

PRESENT - MEMBERS: James E. Douglas, Jr., Chairman; Milton T. Hickman, John T. Parran, Jr., Robert J. Rubelmann, Richard E. Lankford. (Absent: William P. Hunt)

OFFICERS: Robert M. Norris, Jr., Executive Secretary;
Kirby A. Carpenter, Assistant Executive Secretary;
J. Owen Wise, Legal Officer.

VISITORS: Paul C. Wentzell and Harvey C. Cook, Maryland Marine Police; C. E. Thomas, Jr., Virginia Marine Police; Elgin A. Dunnington, CBL; Dexter S. Haven, VIMS; Harold A. Davis, Jr., Bill Sieling and Philip R. Mohler, DNR; Norman Bender and Don Webster, University of Maryland Sea Grant; William Daiger, Jr., Irving Daiger, Eldred Daiger, John W. Allen, Jr., Gene A. Hundley, Walter Hundley, M. W. Haynie, Mark B. Allen, Garnet L. Reamy, James A. Powell, Wayne P. Hicks, Mrs. Nancy McNeal, John A. Jenkins, Douglas Jenkins, Sr., Warren McKenney, Moses Smith, James W. Dutton, Pres. Charles County Watermen's Assoc.; David Sayre, Pres. St. Mary's County Watermen's Assoc.; Harry T. Stine, Enoch C. and Alice C. Bryant, Mark Milburn, Charles R. Lumpkin, Tommy Poe, Eddie Davis, Paul Kellam, John Morris, Leroy Russell, Robert M. Rollins, Richard T. Rollins, James G. Thompson, Charles T. Gibson, Paul S. Thompson, Sam Morris, George W. Robertson, James M. Hodges, Louis Hodges, Francis Cullison, Jack Russell, Ernest S. Hodges, Leslie F. Wilson, Sr., Frank F. Osakowicz, George Poe, David McKenney, Benjamin Goddard, James B. Weeks, Marcus B. Norris, Alvin Haynie, plus about 15 others (who did not sign register).

PRESS: Joe Gatins, The Times-Dispatch; Jack Kershaw, The Enterprise; Dick Myers, Radio Station WKIK, James Henderson, Westmoreland News.

The meeting was called to order at 10:00 a.m. by Chairman James E. Douglas, Jr., who announced that the Public Hearing on the Proposed Hand Scraping Regulations would be the first order of business. He announced that copies of the Proposed Regulations were available and that in this Public Hearing anyone wishing to comment would be given the opportunity.

The meeting proceeded with the following comments, suggestions, questions, and answers (in essence and not verbatim).

Joe Gatins asked for how long would the first hand scraping license be valid? Answer - The license year for oysters being from July 1st through June 30th, a license for March 1977 would not be valid for hand scraping in November and December of 1977.

Wayne Hicks asked if the license fee would be pro rated for March?
Answer - No.

Douglas Jenkins supported the idea of a pro rated license fee.

Paul Kellum said the proposed hours were too restrictive and should be extended.

Irving Daiger stated that because of the severe ice conditions this winter, that both tonging and hand scraping should be extended beyond the March 31st closing date. Mr. Haynie was in agreement with Mr. Daiger.

Paul Kellum questioned why the proposal only allows hand scraping three (3) hours per day? Answer - Hand scraping is being proposed as an experiment, and close control is necessary.

David Sayre stated that three (3) hours a day, three (3) days a week would not be adequate to judge hand scraping, and he asked for five (5) days a week and suggested including the month of April.

Robert Brown agreed with Mr. Sayre and asked for five (5) days a week, especially during the month of March.

Harry Stine stated that he represented many Charles County watermen opposed to hand scraping because of the general scarcity of oysters throughout the Potomac River. He believed the proponents of hand scraping were willing to accept almost any regulations just to 'get their foot in the door'.

Francis Brown said that no one knew the details of the proposal until they were advertised and that could account for Mr. Stine's inaccurate observations.

