of the line, and above facts have been verified by Engineers and Inspectors of Maryland and Virginia.

Commissioner Byrd offered motion, seconded by Commissioner Ball, that permission be given this firm to take up these oysters, under supervision of Potomac River Fisheries Commission Inspectors. Motion was approved.

Commissioner Byrd offered motion, seconded by Commissioner Ball, that reading of Minutes of last meeting be postponed until next meeting. Motion was approved.

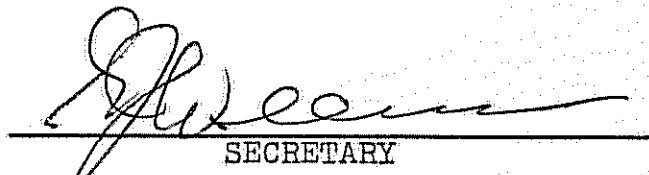
Chairman Jones requested Executive Secretary to write a letter to the Charles County Sanitary District, Inc., asking that they take steps to assure the Commission that sewage and other pollutants will not be dumped into the Potomac River, in the Mattawoman Creek area, or any other areas, in their jurisdiction.

The Executive Secretary was requested to send copies of Minutes of all future meetings to Commissioners Louis N. Phipps, Jr. and Albert I. Baker, of the Maryland Department of Chesapeake Bay Affairs.

Next meeting to be held in Conference Room, of the Maryland Department of Chesapeake Bay Affairs, at 10:00 A. M., January 22, 1965.

Meeting adjourned at 5:45 P. M.


CHAIRMAN


SECRETARY

*Minutes of this meeting approved
at March 9, 1965 meeting p. 83. H*

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REGULATIONS OF POTOMAC RIVER FISHERIES COMMISSION
FOR LICENSING AND TAKING OF FINFISH, CRABS, OYSTERS,
AND SOFT SHELL CLAMS FROM THE WATERS OF THE POTOMAC
RIVER

Pursuant to the provisions of the Potomac River Compact of 1958, as duly enacted into law by the General Assemblies of the States of Maryland and Virginia, and duly ratified by the Congress of the United States of America, the following Regulations are duly enacted and promulgated by the Potomac River Fisheries Commission, as follows:

REGULATION I

Section 1. Any citizen of the States of Maryland and Virginia, who has resided in either or both said states for at least twelve (12) months immediately preceding their application, and desiring to commercially take and catch oysters and crabs, or any such citizen desiring to erect, maintain, or use any fish nets, seines, trot lines or pots, in the waters of the Potomac River, between the Chesapeake Bay (beginning at the intersection of the low water mark at Point Lookout and an established line running from Smith's Point to Point Lookout) westerly to the intersection of the District of Columbia and Maryland boundary line at Fox Ferry Point, and following the boundary line of the District of Columbia and the State of Virginia to the Virginia shore, as provided in the Potomac River Compact of 1958, shall first apply for and obtain a numbered license from the Potomac River Fisheries Commission, or from an officer or agent duly designated by the said Commission to issue same. Each said license shall be good for the licensing year July 1st to June 30th and shall not be transferable in any manner.

Section 2. The annual commercial license fees payable to the Potomac River Fisheries Commission under Section 1 herein, shall be as follows:

CRABS

- (a) For each person taking or catching crabs commercially by dip nets, nets with handles attached, or ordinary trot lines pushed or pulled by hand, a license fee of Four (\$4) Dollars. For each peeler trap, a license fee of \$3.
 - (b) For each person taking or catching crabs with trot lines that are used on mechanically propelled boats, a license fee of \$10.
 - (c) For each person taking or catching crabs with patent trot lines, a license fee of \$15.
 - (d) For each boat operator and/or person catching crabs with crab pots, a license fee of \$15; or if catching crabs with one or more assistants \$25. Each crab pot set in the water shall be marked with a buoy or stake easily visible on the surface which must display the tag number herein provided; all such buoys and stakes shall be marked clearly with the tag number of the licensee in not less than one inch numbers in contrasting color. Any crab pot in the water not identified in this manner may be seized by the duly authorized enforcement officers to be held for any forthcoming possible legal proceedings. (Amendment adopted by Regulation IA effective 10-9-63).
 - (e) For each boat used in buying or marketing crabs on the Potomac River, a license fee of \$8. No person shall be required to
- (PRFC Regulations eff. 2-16-65)

procure an additional license hereunder for marketing his own catch.

OYSTERS

(f) For each person working on any boat used in taking or catching oysters by hand or ordinary tongs, a license fee of \$6. No oysters shall be taken by patent tongs, hand scrape, or by dredging. No oysters shall be taken or caught except during the tonging season, which shall begin on the first day of October in each year and end on the first day of April next succeeding.

(g) For each person buying or purchasing oysters in excess of 25 bushels a year on the Potomac River, from any person catching or taking oysters from the Potomac River, a license fee of \$10.

FISH

(h) For each pound net, a license fee of \$7.

(i) For each stake, float or drift gill net of 1,200 feet and under, a license fee of \$8. The season when float or drift gill nets may be set or used shall be from April 1st to May 26th inclusive, of each year. No float or drift gill nets shall be set or used at any other time on the Potomac River. There shall be no closed season for the setting of stake nets or for the taking and catching of shad and herring on the Potomac River. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

(j) For each haul seine for catching fish, a license fee of \$25. No haul seine shall be used in the Potomac River of a greater length than 2,400 feet including the brail line if used. The license of a haul seine rig shall be present whenever haul seine equipment is being fished or is aboard a boat. (Amendment adopted by Regulation IA effective 10-9-63.)

(k) For each fyke net or hoop net, weir or similarly fixed device for catching fish or eels, a license fee of \$5.

(l) For each person using a fish trot line, a license fee of \$5.

(m) For each person using fish or eel pots, of less than ten feet in length, a license fee of \$10.

(n) Each application and license issued under Sections (h), (i) and (k) above (except float or drift gill nets) shall be for a fixed location or place where the net, fyke, weir or other device is to be fished. A licensee may apply on or before June 1st of each year after 1963, for a license for the same fixed location or place as he had fished or used the previous year, and he will be granted same, unless he has forfeited same by non-user or for a violation under Sections 4 or 6 of these Regulations. Licensee shall have twenty (20) days immediately prior to the season to place his stakes, and he must procure and affix his license number thereto. Licensee shall remove his stakes within thirty (30) days after the season.

(o) No net or single fishing device shall have a total length (except a haul seine) greater than 1,200 feet in the Potomac River. Between successive fishing nets, devices or structures in the same row, there shall be at least 200 feet of clear and unobstructive interval or open space, and adjoining rows of same shall be at least 1,200 feet apart. In addition, a clear passageway in the Potomac River of at least 200 feet wide shall be maintained at all times between all navigable channels and all established boat landings.

(p) No net or fishing device shall be placed or fished within 1,200 feet of the side or end of any other net or fishing device, unless in the same row.

GENERAL PROVISIONS FOR ALL LICENSES

Section 3. No person shall engage in the commercial taking and catching of oysters, crabs, finfish, soft shell clams and other seafood on the Potomac River in the area prescribed in the Regulations of the Potomac River Fisheries Commission, nor shall any person use or permit the use of any net, boat, tongs, dredge, or other device, nor shall any person take any action for which a license is required under the foregoing Regulations, without first having procured a license from the Commission as provided in the Regulations of the Potomac River Fisheries Commission. All persons so engaged shall exhibit their licenses for so doing when required by any enforcement officer of the State of Maryland or Virginia or agent of the Potomac River Fisheries Commission. Non-residents of Maryland and Virginia shall not be issued licenses nor permitted to commercially take or catch seafood from the said waters of the Potomac River. (Amendment adopted by Regulation V, effective 2-16-65.)

Section 4. The Potomac River Fisheries Commission after ten days notice to any person holding a license issued by it, may after a hearing, suspend or revoke such license and in the case of habitual violation by any person may refuse to issue a future license for violation of any of the provisions of the Regulations of the Commission or of the applicable laws regulating the taking, catching, or marketing of oysters, crabs, fish and other seafood on the Potomac River. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

Section 5. Commercially taking or catching seafood under the Regulations of the Potomac River Fisheries Commission shall be construed to be taking or catching of same for market or profit. Nothing in these Regulations shall apply to anyone taking or catching not more than one bushel of hard crabs per day by means other than crab pots, not more than one bushel of oysters per day, or not more than three dozen soft crabs or peeler crabs per day, for his own immediate household use. Taking of crabs by crab pots shall be deemed a commercial taking of crabs requiring a license hereunder. (Amendment adopted by Regulation IA effective 10-9-63.)

GENERAL PENALTY PROVISIONS FOR ALL REGULATIONS

Section 6. Article 5, Section 2, of the Potomac River Compact provides that the violation of any regulation of the Commission shall be a misdemeanor. Such violation shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or confinement in a penal institution for not more than one (1) year, or both, in the discretion of the Court, and any vessel, boat or equipment used in the taking of finfish, crabs, oysters, clams or other shellfish from the Potomac River in violation of any regulation of the Commission or of applicable laws may be confiscated by the Court, upon the abandonment thereof or the conviction of the owner or operator thereof. No lesser punishment has been undertaken to be provided by the Potomac River Fisheries Commission. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

Section 7. If any clause, sentence, paragraph or section of the Regulations shall, for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or

section thereof so found unconstitutional and invalid.

Section 8. These Regulations shall take full force and effect thirty (30) days after their final adoption by the Commission.
(Regulation I adopted 4-22-63 effective 5-22-63.)

REGULATION II.
OYSTER REGULATIONS

Section 1. Definitions. (a) Tongs - Any pincers, nippers, tongs or similar device operated entirely by hand from above the surface of the water used in taking or catching oysters.

(b) Patent Tongs - Any pincers, nippers, tongs or similar device used to take or catch oysters and raised with rope, cable or other hoistering gear, the use of which on the Potomac River is prohibited by the Potomac River Compact of 1958.

(c) Dredge - Any dredge, scoop, scrape, or similar device used in taking or catching oysters by dragging, the use of which on the Potomac River is prohibited by the Potomac River Compact of 1958.

(d) Hand Scrape - Any dredge as defined herein cast and hauled by hand and without any winch, winder, or spool, the use of which on the Potomac River is prohibited by the Potomac River Compact of 1958.

(e) Tong Boat - Any boat on which or from which tongs are used in taking or catching oysters.

(f) Buy Boat - Any boat engaged or used in buying, selling or transporting oysters caught or taken by other boats on the Potomac River.

(g) Person - A person shall mean any individual, party, company, corporation, partnership, firm or association.

(h) Commission - Potomac River Fisheries Commission.

