

PRESENT - MEMBERS: Commissioners Richard E. Lankford, J. Clifford Hutt, John T. Parran, Jr., William P. Hunt, James E. Douglas, Jr., Roy E. Julie, Jr.

OFFICERS: K. Thomas Everngam, Legal Officer
(Absent: Robert M. Norris, Jr., Executive Secretary)

VISITORS: Messrs. Elgin A. Dunnington, Jr., of the Chesapeake Biological Laboratory, Commander Roy W. Rafter and Lt. Paul C. Wentzel, of the Maryland Marine Police; Chief J. William Ryland, Supervisor Ralph E. Dameron and Inspector Randolph Hopkins, of Virginia Marine Police; Thomas H. White, Auditor Maryland Department of Natural Resources; Frank F. Churchill, of Naval Weapons Laboratory; James Willard Dutton, President of Charles County Watermen's Association; Harry T. Stine, I. P. Evans. Press representatives: Miss Arlee Green, Messrs. Horton P. Beirne, Thomas Stuckey.

Mr. Lankford, Chairman, called the meeting to order at 9:45 a.m. in the District Courtroom, in the Courthouse La Plata, Maryland.

A motion was made, seconded and approved as follows:

"That the Minutes of the meeting held August 20, 1971 be approved as circulated previously to each Commissioner."

Chairman Lankford said that since the report of the oyster bar survey made on September 22, 1971 by personnel of the Chesapeake Biological Laboratory, the Virginia Institute of Marine Science, and the Marine Resources Commission of Virginia had been heard at the special public meeting the night before, he would ask Mr. Elgin Dunnington, of CBL, to give just a brief resume now of this report. Mr. Dunnington commented that 25 or more oysters from each of the eight (8) bars sampled were shucked and examined. He reported that the majority of the bars yielded seven (7) pints of shucked oyster meats per bushel. On the basis of the oyster conditions observed and the expected improvement during the next ten (10) days, they all concurred in and recommended that the oyster harvesting season on the Potomac River be opened on October 1st as provided for in the present regulations.

A motion was made and seconded as follows:

"That the Potomac River be open for the taking of oysters five (5) days a week Monday through Friday commencing October 1st from sunrise until 4 p.m. (lawfully established time)."

Mr. James Willard Dutton asked a question concerning this 4 p.m. quitting time, as to whether or not this meant that when the tonger stopped at 4 p.m. could he still have oysters piled on the culling board - or should all the oysters be culled also by 4 p.m.?

After consideration of the question raised, and after conferring with Mr. Frank F. Churchill, of the Test and Evaluation Department of the Naval Weapons Laboratory, Dahlgren, Virginia to verify the stopping time of the firing at Dahlgren when the tonging boats would be able to cross the river, a motion was made, seconded and approved to reconsider the previous motion; and another motion was made and seconded as follows:

"That the Potomac River be open for the taking of oysters five (5) days a week Monday through Friday commencing October 1st, and that the taking of oysters be allowed from sunrise until 4 p.m. (lawfully established time) on each of those days, and that by 4 p.m. of each day all tonging be completed, culling completed and the culling boards clean." Motion approved unanimously.

Chairman Lankford advised that the arrangements on the purchasing and the planting of the hatchery produced seed oysters had been finalized. The 200,000 seed will be purchased from Mr. Frank Wilde, of the Chesapeake Bay Oyster Culture, in Shady Side, Maryland, at one (1) cent a piece; size of seed to range from quarter size to silver dollar size. The planting of the seed will be supervised by Mr. Elgin Dunnington, of CBL, along with Dr. J. D. Andrews, of VIMS, and be planted in the center of the last three (3) shell plantings in June 1971. This will be done between the middle and the end of October 1971.

A motion was made, seconded and approved as follows:

"That the disbursements for August 1 through August 31, 1971, as listed on mimeographed sheet and previously mailed to each Commission be approved."