James W. Dutton stated his opposition to hand scraping this March because it doesn't allow enough time to have hand scrapes made. He believes the only thing hand scraping will do now is remove more oysters, and they should be left as brood stock for the coming spawning season. He suggested the PRFC postpone action on hand scraping until the possession laws in Charles and St. Mary's Counties are in agreement with the PRFC's. He then posed the following questions: 1) Does the PRFC expect the fin-fishermen to pay higher license fees, which will support the oyster repletion program? 2) Are you (PRFC) going to allow hand scraping so that the watermen can completely deplete the oyster bars and then say that leasing is the only feasible way to replete the lower river, and thus you begin leasing in the Potomac?

Mark Milburn stated his support for the proposals as advertised.

Francis Brown said hand scraping would not deplete the brood stocks, because the men will move on to other areas after the catch falls below a certain level, and that hand scraping will pull buried shell out of the bottom, thus exposing more shell for a possible set next summer. He requested hand scraping be allowed at least 15 hrs. per week (5 days per week).

Jack Russell stated his belief that it would not be possible to deplete any oyster bar using a 22" hand scrape for only 9 hours a week.

Paul Kellum expressed his support for hand scraping in the Potomac.

Frank Oskowicz stated that hand scraping will drag oysters off the tops of the bars and into the mud where they will die serving no useful purpose.

James W. Dutton repeated his statement that hand scraping will only remove more oysters with the real possibility of depleting the brood stocks.

Harry Stine asked if the statement that the Potomac is a "shallow river" was true. He was answered yes, that most of the oysters were between 8' and 18' of water. He then said in that case most of the oysters in the Potomac were well within tonging depths, and therefore sees no need for hand scrapes.

Mr. Jenkins states that he was using 22' shafts and would use shorter ones if he could.

Robert Brown stated that the oyster bars in the lower river were not surrounded by mud and hand scraping would help spread the bars, so let's get on with hand scraping.

Francis Brown commented that the dredgers and patent tongers have kept the Chesapeake Bay alive (with oysters).

Commissioner Parran questioned just what hand scraping would, would not, do for the Potomac River. He asked, "Do we have any statistics on the oyster catch from the Bay, either in Maryland or Virginia?"

Harold Davis reported that in Maryland 60% of the oyster areas are open to dredging and patent tonging, and they produce 14% of the oyster harvest. The hand tongers work the remaining 40% of the area and account for 77% of the catch. Dexter Haven said he did not have any information on the public rocks in Virginia. Elgin Dunnington said that some large areas, both in the Potomac and the Bay, that used to be dredged 50 yrs. ago are now void of oysters.

Wayne Hicks proposed that the regulations are too restrictive and should be eased.

Jack Russell stated that private planters always dredge their leased grounds. Eddie Davis said that there has been a set this year on the private (dredged) bottoms in Smith Creek.

James W. Dutton stated that the reason the private planters use a dredge is so that he can get every oyster off the ground before he replants the same area.

John W. Allen supported the adoption of hand scraping and suggested opening the river 5 days a week and extending the season.

There being no other comments from those in attendance, the Chairman declared the Public Hearing portion of the meeting closed at 11:05 a.m. He called for a 15 minute recess during which a large number of visitors left the meeting.

At 11:20 a.m. Mr. Douglas recalled the meeting to order and asked for consideration of the Minutes of the meeting held December 15, 1976. The following motion was made and seconded:

"That the Minutes of the December 15, 1976 meeting be approved as written and previously circulated to the Commissioners." The motion was approved.

Mr. Douglas recognized Commissioner Parran, who addressed the Commissioners and visitors. He spoke of his concern for the watermen but also for the oyster resources of the river. Based on the advice of the scientists and others, he felt compelled to vote against hand scraping under existing circumstances.

The following motion was made by Mr. Hickman and seconded by Mr. Lankford:

"That Regulation II, Section 2(a)(2), as proposed and advertised, be amended to allow hand scraping five (5) days per week, Monday through Friday, for the month of March 1977; and that Regulation II, Section 3(b), as proposed and advertised, be amended by deleting the word 'PUBLIC' after the words 'five (5) days prior' with the understanding that news releases would be used, and by adding the words 'OPEN OR' and 'OPENED OR' before the words 'close, closing' and 'closed' respectively throughout the regulation." The motion was approved.