(i) Potomac River - All those waters commonly known as the Potomac River lying within the limits of the State of Maryland as defined and delineated by the Potomac River Compact of 1958.

Section 2. (a) Devices for Taking or Catching Oysters - It shall be legal to take or catch oysters in the waters of the Potomac River by shaft tongs operated by hand from a boat with no underwater assistance, as defined in these Regulations, and by no other means.

(b) Time for Taking or Landing Oysters - It shall be unlawful for any person to take oysters on Sunday or between sunset and sunrise on any other day; or to land or unload oysters earlier than sunrise or later than sunset, or for any buy boat to unload oysters earlier than sunrise or later than sunset.

GENERAL PROVISIONS

(c) Interference with Buoys and Markers. It shall be unlawful for any person other than a duly authorized enforcement officer or agent of the Potomac River Fisheries Commission to move, damage, destroy, or deface any Potomac River Fisheries Commission buoy, marker, monument, or any scientific devices placed in the waters of the Potomac River, or to fasten, tie or anchor any boat thereto. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

(d) Seafood in Polluted Areas. It shall be unlawful for any person to take or catch shellfish in any area closed by the Maryland Board of Health or other duly authorized governmental agency, except that oysters and other seafood may be transplanted from such polluted areas during the closed season by the Potomac River Fisheries Commission. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

(e) Gear for Taking Marketable Oysters in the Potomac River - It shall be lawful for any citizen of the State of Maryland or of the Commonwealth of Virginia, duly licensed as provided by the Regulations of the Potomac River Fisheries Commission, to take or catch oysters from the Potomac River with ordinary shaft tongs, and by no other means. It shall be unlawful for the owner, captain or master, or any member of the crew of any boat to have on board such boat, or in tow, or to permit on board or in tow, any scoop, scrape, dredge, or similar instrument used in dredging, or any winch, spool, winder, or other tackle used in dredging, unless said boat be engaged in taking oysters under the supervision and with the permission of the Potomac River Fisheries Commission, or unless said person has a written permit from the Potomac River Fisheries Commission so to do.

(f) Culling of Marketable Oysters Taken From the Potomac River - All oysters taken from the Potomac River shall be culled at the point where taken, and all oysters whose shells measure less than three inches in length, measured from hinge to mouth, whether attached to a larger oyster or not, shall be returned, together with all empty shells, to the natural rock, bed, or shoal whence taken. Whenever any oyster measuring less than three inches in length adheres so closely to a large oyster as to render removal impossible without destroying the smaller oyster, then such oysters, including the larger oysters, shall be returned to the rock, bed or shoal whence taken. All shells and all oysters measuring less than three inches in length, once passed the culler, shall be considered as not having been culled, and it shall be unlawful for any person to take, buy, sell, or have in possession, any shells or oysters taken from the Potomac River measuring less than three inches in length. Any duly authorized officer is hereby authorized to examine the cargo, hold, bin, cabin, or lot of oysters, and the officer shall take at least one-half (1/2) bushel of oysters at random from the entire cargo, provided that said entire 1/2 bushel examined shall be taken at one place in the pile of oysters, and if said oysters consist of five (5%) percent or more of shells and of oysters whose shells measure less than three inches in length, the person in charge of such oysters shall be deemed guilty of violating the provisions of this Regulation.

(g) It shall be unlawful for any person to conceal any oysters in the shell in a cabin, compartment, locker, cupboard or other place on any vessel in the Potomac River where they are not clearly visible and readily accessible for inspection at all times by duly authorized officer of the Potomac River Fisheries Commission. All oysters in the shell found on any vessel in the Potomac River shall at all times be in bulk quantity in a pile or piles on the culling board or in plain view in the bottom of any vessel, and at no time shall they be placed or deposited in any basket, box, sack, bag, or other container, except when actually unloading. No shucked oyster shall be permitted aboard any vessel in the Potomac River licensed under the provisions of these Regulations during the oyster tonging season.

(h) It shall be unlawful for any person on the Potomac River to offer for sale or have in his possession oysters which have not been culled as required by these Regulations.

(i) Any person charged with violating any provision of this Regulation shall be required, by the officer making said charge, to scatter the entire cargo of oysters on the public rocks under the supervision of an officer or inspector of the Potomac River Fisheries

Commission and at the expense of the person charged with the violation. Provided that in lieu of throwing said cargo overboard the person charged with said violation may promptly post cash bond with the officer making the charge in an amount approximately equal to the value of the entire load as determined by the officer making the charge. The refusal to either dump the oysters overboard or post a cash bond shall constitute a distinct and separate offense from any other violation. A person who has posted a cash bond and who is acquitted, shall be refunded said cash bond; if found guilty said cash bond shall be forfeited and deposited to the credit of the Potomac River Fisheries Commission.

(j) Resisting and Impeding Officers. No person shall resist, impede, curse or abuse any officer authorized to make arrests, seizures, examination, or other performance of duties under any of the Regulations and laws relating to any matters within the jurisdiction or authority of the Potomac River Fisheries Commission. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

Section 3. (a) Measures Used for Oysters in the Shell and Oyster Shells - All oysters in the shell and all oyster shells sold in the Potomac River shall be measured either in a half bushel tub or a bushel tub, and no measures shall be used for measuring either oysters in the shell or oyster shells except an iron circular tub with straight sides and a straight solid bottom with holes in the bottom for draining; such holes to be no larger than one inch in diameter; and all measurements to be taken from inside to inside, and the dimensions shall be as follows:

Half Bushel Tub - Fifteen inches across the top, thirteen inches across the bottom, and seventeen inches diagonally from the inside to the top.

Bushel Tub - Sixteen and one-half inches across the bottom, eighteen inches across the top, and twenty-one inches diagonally from the inside chine to the top. All oysters measured in the shell as herein required shall be even measure to the top of the tub only.

(b) Opening and Closing Public Rocks - The Commission may, whenever it deems it advisable so to do to protect or promote the growth of oysters, close and open any area, or restrict the manner or method of taking oysters in any area, of the Potomac River, for purposes of repletion and rehabilitation, and may establish seed beds and plant shells and other cultch thereon or take any other restorative measures which the Potomac River Fisheries Commission may deem best. Said area or areas may be closed for an entire season, or part of season, or may be closed for so many days per week. Before closing any such area, notice of such closing shall be posted by the inspector or other officer in two or more public places adjacent to the area in which the closed ground is located for at least five days, and in such event the area shall be buoyed or marked by signs by a uniform system of buoys or signs indicating that such area is closed and that oystering by any means is prohibited therein. Any area closed under the provisions of this section may be re-opened at any time by the Commission.

(c) Taking or Catching Oysters in Closed Areas - It shall be unlawful to take oysters from any area which has been closed by any action, rule, or regulation of the Potomac River Fisheries Commission.

GENERAL PROVISIONS

Section 4. Reports of Catch. Every person engaged in the business of taking, catching, and/or dealing in oysters, crabs, fin-fish and other seafood within the jurisdiction and under the authority of the Potomac River Fisheries Commission shall report his catches and/or dealings on forms to be supplied or furnished by the Potomac River Fisheries Commission. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

Section 5. If any word, clause, sentence, paragraph, or section of these Regulations shall, for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the word, clause, sentence, paragraph or section thereof so found unconstitutional and invalid.

Section 6. These Regulations shall take full force and effect thirty (30) days after their final adoption by the Commission. (Regulation II adopted 9-9-63 effective 10-9-63.)

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REGULATION III
GENERAL INSTRUCTIONS

Section 1. Duties of Officers. It shall be the duty of the officers and inspectors of the Department of Chesapeake Bay Affairs of Maryland and of the Commission of Fisheries of Virginia to see that the provisions of the Regulations of the Potomac River Fisheries Commission and of the Potomac River Compact of 1958, and the applicable fisheries laws relating to the Potomac River, are not violated. Said officers and inspectors are authorized to arrest all persons found violating any of the provisions thereof, and to summons or take the said offender or offenders to a Maryland or Virginia county adjacent to the Potomac River where the alleged offense occurred, which under the Potomac River Compact of 1958 shall thereupon have jurisdiction over the offense, to be dealt with according to law. Said officers and inspectors may seize any and all fish, oysters, crabs, and other seafood that may be caught, sold, offered for sale, or are being held in violation of any of the provisions of said Regulations and laws, to be disposed of at the discretion of said enforcement officers to the best interests of the Potomac River. Said officers and inspectors may also seize any and all boats, dredges, seines, nets or other fishing outfit used or set in violation of the Regulations or laws relating to the Potomac River. Said enforcement officers and inspectors shall also have authority to stop, board, and inspect any boat or vessel engaged or reasonably believed to be engaged in the commercial taking or buying of fish, crabs, oysters and other seafood on the Potomac River, in order to make any lawful inspections required under the Regulations or laws relating to the Potomac River. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

Section 2. Arrest Upon Information. Upon information given upon oath or affirmation to any said Justice of the Peace, Trial Magistrate, or Court in Maryland or in Virginia of the violation of any Potomac River Fisheries Commission Regulation or law relating to the Potomac River, said Justice of Peace, Trial Magistrate or Court shall issue a warrant for the arrest of the offender and/or a writ for the seizure of the seines, nets, boats or other fishing outfit, to be directed to any enforcement officer of the Department of Chesapeake Bay Affairs of Maryland or of the Commission of Fisheries of Virginia, or other officer authorized to make arrests on the Potomac River. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

Section 3. Warrant For Unknown Offender. If the name of the offender be unknown he may be summoned or arrested on a warrant describing him as John Doe, the person committing the offense, without otherwise stating his name in warrant or summons. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

Section 4. Procedure Upon Seizure. If upon a hearing in any case of arrest and/or seizure, the Justice of Peace, Trial Magistrate, County Court Judge, or Court adjudges the owner or person having charge of the property so seized guilty of violating any of the provisions of the Regulations or laws relating to the Potomac River which imposes the forfeiture of such property for such violations, then said Justice of Peace, Trial Magistrate, County Court Judge or Court, may adjudge same to be confiscated and disposed of as provided in Article V, Sections 2 and 4 of the Potomac River Compact of 1958. In case the

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owner is not known or the property illegally used is abandoned, said Justice of the Peace, Trial Magistrate, County Court Judge, or Court may proceed ex parte to hear and determine any question of forfeiture or confiscation. If requested by a proper person in any case, the property shall be released upon the filing of bond in an amount equal to the value of the property seized, as determined by the Court, and upon final determination of the case, the same may be released, confiscated, or the bond forfeited, depending upon whether the party is acquitted or found guilty, as the case may be. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

Section 5. Disposition of Fines. All fines imposed for a violation of the Potomac River Regulations or applicable laws relating to the Potomac River shall be paid into the Court in which the case is prosecuted and accounted for under the laws applicable to that Court, as provided for by Article V, Section 4 of the Potomac River Compact of 1958. (Amendment adopted by Regulation IA(2) effective 9-6-64.)