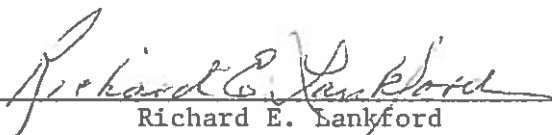
The Chairman referred to the financial statement and read the cash in banks being a total of \$109,069.18, as of September 22, 1971


Next there was lengthy discussion on the proopsed changes in regulations. Mimeographed copies of these proposed changes, as prepared by the Legislative Committee, were distributed. The Commissioners discussed each amendment with the legal officer, the law enforcement personnel present, and persons attending the meeting. Mr. Harry Stine and Mr. J. Willard Dutton, representing the watermen of Charles County made comments and offered suggestions and recommendations as each proposed modification and new sections to be added were read and discussed.

It was decided and agreed upon by the Commissioners that the Proposed Amendments to the Regulations would be approved as a whole, rather than each amendment separately. A motion was made, seconded and unanimously approved as follows:

"That the following thirteen (13) Proposed Amendments to Regulations dated September 24, 1971 be approved to be advertised as required by the 1958 Potomac River Compact, and that a Public Hearing on these amendments to be held on Friday, November 19, 1971 at 9:30 a.m. in the Town Fire House, Colonial Beach, Virginia. A copy attached and to be made a part of these Minutes."

The next meeting will follow the above Public Hearing. The meeting was adjourned at 12:40 p.m.


Richard E. Bankford
Chairman


John T. Parran, Jr.
Secretary

NOTE:

Yellow Lined Words Indicate New Matter Added To Existing Regulations
 Capitals Indicate Matter Stricken From Existing Regulations

September 24, 1971

PROPOSED AMENDMENTS TO REGULATIONS OF THE POTOMAC
 RIVER FISHERIES COMMISSION

Pursuant to 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 Amendments to existing Regulations are proposed by the Potomac River Fisheries Commission.

Regulation I, Section 1 proposed to be amended and re-enacted to read as follows:

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. Each said license shall be good for the licensing year January 1st through December 31st, except licensing for the taking and dealing in oysters, which shall be issued for a licensing year from July 1st through June 30th of each year. No license issued under the authority of the Potomac River Fisheries Commission shall be transferable in any manner.

Regulation I, Section 2(d) proposed to be amended and re-enacted to read as follows:

(d) FOR EACH BOAT OPERATOR AND/OR INDIVIDUAL CATCHING CRABS WITH CRAB POTS, A LICENSE FEE OF \$15; OR IF CATCHING CRABS WITH ONE OR MORE ASSISTANTS \$25. For each boat or vessel used in taking or catching crabs with crab pots, a license fee of \$20. 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; and the tag must be displayed in a clearly visible position on the outside star-board side of the hull. All such buoys and stakes shall be marked clearly with the tag number of the licensee in not less than one (1) 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 and shall be subject to forfeiture. Whenever crab pots are being fished, the license must be aboard boat or vessel and available for inspection by any authorized enforcement officers of the State of Maryland or Virginia or agent of the Potomac River Fisheries Commission.

Regulation I, Section 2(h) proposed to be amended and re-enacted to read as follows:

(h)(1) For each pound net, a license fee of \$15. The season for setting pound nets shall be from March 1st through November 30th of each year. Licensees may set stakes fifteen (15) days prior to the opening of the season, however nets may not be attached to the stakes until the opening day of the season.

Regulation I is hereby proposed to be amended to add a new section to follow immediately after Section 2(h)(1) and to read as follows:

(h)(2) For each anchor gill net location of 1200 feet and under, a license fee of \$15. An anchor gill net shall be construed to be a gill net that is held stationary in the water by means of conventional anchors, heavy weights, or wooden poles or stakes imbedded into the river bottom at each end of the net. When using poles or stakes as a means of anchoring a net, one (1) center pole may be used. Anchor gill nets shall be marked at each end with a spar buoy, wooden pole or stake, which shall project above the surface of the water at least four (4) feet at high tide. The licensee's tag shall be attached to the channel-side buoy or stake and said tag number be painted in black numbers at least one (1) inch in height on a white background on the inshore spar buoy or stake. The season for

NOTE:

Yellow Lined Words Indicate New Matter Added To Existing Regulations
 Capitals Indicate Matter Stricken From Existing Regulations

setting anchor gill nets shall be September 1st through May 31st of each year. An anchored gill net shall not be licensed for any location that has a depth of water greater than 35 feet mean low water. No anchored gill net shall have a depth greater than 12 feet hung measure. Any net that is set in violation of this regulation may be seized by the duly authorized enforcement officers and shall be subject to forfeiture. Poles shall be illuminated and removed in accordance with the provisions of Regulation I, Section 2(s).