Mr. Lankford offered the following motion, which was seconded:

"That the proposed hand scraping regulations as advertised and amended, be adopted and that all 14 sections, copies of which will be attached to and made part of these Minutes, will become effective March 7, 1977." The motion was approved, with one dissenting vote by Mr. Parran.

A discussion on extending the oyster season beyond the 31st of March was terminated when Mr. Wise advised that the season is set by regulation and to extend the season the Commission must advertise the amended regulation, hold a public hearing, and any change would not become effective for 30 days. The entire process takes between 75 and 90 days, and therefore no change could be made for this season.

Under old business, Mr. Norris reported that investigation indicates that the oil barge ELK RIVER was grounded near Moss Point on 12/13/76 allegedly because the Captain lost his bearings in fog, and that the new power line crossing in the area did not appear to be a factor in the grounding. The Coast Guard has promised to give us a full report when completed. Mr. Dutton requested a copy of the final report, and was told that he would receive a copy.

A motion was made to approve the repletion program forms for advertising for bids, bid forms and contract covenants, but did not receive a second because Commissioner Rubelmann requested more time to study the forms.

Mr. Norris reported that at present there seems to be no realistic possibility of receiving additional Federal Aid Funds, but an application was still on file with the EDA. Mr. Dutton said there was a Federal/State Relations man in Charles County who could possibly be helpful.

There being no other old business, new business was declared in order.

Disbursements for the months of December 1976 and January 1977, itemized lists of which had been circulated to the Commissioners, were considered. December totaled \$5,941.12 and January totaled \$13,396.59, which included \$4,352.30 in advertising cost of the proposed hand scraping regulations. The following motion was made and seconded:

"That the disbursements for the months of December 1976 and January 1977, totaling \$19,337.71, as listed and presented, be approved." The motion was approved.

Mr. Rubelmann questioned the need for approval at each meeting of the disbursements, in light of the careful annual audits, which always found everything accounted for properly. The Chairman suggested that should be an item for consideration by the incoming Chairman.

A statement of funds on hand, as of February 2, 1977, was presented. It showed \$10,852.96 in checking and a \$10,000 C/D with the Bank of Westmoreland, Inc. plus \$150,000 in C/D's equally divided among the Bank of Southern Maryland, the Maryland Bank and Trust Co. and the Peoples Bank of Montross, for a total of \$170,852.96 cash on hand and in the bank.

Mr. Douglas read the recommendations of the Repletion Committee for the coming year. They were as follows:

1) Survey and mark the Jones Shore area with at least six (6) permanent markers to enable development of an orderly and systematic rotation plan using the area more as a seed area than as a market area.

2) Transplant seed from Jones Shore after a survey is made to determine amount of 1976 set, if any. Plant Sheepshead, Herron Island, Huggins and Ragged Point. Plant seed at the rate of 300 bushels an acre. Move up to 50,000 bushels.

3) Use the balance of available funds to plant shell on Jones Shore. If there is little difference between the cost and availability of green and reef shells, plant the green shells first at the rate of 5,000 bushels per acre and, if needed, reef shells at the rate of 3,000 bushels per acre.

4) If any additional funds are available, use these funds to plant shells, either green or reef, on Cornfield Harbor, Great Neck and Thicket Point as a "set and grow" area.

5) No money should be spent on bagless dredging.

6) The repletion program should be supervised by PRFC and its agents.

The following motion was made and seconded:

"That the repletion program, as outlined above in order of priority, be adopted for 1977." The motion was approved.

Mr. Sayre questioned the use of Jones Shore as a seed area, expressing his fears of losing tonging areas. It was explained that if the rotation plan was used, only a small portion of the entire area would be taken out of production in any one year.

The Chairman announced the Nominating Committee slate of Officers for 1977 to be: Mr. Robert J. Rubelmann, Chairman; Mr. James E. Douglas, Jr., Vice-Chairman and Mr. John T. Parran, Jr., Secretary. There being no further nominations, a motion was made, seconded and unanimously approved to elect the above slate of Officers for 1977.

Before turning the Chair over to Mr. Rubelmann, Mr. Douglas took a moment to express his gratitude to the watermen for their interest and cooperation with the Commission during meetings and their many suggestions at other times during the past year.