Section 6. Dynamiting Unlawful. No person shall place, throw or make use of dynamite or other explosive substance so as to kill fish and seafood in the Potomac River, except for bona fide engineering, scientific, or mining purposes, for which purposes a permit first must be secured from the Potomac River Fisheries Commission.

Section 7. Threshing Unlawful. It shall be unlawful for any person to whip or beat any of the waters of the Potomac River with poles, sticks or any other thing, for the purpose of driving fish into nets, seines, or any other contrivance for catching fish.

Section 8. Method of Fishing. It shall be unlawful to take or catch finfish in the Potomac River by the use of a spear, gig, or gig iron, or by the use of any purse net, buck net, sunken anchored gill net, beam trawl, otter trawl, trammel net, troll net, or drag net.

Section 9. Haul Seines. (a) It shall be unlawful to drag or haul any seine with two or more vessels propelled by power or to use any haul seine more than 2,400 feet in length including brail lines on the Potomac River. Power winch anchored in a vessel or boat, not propelled by power, may be used, provided said winch boat is anchored in four feet depth of water or less.

(b) It shall be unlawful for any person to empty a seine in the Potomac River so as to leave the unlawful fish to perish. He shall at all times cull his catch and/or empty his seine in waters of sufficient depth to enable the unlawful fish to return to the Potomac River.

(c) It shall be unlawful for any person to fish with a haul seine on the Potomac River during the period from Friday midnight until sunrise on Monday.

Section 10. Sizes of Mesh. It shall be unlawful to fish on the Potomac River with any net whose size of stretched mesh is less than herein provided, to wit: pound net 2 inches; haul seine $2\frac{1}{2}$ inches; gill net $2\frac{1}{2}$ inches, fyke net or hoop net 2 inches. No net or trap made of monofilament webbing material shall be used in catching fish or seafood on the Potomac River. Nothing in this section shall apply to the use of pots in the catching of eels or catfish.

Section 11. Sizes of Commercial Fish. No person shall commercially catch on the Potomac River or take or kill, sell, offer to

buy or sell or expose for sale, or have in possession (a) any black bass, large or small mouth; (b) any catfish less than 8 inches; (c) any perch, white or yellow, less than 8 inches; (d) any pike less than 14 inches; (e) any rock, otherwise known as striped bass, less than 12 inches in length or weighing more than 15 pounds; (f) any sturgeon weighing less than 25 pounds; (g) any taylor or bluefish less than 8 inches; (h) any sea trout or weakfish less than 10 inches; (i) and any hardheads or croakers less than 10 inches. Measurement in the case of each fish shall be from tip of nose to the end of the caudel fin or tail.

Section 12. Kinds and Sizes of Crabs. It shall be unlawful for any person to take, catch or have in possession any hard crabs, measuring less than five inches across the shell from tip to tip of spike, or any peelers (which are hereby defined as having soft shell fully developed under the hard shell, on which there is a pink line or rim on the edge of that part of the back fin next to the outer section of this fin) measuring less than three and one-half inches across the shell from tip to tip of spike; nor shall any person take, catch or keep in floats or in his possession any fat crab, or any crab known as a snot crab or green crab, or buckram crab (a crab that has a paper shell), or any sponge crab, spawn crab, blooming female crab and mother crab, or the female crab from which the egg pouch or bunion has been removed. The enforcement officers on the Potomac River are hereby authorized to confiscate and liberate into the waters of the Potomac Rover any fat crab, snot crab, green crab, buckram crab, sponge crab, spawn crab, blooming female crab, and mother crab, or the female crab from which the egg pouch or bunion has been removed, where found, and held in violation of this section, and said officers are further authorized to confiscate any hard crabs, peelers or soft crabs of a size less than the measurements hereinbefore provided, wherever found, and shall dispose of any crabs so confiscated.

Section 12(a). Crabbing At Night. It shall be unlawful for any person to commercially take or catch crabs between sunset and one (1) hour before sunrise, or to land or unload crabs earlier than sunrise or later than sunset. (Amendment adopted by Regulation V, effective 2-16-65.)

Section 13. Severability Clause. If any word, clause, sentence, paragraph, or section of these Regulations shall, for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the word, clause, sentence, paragraph or section thereof so found unconstitutional and invalid.

Section 14. These Regulations shall take full force and effect thirty (30) days after their final adoption by the Potomac River Fisheries Commission. (Regulation III adopted 11-14-63 effective 12-14-63.)

REGULATION IV
OYSTER INSPECTION TAX

Section 1. The Potomac River Fisheries Commission hereby imposes an inspection tax of 20¢ per bushel on all oysters caught within the limits of the Potomac River within the jurisdiction of the Commission. The tax shall be paid by the buyer at the place in Maryland or Virginia where the oysters are unloaded from vessels and are to be shipped no further in bulk in vessel. The tax shall be paid to an agent of the Potomac River Fisheries Commission, or to such officer or employee of the Commission of Fisheries of Virginia or of the Department of Chesapeake Bay Affairs of Maryland, as may be designated by the Potomac River Fisheries Commission, and by him paid over to the Potomac River Fisheries Commission.

Section 2. All persons buying said oysters and failing to pay the aforesaid 20¢ per bushel tax shall be guilty of a misdemeanor and subject to the penalties provided in Article V of the Potomac River Compact of 1958.

Section 3. Severability Clause. If any word, clause, sentence, paragraph, or section of these Regulations shall, for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the word, clause, sentence, paragraph or section thereof so found unconstitutional and invalid.

Section 4. These Regulations shall take full force and effect on October 1, 1964 for the licensing year ending June 30, 1965. (Regulation IV adopted 8-7-64.)

REGULATION V
SOFT SHELL CLAMS

Section 1. License to Operate Hydraulic or Mechanical Dredge.

(a) Who may obtain license. Any person who has been a bona fide resident of the State of Maryland or Virginia for a period of not less than twelve (12) months immediately preceding the date of his application shall be granted a license to take or catch soft shell clams (*Mya arenaria*) with a hydraulic or mechanical dredge in the waters of the Potomac River within the jurisdiction of the Potomac River Fisheries Commission.

(b) Application for and issuance of license. Every person desiring a license to take or catch soft shell clams in the waters of the Potomac River by hydraulic or mechanical dredge and who fulfills the requirements of Section 1(a) above, shall complete an application for such license on a form approved by the Potomac River Fisheries Commission, which shall include a statement as to the name or number of his boat and the dimensions thereof. The applicant shall make oath or affirmation that he is the owner of the dredge and boat, that there is no lien on either dredge or boat held by a non-resident of Maryland or Virginia, that he shall be the master, captain, and/or operator thereof, that he has been a bona fide resident of Maryland or Virginia for a period of twelve (12) months immediately prior to making of such application, that he shall employ in operating such dredge and boat only persons who, prior to such employment, shall have resided in Maryland or Virginia for a period of one (1) year; and that all information he has furnished is true. The application shall be sworn or affirmed to before any Notary Public and forwarded to the Potomac River Fisheries Commission, together with a license fee in the sum of \$25. Upon receipt of such application to which oath or affirmation has been made, together with the license fee stipulated above, the Potomac River Fisheries Commission shall issue a hydraulic or mechanical soft shell clam dredge license for the Potomac River, which shall be valid from July 1st to June 30th of each year, and which shall not be transferrable to any other person.

(c) Display of license number. Before engaging in the catching or taking of soft shell clams by hydraulic or mechanical dredge, each licensee shall paint on or firmly attach his Potomac River Fisheries Commission license number to both sides of the vessel described in the license. The painted or attached number shall be in characters eight (8) inches in height and be positioned above the hull forward of amidship, but not on or near the bow.

(d) License to be aboard vessel. The captain, master, or operator of any vessel described in a hydraulic or mechanical dredge license always shall have such license aboard such vessel and shall exhibit the same whenever it shall be requested by any duly authorized enforcement officer authorized to enforce Regulations of the Potomac River Fisheries Commission.

Section 2. Transfer of Dredge. It shall be unlawful for the owner of any licensed hydraulic or mechanical dredge to transfer such dredge to another vessel unless such other vessel be of his ownership, and unless the licensee shall make application as prescribed for original license, which application shall include a statement as to the name or number and description of the boat to which the dredge is to be transferred. Such application shall be forwarded to the Potomac

Potomac River Fisheries Commission, together with the license originally issued and a fee of Five (\$5) Dollars. The Potomac River Fisheries Commission may cancel the original license and in lieu thereof issue to the licensee a new license on which shall be described the vessel to which the dredge is to be transferred. All provisions of these Regulations applicable to the vessel described on the original license shall apply to that set forth on the new license.

Section 3. Creation of Security Interest. It shall be unlawful for the holder of a hydraulic or mechanical soft shell clam dredge license from the Potomac River Fisheries Commission to consummate, at any time during the term of such license, any transaction with any person who is a non-resident of the State of Maryland or Virginia, whereby the creation of any security interest in or lien on either the dredge or the vessel is created.

Section 4. Specifications as to Dredge, Equipment and Catch Limit. (a) Each said hydraulic or mechanical soft shell clam dredge shall be equipped with not more than one conveyor or elevator having one blade and one water manifold, the width between the exterior jets attached thereof not exceeding thirty-six (36) inches. The water jet pipes at each end of the manifold shall be set parallel to the median vertical longitudinal plane of the dredge, or inward toward the center thereof.

(b) Each motor and engine used in the operation of any hydraulic or mechanical dredge or of the vessel on which such dredge is affixed, installed, or mounted, shall be provided with an adequate muffler.

(c) It shall be unlawful for any person licensed hereunder to take or catch soft shell clams with any hydraulic or mechanical dredge or rig in the waters of the Potomac River or have in possession aboard a vessel in excess of forty (40) bushels of soft shell clams in any calendar day. It shall be unlawful for any hydraulic or mechanical dredge or rig licensed for the taking or catching of soft shell clams to be employed for the taking or catching of more than forty (40) bushels of soft shell clams in any calendar day.

(d) It shall be unlawful for any licensee or operator of a clamming dredge or rig to have any oysters on board.

Section 5. Opening and Closing Clamming Areas. (a) Authority to open and close clamming areas. The Potomac River Fisheries Commission may close and open any portion of the Potomac River and prohibit or permit the taking or catching of soft shell clams thereon whenever in the judgment of the Potomac River Fisheries Commission it shall be deemed necessary or desirable to protect or promote the growth of soft shell clams or other seafood or to restrict the manner or method of taking clams in any area, or to protect the development and growth of clams or to establish seed beds, or to take any restorative or preventive measures which the Commission may deem best. Said area or areas may be closed for a period of time or may be closed for so many days of the week.