Regulation I, Section 2(i) is hereby proposed to be amended and re-enacted to read as follows:

(i) FOR EACH STAKE GILL NET LOCATION OF 1200 FEET AND UNDER, INCLUDING LINES, STAKES AND RINGS, A LICENSE FEE OF \$8. FOR EACH ANCHORED-STAKE GILL NET LOCATION OF 600 FEET AND UNDER, INCLUDING LINES, STAKES AND RINGS, A LICENSE FEE OF \$8.00. FOR EACH FLOAT OR DRIFT GILL NET OF 1200 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 NET 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.

(i)(1) For each stake gill net location of 1200 feet and under including lines, stakes and rings, a license fee of \$15. The season for setting stake gill nets shall be September 1st through May 31st of each year. A stake gill net shall be a flat net which is suspended vertically in the water with meshes that allow the head of a fish to pass but entangle its gill covers as it seeks to withdraw. A stake gill net shall be held stationary in the water by means of a series of wooden stakes or poles driven or embedded firmly into the bottom in such a manner as to support themselves and the net hung thereon. Said poles or stakes shall be spaced not more than 150 feet apart in said series. Poles shall be illuminated and removed in accordance with the provisions of Regulation I, Section 2(s).

Regulation I is hereby proposed to be amended to add a new section to follow immediately after Section 2(i)(1) and to read as follows:

(i)(2) For each drift gill net of 1200 feet and under, a license fee of \$15. The licensee shall be in attendance while said nets are in the water, and if a drift gill net is discovered unattended, it shall be seized by duly authorized enforcement officers and shall be subject to forfeiture. Each net shall have a clearly visible marker buoy on each end of the net, which shall project above the surface of the water at least three (3) feet. The buoys shall have the licensee's tag number painted black in numbers at least one (1) inch in height on a white background on each net-marker buoy. The vessel attending the drift nets shall have the license tags clearly displayed on the outside starboard side of the vessel. The season when drift gill nets may be fished is April 1st through May 31st of each year.

Regulation I, Section 2(m) is hereby proposed to be amended and re-enacted to read as follows:

(m) FOR EACH INDIVIDUAL USING FISH OR EEL POTS, OF LESS THAN 10 FEET

NOTE:

Yellow Lined Words Indicate New Matter Added To Existing Regulations
 Capitals Indicate Matter Stricken From Existing Regulations

IN LENGTH, A LICENSE FEE OF \$10. For each boat or vessel used in taking or catching fish or eels with fish or eel pots of less than ten (10) feet in length, a license fee of \$20. Whenever fish or eel pots are being fished, the license must be aboard boat or vessel and available for inspection by any authorized enforcement officers of the State of Maryland or Virginia or agent of the Potomac River Fisheries Commission. Fish or eel pots, when fished in series, shall be identified by placing the licensee's tag number on the end pots; fish or eel pots fished singly shall also be so identified, and the tag must be displayed in a clearly visible position on the outside starboard side of the vessel. Any fish or eel pots in the water not so identified in this manner may be seized by the duly authorized enforcement officers and shall be subject to forfeiture.