The following motion was made and seconded:

"That the audit report made jointly by the Maryland and Virginia State Auditors for the fiscal year July 1, 1975 through June 30, 1976, which contains no exceptions to the operations of the Commission, be accepted." The motion was approved.

The question of ice damage (if any) to the jurisdictional line markers was discussed. The Chairman directed the Executive Secretary to proceed with replacement and/or repair, as may be necessary.

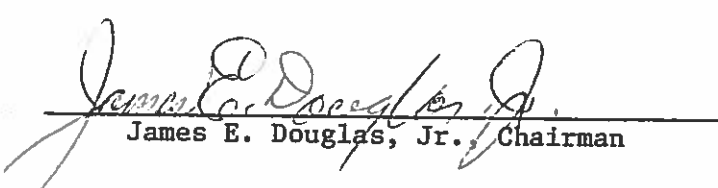
Mr. Douglas and Mr. Rubelmann each made statements to the effect that hand scraping was approved on an experimental basis, and that the Commission will support strict enforcement of the regulations and will use its power to revoke licenses, if violations are serious or repetitive.

Mr. Tucker Brown questioned the ability of an enforcement officer to set the trial of an alledged offender in Virginia, if he is a Maryland resident. He was informed that the Compact gives the enforcement officer that authority.

Mr. Sayre asked that the record show him as opposing a crab pot season and leasing oyster bottoms in the Potomac River.

In response to several questions regarding the hand scraping licenses, Mr. Norris said that the licenses would be available at Colonial Beach, Leonardtown and La Plata about 10 days before March 7th.

The next meeting was set for April 1, 1977 at 10:00 a.m. in Colonial Beach. A motion to adjourn was made, seconded and approved at 12:50 p.m.


James E. Douglas, Jr., Chairman


Milton T. Hickman, Secretary

- Regulations -

POTOMAC RIVER FISHERIES COMMISSION

FOR LICENSING AND TAKING OF OYSTERS,
BY HAND SCRAPES
FROM THE WATER OF THE POTOMAC RIVER.

- Issued By -

POTOMAC RIVER FISHERIES COMMISSION
222 Taylor Street
Colonial Beach, Virginia 22443
804-224-2923

Reg. I Section 2 (f) (1). For each individual working on any boat used in taking or catching oysters by hand or ordinary tongs, a license fee of \$12.50. No oysters shall be taken by tongs, power dredging, and/or sail 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 31st day of March next succeeding. Before engaging in the catching or taking of oysters by hand shaft tongs, each operator of boat(s) or vessel(s), used in tonging oysters, shall be issued a set of "oyster tonging" (OT) tags, which shall be firmly attached to both sides of the vessel(s) described in the license. The tags shall be positioned on or above the hull forward, but not on or near the bow, and in such a manner as to be clearly visible to passing boats. It shall be unlawful to tong oysters from any boat(s) or vessel(s) not displaying said tags. Tags shall be issued for a fee of \$3.00 per set. (Amendment adopted 6-24-66, effective 7-31-66; amended 7-31-67, effective 8-31-67; amended 7-19-68, effective 8-19-68, amended 2-4-77, effective 3-7-77.)

Reg. I Section 2 (f) (2). Vessel License - For each boat or vessel used in taking or catching oysters with a hand scrape, a license fee of \$100. Whenever the hand scrape is aboard the vessel the said license shall be aboard the boat or vessel and available for inspection by any authorized enforcement officer of the State of Maryland or Virginia or agent of the Potomac River Fisheries Commission. No more than one license may be issued to any one vessel for a hand scrape and no more than one hand scrape may be on board any vessel so licensed at any time. Each vessel so licensed shall be issued a set of "hand scraping" (HS) tags, which shall be

firmly attached to both sides of the vessel described in the license. The tags shall be positioned on or above the hull forward, but not on or near the bow, and in such a manner as to be clearly visible to passing boats. It shall be unlawful to hand scrape from any vessel not displaying said tags. A replacement set of tags will be issued for a fee of \$5.00 upon proof of loss of the original tags. (Sub-section (f) (2) adopted 2-4-77, effective 3-7-77.)

Reg. I Section 2 (f) (3). Personal License - For each person aboard a vessel licensed for hand scraping, a license fee of \$100. (Sub-section (f) (3) adopted 2-4-77, effective 3-7-77.)