(b) Procedure for closing area. Before closing any soft shell clam area the Potomac River Fisheries Commission first shall give reasonable notice thereof to all licensees. The notice shall describe the area to be closed and the proposed date and period of closing.

(c) Reopening of area. After closing an area the Potomac River Fisheries Commission may reopen said area whenever, in the judgment of said Commission, such reopening is advisable. An area shall be reopened by giving reasonable notice of such reopening to all licensees and to the public.

(d) Unlawful to take or catch soft shell clams in closed area. It shall be unlawful to take or catch soft shell clams with any device, upon any area which has been closed by any rule or regulation of the Potomac River Fisheries Commission.

Section 6. Minimum Size of Soft Shell Clams. It shall be unlawful for any person to take, catch, or have in his possession soft shell clams measuring less than (2) inches along the longest dimension across the shell, and any clams measuring less than two (2) inches so measured shall be returned forthwith to the bed or bar from which they were taken; provided, however, that any person licensed to dredge, deal in, or export soft shell clams may have in his or their possession not in excess of five per cent (5%) per U. S. standard bushel, by volume, of such clams less than two (2) inches in size as aforesaid.

Section 7. Prohibited Areas. It shall be unlawful to take or catch or attempt to take or catch soft shell clams with any hydraulic or mechanical dredge, or with any other type gear, as follows:

(1) Within 100 yards of any commercially productive oyster tonging area as may now exist, or as may be defined on the charts of the Department of Chesapeake Bay Affairs, or as may be established by survey by the Potomac River Fisheries Commission, or of any area on which the Potomac River Fisheries Commission has planted oysters or shells, or of any area prohibited by the Potomac River Fisheries Commission and marked with buoys or other markers by the Potomac River Fisheries Commission, or

(2) within 50 feet of any bulkhead, fish nets, wharf or pier, constructed or erected in, out in, over or under any of the waters of the Potomac River, or

(3) within 1,000 feet of any public bathing beach on the Potomac River during the months of May, June, July, August, and September of any year, or

(4) on Sunday, or between sunset and sunrise on any other day, or

(5) within 100 yards of the mean low water mark of any Potomac River shore line, or

(6) within 500 yards of any occupied duck blind, where decoys are set out, during the legal duck hunting season.

Section 8. Authority of Enforcement Officers. (a) Any officer duly authorized to enforce the Regulations of the Potomac River Fisheries Commission or the laws relating to the Potomac River is hereby authorized, to examine the boat, dredge, rig, cargo, hold, bin, cabin, or lot of soft shell clams in order to enforce the Regulations of the Commission or the laws relating to the Potomac River.

(b) It shall be unlawful for any person to conceal any soft shell clams in a cabin, compartment, locker, cupboard, or other place on any vessel or rig in the Potomac River where they are not

clearly visible and readily accessible for inspection at all times by duly authorized officers of Maryland or Virginia or agents of the Potomac River Fisheries Commission. All soft shell clams found on any licensed vessel or rig in the Potomac River used for dredging of soft shell clams shall at all times be in bulk quantity or in plain view in their containers.

(c) It shall be unlawful for any person on the Potomac River to offer for sale or have in his possession soft shell clams which have not been culled as required by the Regulations of the Potomac River Fisheries Commission.

Section 9. Severability Clause. If any word, clause, sentence, paragraph, or section of these Regulations shall, for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the word, clause, sentence, paragraph or section thereof so found unconstitutional and invalid.

Section 10. Penalty. The penalty for a violation of the foregoing Regulations shall be as set forth in Article V, Section 2, of the Potomac River Compact of 1958. (Regulation V adopted December 10, 1964 effective February 16, 1965.)

ATTEST:

POTOMAC RIVER FISHERIES COMMISSION

Robert M. Norris, Jr.
Executive Secretary

HEARING BEFORE THE POTOMAC RIVER FISHERIES COMMISSION

. . . . Leonardtown, Maryland - Dec. 10, 1964

Pursuant to proper notice, a Public Hearing was called to order on December 10, 1964, at 2:00 p.m., for the purpose of discussing Regulation V (Soft Shell Clams) and Regulation I, Section 3 (an amendment to Existing Regulations), and was duly recorded stenographically by Nancy D. Myers, La Plata, Maryland.

APPEARANCES FOR THE COMMISSION :

Lewis Jones, Jr. (Va.), Chairman
Dr. H. C. Byrd (Md.), Vice-Chairman
Milton T. Hickman (Va.)
N. G. Ball (Va.)
Jeremiah Valliant (Md.)
K. Thomas Everngam, Legal Officer
R. M. Norris, Jr., Executive Secretary

OTHER APPEARANCES :

John Eddinger, The Washington Star
Herb Thompson, AP Annapolis
George Beitzell, Avenue, Md.
Paul J. Bailey, Attorney, Leonardtown, Md.
Walt. B. Dorsey, Attorney, Leonardtown, Md.
Joseph E. Barter, Chester, Md.
Herbert Thomas, Grasonville, Md.
Robert Delys, Grasonville, Md.
Robert Pilkerton, Compton, Md.
C. R. Pilkerton, Compton, Md.
William Baxter, Chester, Md.
John Thomas, Grasonville, Md.
Samuel Barly, Sr., Bushwood, Md.
Johnny Dall, Bushwood, Md.
W. J. Mattingly, Compton, Md.
Frank Ellis, Oakley, Md.
J. Frank Raley, Jr., Senator, St. Mary's County
Julius Tolsen, Piney Point, Md.
Elgin A. Dunnington, Solomons, Md.
Hayes Pfitzmeyer, Solons, Md.
Sam Bailey, Jr., Bushwood, Md.
Gordon P. Hallock, N. R.
P. C. Wintzell
Roy W. Rafter, DCBA
J. William Ryland, VCF, Chief, Urbanna, Va.
E. Ralph Dameron, White Stone, Va.
Mrs. Maurine A. Thome, Turkey Hill, Va.
Maurice A. Thorne, Tucker Hill, Va.
Elgin Nininger, Jr., Colonial Beach, Va.
C. Dickinson, Colonial Beach, Va.
Charles S. Morris, Avenue, Md.
Paul Razos, Avenue, Md.
Thomas H. White, Dept. of Chesapeake Bay Affairs
Harold J. Elser, Dept. of Chesapeake Bay Affairs
J. H. Manning, DCBA
Randolph Harrison
Frank A. Combs
Herman W. Dixon
J. Bernard Cummings
Fletcher Hanks
Melvin Spitz
Robert Harvey
Albert Russell
William F. Herbert
William S. Laurence

William A. Wicker
 Herbert Grimstead
 James W. Dutton
 Harry Stine
 Bert Briscoe
 Jackie Armstrong
 John Frye

Mr. Jones : We will now open the meeting and ask Mr. Ball to give us the invocation. Well, I'm sure most of you know who we are ; we've been here on several occasions before. The first matter of business this afternoon is the Proposed Soft Shell Clam regulations. Does everyone have a copy of the regulations ? Regulation V, titled Soft Shell Clams, "Section 1. License to Operate Hydraulic or Mechanical Dredge. Any person who has been a bona fide resident of the State of Maryland or Virginia for a period of not less than twelve (12) months immediately preceding the date of his application may be granted a license to take or catch soft shell clams . . . with a hydraulic or mechanical dredge in the waters of the Potomac River within the jurisdiction of the Potomac River Fisheries Commission." Does anyone have any comments or questions concerning this part ?

Subsection (b) "Application for and issuance of license. Every person desiring a license to take or catch soft shell clams in the waters of the Potomac River by hydraulic or mechanical dredge and who fulfills the requirements of Section 1 (a) above, shall complete an application for such license on a form approved by the Potomac River Fisheries Commission, which shall include a statement as to the name or number of his boat and the dimensions thereof. The applicant shall make oath or affirmation that he is the owner of the dredge and boat, that there is no lien on either dredge or boat held by a non-resident of Maryland or Virginia, that he shall be the master, captain, and/or operator thereof, that he has been a bona fide resident of Maryland or Virginia for a period of twelve (12) months immediately prior to making of such application, that he shall employ in operating such dredge and boat only persons who, prior to such employment, shall have resided in Maryland or Virginia for a period of one (1) year ; and that all information he has furnished is true. The application shall be sworn or affirmed to before any Notary Public and forwarded to the Potomac River Fisheries Commission, together with a license fee in the sum of \$25. Upon receipt of such application to which oath or affirmation has been made, together with the license fee stipulated above, the Potomac River Fisheries Commission may issue a hydraulic or mechanical soft shell clam dredge license for the Potomac River, which shall be valid from July 1st to June 30th of each year, and which shall not be transferrable to any other person.

Mr. P. Bailey : Mr. Chairman, the only question I have in mind with regards to that is it says the Commission "may" issue a license, etc. Of course, in our Maryland statute I think the word is "shall". Now just what remedy, if any, would we have, if the Commission refused to act under the regulations ?

Mr. Jones : Mr. Everngam, isn't there a previously adopted section related to the rights of any applicant to, not only to have or request a hearing before the Commission, but has his appeals to the Court.

Mr. Everngam : Yes, sir. The Maryland law does provide "shall", and Mr. Dorsey suggested in his draft to us originally last summer--last May or June--that the Commission consider that matter and suggested that we substitute the word "may" rather than "shall". This was your doing.

- Mr. Jones : That's right. It was the thought of the members of the Commission that we would have this flexibility here in case of a habitual violator, that the Commission would not have to, it would not be mandatory, to issue a license to such a person at such a time the members of this Commission deem it unwise to issue a license. It's leaving a little bit of discretion in the hands of the Commission.
- Mr. Bailey : Well, wouldn't it likewise, Mr. Chairman, and fine counsel, if you refuse to issue a license to anyone, how would we have anything we could go to the Court with, for instance, if we have to, where it says "may". Any Court, of course, would say they don't have to issue any licenses at all.
- Mr. Jones : You could always say in any Court of Law that this Commission was arbitrarily acting, and certainly . . .
- Mr. Bailey : Not when it says "may". I just don't see any purpose in having a regulation with reference to licensing where the Commission could, with such wording as this, refuse to issue licenses to anyone. My good brother at the bar has given me a very good suggestion. He suggests that we would have no objections, of course, to adding a provision that you could have power of revocation and suspension, etc., just like they do in the motor vehicle code, where you have the trouble that you gentlemen suggest.
- Mr. Jones : I'm sure we wouldn't have any trouble. I don't think we're going to have anybody we're going to deny, but we might.
- Mr. Bailey : Well, we would hope not, but it looks to me like the whole action of the Commission today could be null by leaving the word "may" there, for it's just like a marriage almost. A man would have to say I may support, or I may live with her if I wish, etc.
- Mr. Jones : I don't think she would stay there long enough to hear the rest of it.
- Dr. Byrd : Well, you want the Commission to take into consideration of the changing of the word "may" to the word "shall" ?
- Mr. Bailey : That's right.
- Mr. Bailey : Anything that you good gentlemen could devise with reference to habitual violators, in other words, we are just anxious, as would you, to be sure that we don't have any violators, and that you have remedies. There are people who are not worthy of being licensed.
- Mr. Jones : Thank you, Mr. Bailey. I have made note and I am sure everyone else has. We'll consider this. Subsection (c) Display of License number. Yes, sir ?
- Mr. ? I would like to say a word about subsection (b). There is a provision there that the owner must be the captain of the boat.
- Mr. Jones : We say "master, captain, and/or operator."
- Mr. ? Is that correct ?
- Mr. Jones : No, sir. Not my interpretation, "and/or operator".
- Mr. ? Could a fellow on a boat have a Captain from another County operating on the Potomac ?
- Mr. Jones : That's the way I see it. . . but the man who gets the license--correct me if I'm wrong . . . the man

who makes the application, he's got to be the master, the captain, or operator.