Regulation I, Section 2(n) is hereby proposed to be amended and re-enacted to read as follows:

(2)(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 PROCURE AND AFFIX THE METAL TAG ACCOMPANYING HIS LICENSE TO THE STAKE AT THE HEAD AND OUTER END OF SUCH STRUCTURE AND AT SUCH A HEIGHT AND IN SUCH A POSITION AS TO BE READILY SEEN FROM PASSING BOATS. THIS IDENTIFICATION SHALL BE DISPLAYED FROM THE SETTING OF THE FIRST STAKE UNTIL THE REMOVAL OF THE LAST STAKE. ALL STAKES SHALL PROJECT NOT LESS THAN 4 FEET ABOVE THE SURFACE OF THE WATER AT MEAN HIGH TIDE. LICENSEE SHALL REMOVE HIS STAKES WITHIN THIRTY (30) DAYS AFTER DISCONTINUING FISHING HIS STAND. EACH POUND NET AND STAKE GILL NET LICENSEE SHALL MAINTAIN HIS STAKES IN GOOD CONDITION. HE SHALL PROMPTLY REMOVE ALL STAKES THAT MAY BE UNSOUND, BROKEN OR LIABLE TO GO ADRIFT AT HIS LICENSED LOCATION. ALL FLOAT OR DRIFT GILL NETS WHEN IN USE SHALL HAVE THE TAG NUMBER DISPLAYED ON THE BUOY, AND THE BOAT OR VESSEL ATTENDING SUCH NET SHALL DISPLAY THE LICENSE TAG IN A CLEARLY VISIBLE MANNER ON THE OUTSIDE STARBOARD SIDE OF THE VESSEL.

(n) Each application and license issued under Regulation I, Section 2(h)(1) Pound Nets, Section 2(h)(2) Anchor Gill Nets, Section 2(i)(1) Stake Gill Nets and Section 2(k) Fyke or Hoop Nets above shall be for a fixed location or place where the net, fyke, weir or other device is to be fished. Licenses to operate the aforementioned nets or gear shall expire on December 31st of each year but shall be renewable annually to the person named therein, provided the licensee shall file an application, including appropriate license fee, on or before January 1st of each year after 1971, to renew the license for the same fixed location or place as he has fished during the current license year, and shall make an affidavit to the effect that he has pulled the poles used in this stand and removed the same from the Potomac River after the expiration of the past fishing season, and this affidavit shall be a material basis for the issuance of the new license for the said location, and he will be granted same on the basis of said affidavit unless he has forfeited same by non-user or for a violation under Sections 4 or 6 of these Regulations. The making of a false affidavit shall be the basis of a hearing for the revocation of said license and the assignment of said location to some other person. The failure to file for a previously assigned fixed location fishing stand by the 1st day of February next will forfeit the right of the previous licensee to said stand and it may be assigned to some other person upon application. Licensee shall procure and affix the tag accompanying his license to the stake at the head and outer end of such structure and at such a height and in such a position as to be readily seen from passing boats. This identification shall be displayed from the setting of the first stake until the removal of the last stake. All stakes shall project not less than four (4) feet above the surface of the water at mean high tide. All net licensees must remove stakes within fifteen (15) days after the close of each season. Each pound net and stake gill net licensee shall maintain his stakes in good condition. He shall promptly remove all stakes that may be unsound, broken or liable to go adrift at his licensed location.

Regulation I, Section 2(q) is proposed to be amended and re-enacted to read as follows:

(q) Each fish trot line set in the water shall be marked with at least one buoy or stake easily visible on the surface which must display the tag number herein provided; each such marked buoy or stake shall be marked clearly with the tag number of the licensee in not less than one (1) inch numbers in

NOTE:

Yellow Lined Words Indicate New Matter Added To Existing Regulations
 Capitals Indicate Matter Stricken From Existing Regulations

contrasting color, and the tag must be displayed in a clearly visible position on the outside starboard side of the vessel. Any fish trot line in the water not so identified may be seized by the enforcement officers AND HELD FOR POSSIBLE LEGAL ACTION. FISH POTS AND EEL POTS, WHEN FISHED IN SERIES, SHALL BE IDENTIFIED BY PLACING THE LICENSEE'S TAG NUMBER ON THE END POTS; FISH AND EEL POTS FISHED SINGLY SHALL ALSO BE SO IDENTIFIED, AND THE TAG MUST BE DISPLAYED IN A CLEARLY VISIBLE POSITION ON THE OUTSIDE STARBOARD SIDE OF THE VESSEL and shall be subject to forfeiture.