Reg. II Section 1 (c). Dredge - Any power or sail dredge scoop, or similar device used in taking or catching shellfish by dragging, which is hauled and operable by the use of a winch, winder, spool, or other hoisting gear, the use of which on the Potomac River is prohibited by the Potomac River Compact of 1958. (Amendment adopted 2-4-77, effective 3-7-77.)

Reg. II Section 1 (d). Hand Scrape - Any device or instrument with a catching bar having an inside measurement of no more than 22 inches, which is used or usable for the purpose of extracting or removing shellfish from a water bottom or the bed of a body of water, which device has no external or internal power source and is cast, hauled, and operable only by hand, without attachment to any winch, winder, spool, or other hoisting gear. (Amendment adopted 2-4-77, effective 3-7-77.)

Reg. II Section 2 (a) (1). Devices for Taking or Catching Oysters. It shall only be lawful to take, catch or remove oysters commercially from the waters of the Potomac River by shaft tongs operated by hand from a boat without underwater assistance, or by means of a hand scrape, as defined in these Regulations, and by no other means. (Amendment adopted 11-19-71, effective 1-1-72; amended 2-4-77, effective 3-7-77.)

Reg. II, Sec. 2 (a) (2) Time For Use And Possession of Hand Scrape. During 1977 the use of a hand scrape shall only be permitted on Mondays through Fridays, inclusive, during the month of March; and in addition, on Mondays, Wednesdays and Fridays during the months of November and December 1977. Thereafter, the use of a hand scrape shall only be permitted on Mondays, Wednesdays and Fridays of November and December of each year. On any of the

aforesaid permitted days, the use of a hand scrape shall only be permitted during the hours of 9:00 a. m. to 12 noon, legal established time, in such areas as shall from time to time be designated by the Commission as hand scraping areas. Possession of a hand scrape shall be permitted during the aforesaid times and for one (1) hour before and for two (2) hours after such hours. The use or possession of any hand scrape at any other time is unlawful. (Sub-section (a) (2) adopted 2-4-77, effective 3-7-77.)

Reg. II Section 2 (a) (3). Equipment Prohibited - No power or hand-operated winder(s) or tongs may be used or possessed aboard the licensed vessel at the same time as said hand scrape, nor may any other power mechanism be aboard said vessel except the propulsion system or safety equipment not adapted for power winding. (Sub-section (a) (3) adopted 2-4-77, effective 3-7-77.)

Reg. II, Sec. 2 (a) (4) Closed Areas. The following areas shall be closed for the purpose of taking or catching, or attempting to take or catch oysters by means of a hand scrape at any time:

- (1) Being all that portion of the Potomac River commonly known as Jones Shore and Cornfield Harbor and enclosed within the following described boundaries: "Beginning at the Potomac River Fisheries Commission marker 'PRM 1 B' (38° 06' 13" North Latitude, 76° 24' 57" West Longitude) at Klits Point, St. Mary's County, Maryland; thence southeasterly to a point (38° 05' 35.5" North Latitude, 76° 24' 17.8" West Longitude) at the SMITH CREEK APPROACH LIGHT #2 (LL 3330) at the mouth of Smith Creek; thence southwesterly to a point (38° 04' 31.5" North Latitude, 76° 26' 04.2" West Longitude) at ST. MARY'S RIVER JUNCTION LIGHTED BUOY (LL 3334) at the mouth of St. Mary's River; thence southeasterly to a point (38° 01' 36" North Latitude, 76° 19' 20" West Longitude) at POINT LOOKOUT LIGHT (LL 2727), Point Lookout; thence northerly to Point Lookout; thence northwesterly following the jurisdictional boundary of the Commission to marker 'PRM 1 B' the point of beginning."

AND

- (2) "All areas lying upstream from a straight line between a point (38° 10' 37.1" North Latitude, 76° 32' 59" West Longitude) at HERRING CREEK JETTY LIGHT #1 (LL 3352) at the mouth of Herring Creek in St. Mary's

County, Maryland and a point (38° 05' 54'' North Latitude, 76° 34' 50'' West Longitude) at BONUM CREEK NORTH JETTY LIGHT (LL 3350.52) at the mouth of Bonum Creek in Westmoreland County, Virginia."