Mr. ? This refers more to the licensee.

Mr. Jones : This is to the licensee, the man getting the license. I had better refer this to legal counsel over here, Mr. Everngam.

Mr. Everngam : You're a lawyer, and you're the chairman of this board.

Mr. Jones : That's all right. I'll attempt to answer.

Mr. ? Could a corporation apply for a license ?

Mr. Jones : The corporation can't, but the operator can get the license. . . as long as he makes oath that he is the operator, and is in fact the operator, he can get the license. The operator may be employed by the corporation, no doubt about that. Any further questions on this section ? Subsection (c) Display of license number. "Before engaging in the catching or taking of soft shell clams by hydraulic or mechanical dredge, each licensee shall paint on or firmly attach his Potomac River Fisheries Commission license number to both sides of the vessel described in the license. The painted or attached number shall be in characters eight (8) inches in height and be positioned above the hull forward of amidship, but not on or near the bow." Any questions ?

Subsection (d) License to be aboard vessel." The captain, master, or operator of any vessel described in a hydraulic or mechanical dredge license always shall have such license aboard such vessel and shall exhibit the same whenever it shall be requested by any duly authorized enforcement officer authorized to enforce Regulations of the Potomac River Fisheries Commission. Yes, sir ?

Mr. ? The captain, or the man to whom the license is issued, should he get sick or want to take a vacation, does the boat have to lay idle, or can it operate under the second command ?

Mr. Jones : At this point . . .

Dr. Byrd : It was intended that somebody could get somebody to operate his vessel under certain circumstances.

Mr. ? : Well, that same question came up in our own Maryland law, I think St. Mary's County, and they said that . . . I know the last time we tried it, the police brought us in. . . and I was at one of these meetings one day and my boat was out and they sent her in. Now I assume the man was operating under such law as these provisions.

Mr. Jones : Mr. Rafter, what is the policy of the Maryland . .

Mr. Rafter : We have different laws in different counties. The owner must be the master or operator and there is no provision for anyone else to operate except the licensee.

Mr. Everngam : Does he have to be on board all the time ?

Mr. Rafter : Under most of our laws, yes.

Mr. Jones : It was the intention of the Commission that the licensee need not be on board at all times. He could have an operator on board operating the rig for him.

Mr. ? Even though the operator wasn't the licensee ?

Mr. Valliant : I think he was supposed to be licensed.

Mr. Jones : Well, we know the feelings of everybody. We'll have to give this further consideration in order to take care of your problem. Yes, sir,

Mr. ? What's the definition of the operator in this case ?
Is he manually operating this conveyance ?

Mr. Jones : He is the operator of the boat in this particular instance.

Mr. ? I didn't get a satisfactory answer on this part 2.

Mr. Jones : I'm sorry.

Mr. ? The "master, captain, and/or operator", it looks like has to be on the boat.

Mr. Jones : If a boat is in the river being operated, someone is operating it.

Mr. ? : In order to get the license for this, he has to make oath or affirmation that he is the owner of the dredge or boat. Does that mean that the owner is the only one to make an application for a license ?

Mr. Jones : Yes, you are correct. The wording of this proposed regulation states in one place, he is the owner, and later says he is either "master, captain" or "operator". There's a conflict there. It ought to be the same wording in both cases, eliminating the word "owner" there and substituting "master, captain, and/or operator".

Mr. ? : But you can't have an absentee owner ?

Mr. Jones : By provision allowing the operator in his absence by another party would take care of that. As I said a minute ago, that was the original intent. "SECTION 2. Transfer of Dredge." "It shall be unlawful for the owner of any licensed hydraulic or mechanical dredge to transfer such dredge to another vessel unless such other vessel be of his ownership, and unless the licensee shall make application as prescribed for original license, which application shall include a statement as to the name or number and description of the boat to which the dredge is to be transferred. Such application shall be forwarded to the Potomac River Fisheries Commission, together with the license originally issued and a fee of Five (\$5) Dollars. The Potomac River Fisheries Commission may cancel the original license and in lieu thereof issue to the licensee a new license on which shall be described the vessel to which the dredge is to be transferred. All provisions of these Regulations applicable to the vessel described on the original license shall apply to that set forth on the new license." Mr. Everngam informs me that this is from the Maryland law. We'll try to improve on that because there is the same conflict. Ownership in that one would mean the same as in the other.

"SECTION 3. Creation of Security Interest. It shall be unlawful for the holder of a hydraulic or mechanical soft shell clam dredge license from the Potomac River Fisheries Commission to consummate, at any time during the term of such license, any transaction with any person who is a non-resident of the State of Maryland or Virginia, whereby the creation of any security interest in or lien on either the dredge or the vessel is created." "SECTION 4. Specifications as to Dredge, Equipment and Catch Limit. (a) Each said hydraulic or mechanical soft shell clam dredge shall be equipped

with not more than one conveyor or elevator having one blade and one water manifold, the width between the exterior jets attached thereof not exceeding thirty-six (36) inches. The water jet pipes at each end of the manifold shall be set parallel to the median vertical longitudinal plane of the dredge, or inward toward the center thereof." That is also Maryland law.

"(b) Each motor and engine used in the operation of any hydraulic or mechanical dredge or of the vessel on which such dredge is affixed, installed, or mounted, shall be provided with an adequate muffler.

"(c) It shall be unlawful for any person licensed hereunder to take or catch soft shell clams with any hydraulic or mechanical dredge or rig in the waters of the Potomac River to take or catch or have in possession aboard a vessel in excess of forty (40) bushels of soft shell clams in any calendar day. It shall be unlawful for any hydraulic or mechanical dredge or rig licensed for the taking or catching of soft shell clams to be employed for the taking or catching of more than forty (40) bushels of soft shell clams in any calendar day."

Mr. Hickman : May I ask a question of Mr. Norris ? How much does it cost to publish these regulations ?

Mr. Norris : Roughly \$2,000.00 for these particular regulations.

Mr. Hickman : I'm not trying to stir up any trouble, but I'm just asking the question. It may be, no one knows, you may want to raise it to 50 or 60 bushels, or you might want to cut it to 30 or 20. Would it be out of order to leave it to the discretion of the Commission ?

Mr. Jones : The only way you could change it would be to go through this procedure of publishing these regulations, etc. The question is, wouldn't it be wise to leave this matter -- the limit -- in the discretion of the Commission in case it would be necessary that it be raised or lowered rather than be tied up so we would have to go through publications in all the papers again, public hearings, adopting the change, and then waiting 30 days for it to be effective. You can lose 90 days through this type of procedure. Mr. Hickman's question, as I said, is would it be wise to leave this to the discretion of the commission.

Mr. ? : What is the purpose of the 40 bushels ?

Mr. Jones : I would say conformity with Maryland. That's the only reason I see.

Mr. ? : It's not a law, a regulation, in Maryland.

Mr. Jones : It's the same thing though, isn't it ?

Mr. Everngam: I think the regulation is based also upon conservation ; as far as that goes, I think we have people here probably qualified to make a qualified answer to that if they would care to, from the biological standpoint.

Dr. Byrd : Under the Maryland law, we would have the right to change it to 60 bushels, or 30 bushels. They have simply upheld what we have done. Well we could do something else just as easy as we did that, and one would think that under this it ought to be the same way.

Mr. Jones : It has the flexibility so you can change it.

- Dr. Byrd : All Mr. Hickman is asking, or suggesting, is that we have the same flexibility that the Maryland Commission has.
- Mr. Dutton : You ought to leave it like it is right now. There's not a great market for it down here yet, and let's hold it down to 40 bushels, and if you want to, change it later on.
- Mr. Hickman : I'm not saying to change the 40 bushels.
- Mr. Jones : Just the power to change. He is not suggesting we change it in any manner.
- Mr. Dutton : I think you ought to leave it just like it is. You gentlemen might not sit on this board all the time. Somebody else may come in here, and first thing you know, they'll be kicking them all out at one time.
- Mr. ? : What would you use as your basis for changing it. Would you use the Maryland law, or would you be subject to pressure from, well, the group that may be working in the Potomac at a given time.
- Mr. Jones : I personally would rely upon marine biologists and scientists to guide us in the direction as to whether it was wise or unwise as to conservation.
- Mr. ? : It wasn't basically a conservation measure--I don't believe our 40 bushel deal was--it had to do with marketing, and whereas it didn't suit everyone, it suited the majority. But they seem to think it is a pretty important matter at the present, and unless you had something to base your change on, or your flexibility on, I really believe it should be left like this, unless you made your provision follow the Maryland State recommendation, whatever their law is at the time. Since they can change quickly, it would be nice if you could also.
- Dr. Byrd : Mr. Chairman, I think that the Chairman ought to make it clear that these regulations are written with the idea of having them in complete conformity with the Maryland law. That was the intent of the Commission, and it will hold with that intent.
- Mr. ? : Sir, we find no fault with giving the Commission the discretion to increase or lower the number of bushels because if the Commission wanted to after passing this regulation, if you wanted to raise it to 60 or lower to 20 you could do it, but this is merely to abolish the expense involved.
- Mr. Jones : That's right. Thank you gentlemen. Any further questions on this matter. All right, Frank.
- Mr. ? : If it's for conservation purposes to have a 20 bushel limit a day, what effect is that going to have as far as saving clams ? There is no limit on how many boats you can have, have licensed, and what will be the total catch for the year. Because we've had a 40 bushel limit since June in Maryland, and it has increased in Maryland--the take.
- Mr. ? : I think you gave a part of the answer there. In other words, if the increase in boats meant an increase in catch, and that also increased the hazards conservation wise, then that would be a consideration for maybe changing the catch limit per boat. I think you may be answering your own question in that respect.
- Mr. ? : I haven't answered it to my own satisfaction.
- Mr. Jones : You want "no limit" ?