Regulation I, Section 2(r) is hereby proposed to be repealed:

(r) STAKE GILL NETS AND ANCHORED-STAKE GILL NETS. IT SHALL BE UNLAWFUL TO HOLD OR ATTEMPT TO HOLD A STAKE GILL NET STATIONARY IN THE WATER BY ANY OTHER MEANS THAN AS HEREINAFTER SET FORTH AND DEFINED. A STAKE GILL NET SHALL BE A FLAT NET WHICH IS SUSPENDED VERTICALLY IN THE WATER WITH MESHES THAT ALLOW THE HEAD OF A FISH TO PASS BUT ENTANGLE ITS GILL COVERS AS IT SEEKS TO WITHDRAW. (1) A CONVENTIONAL STAKE GILL NET SHALL BE HELD STATIONARY IN THE WATER BY MEANS OF A SERIES OF WOODEN STAKES OR POLES DRIVEN OR EMBEDDED FIRMLY INTO THE BOTTOM IN SUCH A MANNER AS TO SUPPORT THEMSELVES AND THE NET HUNG THEREON. (2) AN ANCHORED-STAKE GILL NET SHALL BE HELD STATIONARY IN THE WATER BY MEANS OF A WOODEN POLE OR STAKE AT EACH END, WHICH END POLE OR STAKE SHALL BE FIRMLY EMBEDDED UPRIGHT IN THE BOTTOM. ANCHORS SHALL BE USED TO HOLD SAID END POLES OR STAKES PERPENDICULAR IN THE WATER. ANCHORED-STAKE GILL NETS SHALL NOT HAVE A LENGTH GREATER THAN 600 FEET INCLUDING LINES, STAKES AND RINGS. A VISIBLE DAY-MARKER AND NIGHT LIGHT SHALL BE AFFIXED TO EACH CHANNEL-SIDE END STAKE.

Regulation I, Section 2(s) is hereby proposed to be amended and re-enacted to read as follows:

(s) All licensees shall set all nets in accordance with the location description contained on their licenses. Gill net stakes or poles, anchor gill nets, and pound net hedging poles, shall be kept in a straight line, in accordance with the license location, throughout the entire structure and row. Each net shall have an illuminated white light visible for at least 1/2 mile on a clear night and at least a 4-inch wide 360° reflector attached to a stake, pole or buoy marking the channel side of the fishing structure. Said light shall be illuminated from sunset to sunrise during the entire time the fishing structure is in the water. All stakes shall be pulled and removed by the licensee from the Potomac River within fifteen (15) days after the close of the fishing season.

Regulation I, Section 5(a) is hereby proposed to be amended and re-enacted to read as follows:

Section 5. (a) Commercially Taking Seafood and Household Use. 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. Taking of crabs by crab pot, finfish by use of nets (other than dip nets), and soft shell clams by means of hydraulic dredge, shall all be deemed a commercial taking or catching of seafood requiring a license hereunder, except that a person may take or catch crabs by means of one (1) single crab pot for his personal household use. No license shall be required for such crab pot. Each personal crab pot set in the water shall be marked with a buoy easily visible on the surface, which must display the owner's initials in not less than one (1) inch letters in contrasting color.

Regulation I is hereby proposed to be amended to add a new section to follow immediately after Section 5(b) and to read as follows:

(c) It shall be lawful to take or catch oysters for immediate household use described in Section (b) of this Regulation by shaft tongs, and by hand, and by diving with or without scuba, and by no other means.

Regulation II, Section 2(a) is hereby proposed to be amended and re-enacted to read as follows:

Section 2. (a) Devices for Taking or Catching Oysters. It shall be legal to take or catch oysters commercially 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.

NOTE:

Yellow Lined Words Indicate New Matter Added To Existing Regulations
Capitals Indicate Matter Stricken From Existing Regulations

Regulation III, Section 8 is hereby proposed to be amended and re-enacted to read as follows:

Section 8. Method of Fishing. It shall be unlawful to take or catch, or attempt 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, ~~anchored~~ AND/OR ANCHORED gill net, beam trawl, otter trawl, trammel net, troll net, or drag net.