- Mr. ? I'm in favor of "no limit" because it doesn't have the effect of conserving clams. It has the effect of having more boats, and it doesn't save any clams. It just makes more people work on the water. By working a 40 boat limit, you get in a snarl with the market so you can't possibly supply the market with fresh clams. This came about the 4th of July and we lost one of the biggest markets we had, because we could not supply the clams by catching 40 bushels a day, because one customer wants 1200 bushels delivered on one day. And you can't save these clams for a week or two, and have a competitive product. And by having a 40 bushel limit, there are times, naturally, weather has been inclement, and there hasn't been any work for a week, and then a fellow goes out and gets 40 bushels. The boats aren't going to make any more money because you are going to have them sitting around a lot of the time idle, and if it's for conservation purposes, let's see how it would help from a conservation standpoint. It's fine to save the clams, but if it isn't for conservation purposes, but for getting more people in the clam industry, o.k. If you are going to raise the price by this method, that's entering the economics or the marketing of it, and this Commission said they were not interested in manipulating the market in any way, shape or form.
- Mr. Jones : None of us are in the clamming business, so the market doesn't bother us. We'll give this matter further consideration.
- Mr. ? : I would like to know the outcome of this meeting.
- Mr. Jones : You will.
- Mr. ? : Pardon me. What happens after all these regulations on the Potomac River are adopted by a majority or whatever it is, now how long does it take before they become effective ?
- Mr. Jones : Are you going to stay for the rest of the meeting, or are you getting ready to leave right now ?
- Mr. ? : I'll be here all the time.
- Mr. Jones : Well, we're going to take this up when we get to the end of it. There is no use getting to that point right now. "SECTION 5. Opening and Closing Clamming Areas. subsection (a) Authority to open and close clamming areas. "The Potomac River Fisheries Commission may open and close any portion of the soft shell clamming areas of the Potomac River and prohibit the taking or catching of soft shell clams thereon whenever in the judgment of the Potomac River Fisheries Commission it shall seem necessary or desirable to protect or promote the growth of soft shell clams or to restrict the manner or method of taking clams in any area, or to protect the development and growth of clams or to establish seed beds, or to take any restorative measures which the Commission may deem best. Said area or areas may be closed for a period of time or may be closed for so many days of the week." Any questions ?
- Mr. ? What do you mean when you say to "take any restorative measures which the Commission may deem best." Wouldn't the previous division "to protect the development and growth of clams" be sufficient ?
- Mr. Jones : Well I don't think this is hurting anything, though repetitive. I think those are the words you used in your draft.
- Mr. ? No, I think in the draft I asked if you couldn't delete that latter provision because I thought it didn't set up any standards. I don't think this Commission would act arbitrarily, but I think some standards should be set up.

- Mr. Jones : Well, I think this is the purpose of it. One of these days someone is going to tell us what we can do to help the industry, which isn't covered by the other, but which would be some other restorative manner.
- Mr. ? : But it is to be a similar thing ?
- Mr. Jones : Yes, sir.
- Mr. ? : Would it be objectionable between the word any and restorative measures, just say "similar" or "such restorative measures" so as to indicate that you are referring to the previous matter.
- Mr. Jones : What's wrong with the word ? What gives you a problem about that one clause ?
- Mr. ? : We were just wondering, Mr. Chairman, if you would close it some time just arbitrarily, without any cause, without giving us a chance to be heard, etc. We don't think this Commission would ever do it, but someone suggested somewhere around here that someday we might not have such a fine Commission as this.
- Dr. Byrd : As is the case in all the political realm.
- Mr. Jones : Well, I see no harm. We'll take that up when we. . . Mr. Stein ?
- Mr. Stein : Mr. Chairman, gentlemen of the Commission. There is no clamming in Charles County. It is prohibited by law. And I was sent here by our Association to ask you when the Potomac River is open for clamming would you keep the sections of the Potomac River opposite Charles County closed due to the fact that nobody in Charles County is in the clamming business. And one day, if the market ever permits, we might want to go clamming, and there is no point in going if all the clams are gone. So, at this time, since clamming is prohibited in Charles County, we were wondering if the Commission would give Charles County some consideration.
- Mr. Jones : Well, Mr. Stein, you know on numerous occasions we have met and discussed this clamming situation, and my recollection is that everytime this question came up, St. Mary's people would say they didn't want to go up to Charles County clamming. That's what I have gathered to be the feeling of St. Mary's watermen in connection with clamming ; they don't want to come up and bother you.
- Mr. Stein : Well, a gentleman's agreement is fine, Mr. Chairman, if you are dealing with all gentlemen. Some of those folks did come up opposite Charles County, and in less than thirty minutes about half of our crabbers was about to get their guns and go look for them. We felt if there was a law to that effect, everyone would be happy.
- Mr. Jones : Mr. Stein, let me ask you a question. What would you think of the idea, to get this started, to close the entire Potomac River and then open specific areas ?
- Mr. Stein : I have no objection to clamming. I have been informed that clamming is very profitable. My good friend, Captain Sand, told me that the clamming down in his section in St. Mary's County was very profitable last summer, and I'm definitely not opposed to progress. If that would help the economy of that part of the County, I'm in favor of it. As I said, clamming is prohibited in our County, and we would like some consideration in that particular area.
- Mr. Jones : We'll certainly give it further consideration.

Subsection (b), "Procedure for closing area. Before closing any soft shell clam area the Potomac River Fisheries Commission first shall give reasonable notice thereof to all licensees. The notice shall describe the area to be closed and the proposed date and period of closing."

"c) Reopening of area. After closing an area the Potomac River Fisheries Commission may reopen said area whenever, in the judgment of said Commission, such reopening is advisable. An area shall be reopened by giving reasonable notice of such reopening to all licensees and to the public."

Mr. ? : May I ask, will this be published ? or maps sent out to clambers ? or just how will this be handled ?

Mr. Jones : We discussed this at our last meeting in going over the regulations, and, the number at the present time of respective licensees on the Potomac River is small and and this time we could just send notice personally because we have each licensee's name and address. But, the method of giving notice may change depending upon the size of the problem we are dealing with, but I can assure you we'll make sure as best as possible that everybody has notice.

Mr. Norris : It is a matter of public record that if anybody wanted to be on the mailing list or something like that.

Mr. Jones : "(d) Unlawful to take or catch soft shell clams in closed area. It shall be unlawful to take or catch soft shell clams, with any device, upon any area which has been closed by any rule or regulation of the Potomac River Fisheries Commission."

Mr. Dutton : This whole thing is on soft shell clams. Suppose hard shell clams are found, what are the regulations going to be on them ?

Mr. Jones : We haven't considered hard shell clams at this point, and I am told by the biological people that they don't think we're going to have that problem. I wish we did.

Mr. Dutton : There is a chance that there are hard shell clams.

Mr. ? : I don't think so.

Mr. Jones : Well, I hope you can discover them, and we'll come back and have some regulations. Anybody have any comments ? "SECTION 6. Minimum Size of Soft Shell Clams. It' shall be unlawful for any person to take, catch, or have in his possession soft shell clams measuring less than two (2) inches so measured along the longest dimension across the shell, and any clams measuring less than two (2) inches so measured shall be returned forthwith to the bed or bar from which they were taken ; provided, however, that any person licensed to dredge, deal in, or export soft shell clams may have in his or their possession not in excess of five per cent (5%) per U. S. standard bushel, by volume, of such clams less than two (2) inches in size as aforesaid." Anybody have any complaint on the size of the cull ?

"SECTION 7. Area to work. All that area of the Potomac River within the jurisdiction of the Potomac River Fisheries Commission. It shall be unlawful to take or catch or attempt to take or catch soft shell clams with any hydraulic or mechanical dredge, or with any other type gear, as follows : (1) Within 100 yards of any commercially productive oyster tonging area as may now exist, or as may be defined on the charts of the Department of Chesapeake Bay Affairs, or as may be

established by survey by the Potomac River Fisheries Commission, or of any area on which Potomac River Fisheries Commission has planted oysters or shells, or of any area prohibited by the Potomac River Fisheries Commission and marked with buoys or other markers by the Potomac River Fisheries Commission, or (2) within 50 feet of any bulkhead, wharf or pier, constructed or erected in, out in, over or under any of the waters of the Potomac River, or (3) within 1,000 feet of any public bathing beach on the Potomac River during the months of May, June, July, August, and September of any year, or (4) on Sunday, or between sunset and sunrise on any other day, or (5) within 100 yards of the mean low water mark of any Potomac River shore line, or (6) within 500 yards of any occupied duck blind, where decoys are set out, during the legal duck hunting season."

- Mr. ? : I see no reason to have a law 100 yards away from a commercially productive oyster bar because Report No. 11 proved that 50 yards is twice as far as you would have to have it.
- Mr. Jones : Whose report was No. 11 ?
- Mr. ? : Joe Manning's, and Mr. Fitzmeier's. And it was an extensive report showing that oysters would not be disturbed more than 25 yards, and that was very adverse conditions in the direction of the oysters from the dredge. Why a 100 yards from the shore, because 100 yards covers a lot of territory in some areas. We have 50 feet in Maryland, and that's only as a courtesy, it's not as far as conservation or anything like that.
- Mr. Jones : I think it's 50 yards in Maryland isn't it, from the shore ?
- Mr. ? : 50 feet.
- Mr. Jones : Do you have anything you would like to say, Mr. Manning, with reference to what Mr. Hanks has said about your report ?
- Mr. Manning : Yes, Mr. Chairman. Fifty yards in Maryland is considered twice the safe area.
- Mr. Bailey : Mr. Chairman, on behalf of the clammers we represent, Mr. Dorsey and I would like to make it very plain, that we realize that there has been a very difficult public relations matter, and let us say a very difficult personal feeling matter, between the clammers and those who make a livelihood catching oysters. We think the distance should be left as you good gentlemen have it in the rules and regulations so that there can't be any chance . . . we don't dispute with Mr. Hanks or anyone else . . . however, we don't want any chance, just like a man suspects you of throwing stones at him, we don't any arms to even be moved, much less any stones thrown. We don't want any difficulties. We think the best relationship and the most peace will be had if you leave the regulations as you have them.
- Mr. Jones : Thank you. Madam ?
- Mrs. Thome : I think this is the time to bring up in here. . . the fact that you have no restrictions about crab pots. Now, I don't think you have any in your whole resolutions.
- Mr. Jones : No. . .
- Mrs. Thome : And you must have a reason.
- Mr. Jones : The question is why these regulations aren't drawn in such a manner to protect the crab pots ?

Mrs. Thome : Yes.

Mr. Jones : Well, that has been the main thing in my mind. I have been up and down the Potomac River, and you have pots from one end to the other some times. If you had a pot, and a clammer destroys your property, you have a legal right to carry him to Court for interference with your property.

Mrs. Thome : I take a very dim view of this clamming in the Potomac River. I live on the river, and I certainly was impressed unfavorably with the clammers actions right in front of my place, and we have plenty of opportunity to watch it. Last summer for over a two week period, there were from 18 to 20 clammers directly in front of our house working right straight out in that one section--they won't bother us any more for they took all the clams--a few have tried since and they have gone off very quickly ; but they came right through two lines of crab pots that run all the way along (this is between Jackson and Bowling Creek). I do not own these crab lines. They were owned by an oyster-man and the boys there who make their living that way. They protested--everyday we watched this--they came right straight through the crab pots, right straight through the lines ; everybody protested about it, they were perfectly indignant about it, and nothing was done --it made no difference whatsoever. It completely ruined their business.

Mr. Jones : Well, one crab potter told me right here in this Court room that a clammer took his product and threw his caulks at him.

Mrs. Thome : Well, I wouldn't be at all surprised from what I saw. Not a bit.

Mr. Jones : Well, we know it's a problem.

Mrs. Thome : And I certainly think . . . I know there are clams there, and I know that the Potomac River Commission will get more revenue by licensing for clams, but I think it's going to cost muchmore to enforce anything than you'll ever get out of it because they certainly will ruin the oyster beds from what I have seen.

Mr. Jones : I don't say this to be facetious, but do you have an answer ?

Mrs. Thome : Yes, I think that there should be a limit, a depth limit, that they can come in along the shore. I think there should be something definite there.

Mr. Jones : Well, at this point 100 yards from shore is proposed.

Mrs. Thome : Yes, but there should be a depth limit.

Mr. Jones : Well, Madam, I can see your problem. I know what you are talking about, but how are you going to determine, when you go to catch that man, what depth of water he was in when you saw him, because he is going to be moving. So you have a problem always there.

Mrs. Thome : All right, but the crabbers put their pots in just as close as they can.

Mr. Jones : Well I have seen them in the middle of Chesapeake Bay.

Mrs. Thome : I think they should be protected.

Mr. Jones : Yes, Mamam. Yes ?

Mr. Dutton : Do you have any regulations on how close they can be to a net ?

Mr. Jones : No, sir, we don't.

Mr. Dutton : I think you ought to have one on nets too.
I think there should be a limit on how close they can come to a net ; after all, we pay a license fee, and . . .

Mr. Jones : What would you propose as a distance from a net ? Would 50 feet be sufficient ?

Mr. Dutton : He might turn around, and grab it anyhow.

Mr. Jones : But you say there ought to be some limit in regard to nets ?

Mr. Dutton : I do indeed.

Mr. Jones : All right sir, we'll make a note of it. "SECTION 8. Authority of Enforcement Officers. (a) Any officer duly authorized to enforce the Regulations of the Potomac River Fisheries Commission or the laws relating to the Potomac River is hereby authorized, to examine the boat, dredge, rig, cargo, hold, bin, cabin, or lot of soft shell clams in order to enforce the Regulations of the Commission or the laws relating to the Potomac River.

(b) It shall be unlawful for any person to conceal any soft shell clams in a cabin, compartment, locker, cupboard, or other place on any vessel or rig in the Potomac River where they are not clearly visible and readily accessible for inspection at all times by duly authorized officers of Maryland or Virginia or agents of the Potomac River Fisheries Commission. All soft shell clams found on any licensed vessel or rig in the Potomac River used for dredging of soft shell clams shall at all times be in bulk quantity or in plain view in their containers.

(c) It shall be unlawful for any person on the Potomac River to offer for sale or have in his possession soft shell clams which have not been culled as required by the Regulations of Potomac River Fisheries Commission." Any questions on this ?

"SECTION 9. Severability Clause. If any word, clause, sentence, paragraph, or section of these Regulations shall for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the word, clause, sentence, paragraph or section thereof so found unconstitutional and invalid."

"SECTION 10. Penalty. The penalty for a violation of the foregoing Regulations shall be as provided in Regulation I Section 6 of the Potomac River Fisheries Commission and as set forth in Article V Section 2 of the Potomac River Compact of 1958. " That is a misdemeanor and a fine up to \$1,000.00.

We're about to get into the other Proposed Amendments to Existing Regulations. Any more questions on soft shell clams at this point ? Mr. Hanks.

Mr. Hanks : I thought there would be some tax ?

Mr. Jones : No taxing authority under the compact, except oysters. We would like to have it.

Mr. ? : He has to pay tax if he takes them in Maryland.

Mr. Jones : We'll try to think of something.

Mr. ? : This is something we have no authority under the compact, and I think maybe that was also the concurrence of the three-man court that sat on this.

I know that they are collecting that in Maryland, for the clams that come out of the Potomac River.

Mr. Jones : Now, the next is to correct a previous error

Mr. ? : No, we're just adding clams to these sections.

Mr. Jones : Yes, that's right. These are sections that were previously enacted without any thought of soft shell clams.

"Section 3. No person shall engage in the commercial taking and catching of oysters, crabs, finfish, soft shell clams and other seafood on the Potomac River in the area prescribed in the Regulations of the Potomac River Fisheries Commission, nor shall any person use or permit the use of any net, boat, tongs, dredge, or other device, nor shall any person take any action for which a license is required under the foregoing Regulations, without first having procured a license from the Commission as provided in the Regulations of the Potomac River Fisheries Commission. All persons so engaged shall exhibit their licenses for so doing when required by any enforcement officer of the State of Maryland or Virginia or agent of the Potomac River Fisheries Commission. Non-residents of Maryland and Virginia shall not be issued licenses nor permitted to commercially take or catch seafood from the said waters of the Potomac River." Regulation III is hereby amended to add a new section to follow immediately after Section 12 and to read as follows : [All that was just to add clams]

"Section 12(a). Crabbing at Night. It shall be unlawful for any person to commercially take or catch crabs between sunset and sunrise, or to land or unload crabs earlier than sunrise or later than sunset."

Mr. ? : I'm from Colonial Beach, and the way it is now, we are not allowed to crab before sunrise, but in Dahlgreen they start in the summer time, especially with the daylight saving time, they'll come out before 7:00 o'clock.

Mr. Jones : Well, generally, what's the period of time between when you can see and actual sunrise. Would it be a half hour ?

Mr. ? : I would say more than that. About 45 minutes.

Mr. ? : Mr. Chairman, we reorganized our section under crabbing. We did allow them a half an hour before sunset and a half an hour after sunset.

Mr. Jones : Would that help you ?

Mr. ? : That would.

Mr. Jones : We don't want to be working out there in the middle of the night do we ? Yes, sir ?

Mr. Dutton : I think it should be an hour before sunset, and an hour after sunrise. If you fish at the edge of dark, you can't be back from a long ways off before the sun goes down. I don't think you should be allowed to crab at night time.

Mr. ? : I would like to bring up the fact these night operations with boats running around in circles are a very difficult thing to crab pot at night.

Mr. Jones : Anybody else have any further comments along this line ? Well, that is all the regulations on the soft shell clam and this other amendments necessary to go along with it. Mr. Hanks you asked what the next step was. Today,

well, I want to tell you that the General Assembly of Virginia adopted last week a law, signed this morning by the governor, immediately effective, upon concurrence by Maryland, a bill which states that the Potomac River Fisheries Commission shall have the power to make, adopt and publish such rules and regulations as may be necessary or desirable authorizing and regulating the dredging of soft shell clams in areas within its geographic jurisdiction, and levy license fees for such dredging in amounts to be set in its discretion. So now this bill has gone through the General Assembly of Virginia. I personally have been assured that it will be introduced in the Maryland General Assembly on January 15th, and then will be also an emergency bill effective on its passage. Now these regulations have to . . . this Board will go into Executive Session, and will sit down and go through and give further consideration to the matters that have been brought up, to the suggested changes, corrections, etc., and get these in the proper shape. We shall then have to determine whether they shall be adopted or not, and if adopted today, they could not under the compact become effective for 30 days hence, and in 30 days from today, the Maryland Legislature will not have gone in session--they won't go in until the 14th--and they will not be able to enact the bill until after the 14th, so we'll have to get together on these details in Executive Session. Now that's all I can tell you about what happens hereafter.

Mr. ? : Is there any possibility of getting a tax on the Potomac River clamming ?

Mr. Jones : I don't know how it could be done until such time as an amendment was made to the compact. Now I can tell you this, Mr. Hanks, the people in the General Assembly in both states, I feel, don't think that we should attempt to make an amendment or a revision of the compact in any manner until such time as we have lived with it long enough to know exactly what should be done. Now, I've been told that from both sides . . . nobody knows enough about it yet to suggest that we go through the General Assemblies of both states asking that it be amended, and any of the lawyers here can tell you it has to go to both states for an amendment of the compact.

Mr. ? : May I say, and counsel can correct me, or you can correct me, that there are three things that the respective legislatures can do and they have to do with dredging, leasing, and patent tonging in the Potomac River. Any thing else the legislatures must agree, but then a Commission must be set up to re-study the thing the same as it was done originally, and a Commission has to work out the amendments and bring it to the legislature for adoption. There are only three things that can be done by the two legislatures without a Commission separate and distinct for the purpose, like the one that actually worked out the compact originally. And that is dredging, leasing, and patent tonging, which they have done. Virginia legislature has done it, and we have been assured Maryland is going to do the same thing. But it has to do with dredging. Beyond that, any other change, they must set up and appoint a Commission to study the recommendations for amendment and then send them back to the legislatures for their consideration. We its not a simple thing to amend the compact as it stands, except in these three areas.

Mr. Hanks : Does the Commission feel now that they have the experience enough to know whether they should take any action on this

I mean it looks like there has been a lot of trouble brought about by the lack of tax, and a hardship on Maryland clammers. It looks like at this time the Commission would have formulated an opinion about the tax. The average boat, I would imagine, pays \$500 worth of tax per year in the State of Maryland, so, therefore, the State would get the money to help equalize the price of clams.

Mr. ? : I don't know whether Mr. Hanks has been paying this tax or not, but we have been paying it on the Potomac River clams. In other words, if we got a tax from the Potomac River Commission, it might work the same way as the oyster tax, we have to pay the 20¢ tax to the Potomac River Commission, plus another 4¢ tax to the state. We would be double taxed.

Mr. Hanks : Under this new rule, you wouldn't have to pay tax if you land in Virginia, if the regulations go through.

Mr. Jones : Gentlemen, this matter has been given consideration by this Commission, and it was felt that a tax would be fine. We would like to have it ; we would like to have your tax money. But, the situation as it is, if we get this legislation through, it will enable us to regulate, and a tax at the same time might kill everything. That's my thought.

Mr. Hanks : That license fee could be \$500.00.

Mr. Jones : Yes, we can change the license fee. How many people in favor of a \$500 license fee ? Nobody ?

Mr. ? : One thing if I may. Are there any markets in Virginia right now where a fellow can take his clams -- he would have to put them on a truck and truck it around and bring it back up, and I feel that the 10¢--they've got to pay 10¢ if they come in Maryland, and as long as they've got to truck from some part down in Virginia up here, I expect it's going to cost them almost as much as that tax. I'm not saying this is good or bad, but this is the practical application.

Mr. Hanks : If a Virginian gets in the business and handles as many clams as I do, he will have a \$10,000.00 advantage over me. And he can beat me with a 10¢ a bushel price--5%.

Mr. ? : I think as the Chairman said, when this gets to be the point, then I think it's time to reconsider, as he said, if this thing works out on that basis. I think it's time to consider it then.

Mr. Jones : There is no attempt in any manner to give a Virginian a better opportunity in this deal, so to speak. As I said a few minutes ago, we felt we needed the legislation to authorize it, and anytime you talk about taxes before the legislature, you know what the problems are. Any further question on clams ? Senator Raley, you have anything to say this afternoon ?

Sen. Raley : No, Mr. Chairman. I came to understand the regulations.

Mr. Jones : Thank you Senator Raley. Mr. Harrison, do you have anything you would like to say, sir ?

Mr. Harrison : Thank you. I've observed pretty well.

Mr. Jones : Thank you. We're glad to have you. Any other members of the legislature I haven't recognized ? Anybody have anything for the good of the cause they would like to bring up ?

Mr. Dutton : Mr. Jones, the Sanitary District in Waldorf is getting ready to dump sewerage in the Mattawoman swamp--it will come down into the creek--and also they are enlarging the plant at La Plata, and right now you have a chance to protest the one at Waldorf. I sit on the Zoning Board in Charles County, and I can assure you that there is a lot of building getting ready to go up, and it will be just a small matter of time before the sewerage will be pouring into the river unless you start your complaints now. It will be ruining all your clams and everything else, so I wish you would take this under advisement. A written request has to be in by the 17th of December.

Mr. Jones : Thank you sir. This sewerage pollution is a terrible problem, and one that is creeping up on us in every direction.

Mr. Dutton : Well, this one will really creep up on you.

Mr. Valliant : Mr. Chairman, there is just one thing I would like to say on this tax. I think if there is any doubt in anybody's mind, if we find there is any great advantage for one side to the other, we certainly are going to take cognizance and do something about it. I mean, I think that is part of our purpose to deal equitably with everybody concerned because the compact says we must.

Mr. Jones : Also, your tax in Maryland is to help the marketing. We aren't in a position if we were collecting that money to use it for that purpose, as Maryland is able to do at this time. We could turn around and give it to Maryland to help them in their program of marketing, but at the present time, it makes no difference, for Maryland is collecting it from you anyhow.

Mr. ? : I think that all those who want to pay the tax all they have to do is land them in Maryland and pay the tax. I think if they feel this is a beneficial thing, I don't see any reason why they would try to take them some place else.

Dr. Byrd : Mr. Chairman, why don't you make it clear that that is not our doing. That's the ruling of the Attorney General of the State of Maryland.

In the law that you passed in the special session of the Virginia legislature, that signing by the governor this morning eliminates your objection to passing upon these rules and regulations favorably so that from your point of view, you may vote in favor of putting them into effect immediately. Is that correct ?

Mr. Jones : Doctor, you are wonderful at putting words in someone else's mouth. Let me think a little bit before I answer your question.

Mr. Everngam : It can't go into effect for thirty days anyway.

Dr. Byrd : It can go into effect before the Maryland legislature meets ; that's what I'm talking about. The text part of that law you had passed, I haven't any doubt but what the Maryland legislature will pass a law agreeing to that, but the other part, I don't see why we have to wait for Maryland legislature to act, because a Maryland Court has made this decision : rendered this decision : "The term dredging is an ambiguous term and can mean the dredging of oysters or anything else. . . it has no fixed meaning, and its proper interpretation must depend on the context in which it is used and the purpose of the enactment." Pressman vs. Barr, McGuire vs. State, etc. "In its context in the statute (that is, the word dredging), it is used in connection with terms which

relate only to oysters. In its historical context, it is a safeguard imposed by the Maryland legislature and a compact arising out of an oyster war. Its meaning, consequently, must be limited to the dredging of oysters, and not made applicable to the dredging of soft shell clams."

For this reason, the Potomac River Fisheries Commission has the authority to adopt regulations authorizing the dredging of soft shell clams in the Charles and the St. Mary's Counties waters of the Potomac River, and such regulations do not require the prior approval of the legislature of Maryland and Virginia. That's the Maryland Court opinion.

- Mr. Jones : That's the first I've heard of that.
- Dr. Byrd : Now what stands in your way, since your legislature has eliminated your objection as expressed before. We've been discussing this thing for over a year now, and we've not done a thing in the world about it. It's time we make a move.
- Mr. Jones : This is the feeling of the Attorney General and his Assistant.
- Dr. Byrd : It's an opinion from a Court case, settled down here.
- Mr. Jones : It's a Memorandum of Law submitted by the Attorney General's Office in that case that was before this Court, but the Court didn't rule this. This is what these lawyers say.
- Dr. Byrd : They ruled that we had the right to pass regulations.
- Mr. Jones : Well, we'll take all this up in Executive Session. Anybody else have anything further concerning . . . yes, sir.
- Mr. ? : I just want to ask, do I understand now that the distances from the shore is already in Maryland in existence and effective at this time?
- Mr. Jones : Not in the same footage you have here. In Maryland you have 50 yards from any commercially productive oyster bar. And you still may have differences in different areas. We use here 100 yards in low water, and I understand it is now 50 yards from low water, I mean 50 feet, in certain areas of Maryland. I would have to ask Mr. Rafter or someone else to give you a complete answer, because you all have so many different laws in the different counties. Anybody have any further questions ?
- Mr. Hanks : And is this all the hearing we have on this ?
- Mr. Jones : Yes, sir. We have one hearing.
- Mr. Hanks : This is the final opposition we can make ?
- Mr. Jones : Yes, sir. I didn't know you were opposed to it. I thought you just didn't want any limit, and wanted a tax.
- Mr. Hanks : I want regulations, but some of these regulations. . .
- Mr. Jones : As I said, I'll give you an opportunity ; if you don't take it further, you won't have it.
- Mr. Hanks : I would like to know why you should have 40 bushels unless it is for conservation purposes, or safety plans.
- Mr. Jones : There is a lot of merit to what you said. I can't answer it. Mr. Manning maybe can answer that question.

- Mr. Manning : Mr. Chairman, I testified on this matter in Circuit Court in Talbot County, and I think Mr. Bailey has in his possession a copy of the opinion of Judge Carter upholding the 40 bushels in the regulations of Maryland.
- Mr. Jones : As you know, in Virginia no one is involved in this industry. We attempted here to adopt regulations to conform to the Maryland regulations. We accepted the good judgment of the Maryland Commission in having drawn up these regulations previous to this, and not being familiar with the operation, because it doesn't exist in Virginia, we have adopted the Maryland regulations. Yes, sir ?
- Mr. Dutton : If you make any changes in this on certain things that have come up here, can you go ahead and approve them without another hearing ?
- Mr. Jones : Yes, sir, as long as it doesn't completely change the meaning and sense of the entire regulations. You can make changes, yes, sir.
- Mr. Dutton : We from Charles County would like to say again that we would like to see the river closed on the Charles County line on up, and would like to see some provision in there on the stake nets and crab pots.
- Mr. Jones : Anybody else from Charles County want to comment on that ? Are you two the only ones from Charles County today ?
- Mr. Dutton : Yes, he is in the 5th District and I'm in the 3rd.
- Mr. Jones : Any further questions ?
- Mr. Bailey : Mr. Chairman, we have no further questions. We do want it to be thoroughly understood that we do favor the regulations after consideration is given to each little objection, and we would also like to add our voices to those from Charles County that no raw sewerage be added to the river than Washington, Arlington and all up the river are already dumping in. We don't be fighting about clams ; we'll just be fighting about dead oysters.
- Mr. Jones : If you would take all your watermen and clammers up to Waldorf and talk to them, you might scare them a little bit.
- Mr. Bailey : Well, no scaring through the last century has helped much. Wherever you build houses, they keep on throwing all their junk in the river. When our good city people visit us, they throw beer cans and bottles overboard ; they love everything but what is clean and nice. We would appreciate if there would be a change in attitude up the river.
- Mr. Jones : Anyone with further questions ? You from St. Mary's have any comments about staying out of Charles County's clams ?
- Mr. Bailey : I feel if they have clams in Charles County waters that we have as much right to go up there as in St. Mary's County waters. It won't be long before we may be out of clams in St. Mary's, and I don't see anything wrong in going into Charles County. Because I think you are going to need it sooner or later.
- Mr. Dutton : I would like to remind Mr. Bailey that when you all your hearing in La Plata, they agreed they didn't want to come into Charles County, and just like we said, once you get in here, you're coming all the way up.
- Mr. Jones : Mr. Manning, what is the life span of a soft shell clam, in relation to this question about Charles County waters ?
- Mr. Manning : Not much beyond four years---three to four years.

- Mr. Jones : Madam, do you have anything further you want to add ?
- Mrs. Thome : I just think there ought to be a regulation to keep them off the shore and out of the crab pots, and away from . . . I'm interested in oysters, and I just think it's going to ruin the Potomac River oysters.
- Mr. Jones : Thank you madam. Yes, sir ?
- Mr. Dorsey : Possibly it might ease the gentlemen from Charles County to know that at the time we were sincere, a few months ago, or several months ago, when we were at that meeting in saying that we were interested in basically the St. Mary's Potomac or the Potomac part of St. Mary's. At that time, we had approximately 25 or 30 boats in St. Mary's clamming. Today we have approximately 60 or 70% being taken out of the Potomac today are being taken by counties other than St. Mary's, and they've been pushing down the shore pretty fast and moving a lot of clams, and there is going to come a time when you are going to be looking some place else.
- Mr. Jones : Well, thank you. We'll go into Executive Session and go into further detail on the consideration of these regulations. Thank you all for coming out.

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