The foregoing delineation of closed areas shall not be construed to limit or proscribe the Commission's authority to open or close areas pursuant to these Regulations, (Sub-section (a) (4) adopted 2-4-77, effective 3-7-77) (Note - "LL" refers to Coast Guard Light List.)

Reg. II Section 2 (e). Gear for Taking Oysters. It shall be lawful for any citizen of the State of Maryland or of the Commonwealth of Virginia, upon obtaining the requisite license or licenses as provided by the Regulations of the Potomac River Fisheries Commission, to take, catch or remove oysters from the Potomac River with ordinary shaft tongs or with a hand scrape, and by no other means. It shall be unlawful for the owner, captain, 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, power and/or sail dredge, patent tongs or any power or hand-operated winch, spool, winder, or other tackle used or usable in power or sail dredging and/or patent tonging unless said person has a written permit from the Potomac River Fisheries Commission. (Amendment adopted 2-4-77, effective 3-7-77.)

Reg. II Section 2 (f). Culling of Oysters. All oysters taken from the Potomac River shall be culled at the point where taken by the person or persons taking, catching or removing said oysters. All oysters whose shells measure less than three inches in length, exclusive of cultch, 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 oyster, including the larger oysters, shall be returned to the rock, bed, or shoal whence taken. All shells, and any oysters measuring less than three inches in length, once passed the culling board, shall be deemed in possession of the licensee and not having been lawfully 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 for inspection at least one-half (1/2) bushel of oysters from any portion of the cargo,

provided that said entire ½ bushel examined shall be taken at one place in the pile of oysters, including therein the right to take for inspection any tub of oysters shoveled during the unloading process, 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. (Amendment adopted 6-24-66 effective 7-31-66; amended 7-31-67, effective 8-30-67; amended 2-4-77, effective 3-7-77.)

Reg. II, Sec. 3 (b) Commission's Authority To Open And Close Areas. The Commission may, by appropriate order, whenever it deems necessary, open or close the entire River, or any parts thereof, to the catching, taking or removing of oysters, either for certain periods or times, or as to the method or means of taking same, or both. Except in cases of emergency, when the Commission shall deem necessary to open or close the River or any parts thereof as aforesaid, it shall give at least five (5) days prior notice of such opening or closing including the area to be opened or closed and the period thereof. If the Commission declares an opening or closing to be of an emergency nature, a description of the area, or areas, shall be posted at the office of the Commission together with a copy of the order of opening or closing. The Commission shall also give immediate notice of the opening or closing through the local communications media. In making determinations of such openings or closings, the Commission shall consider the protection, promotion, growth and conservation of the oyster resources, including seed beds, shells and other cultch, and the repletion and rehabilitation of the oyster industry in the River. It shall be unlawful to take, catch or remove any oysters from the River in violation of any order of the Commission passed pursuant hereto, and such violations shall be enforceable and punishable in the same manner as other violations of these Regulations. (Amendment adopted 7-31-67, effective 8-30-67; amended 2-4-77, effective 3-7-77.)

Reg. II Section 3 (d). Weekly Reports of Catch of Oysters. Every operator of a boat with "OT" or "HS" tags engaged in the business of taking, catching or removing oysters within the jurisdiction and under the authority of the Potomac River Fisheries Commission shall have in his possession and available for inspection an accurate and complete daily account of the required information of the boat's catches on forms to be supplied or furnished by the Potomac River Fisheries Commission, and submit this report

weekly. Said reports shall be mailed in time to arrive at the Potomac River Fisheries Commission office not later than Thursday of the following week. (Sub-section (d) adopted 7-31-67, effective 8-30-67; amended 2-4-77, effective 3-7-77.)

Reg. IV Section 1 (a). All persons buying, taking, or dealing in Potomac River oysters, or tongers, or hand scrapers, marketing or planting their own, or another's oysters, shall keep an accurate and complete daily account of their purchases, dealing, marketing, or planting, and submit this account weekly, with the tax payment due thereon, to the Potomac River Fisheries Commission not later than Thursday of the week following, on forms to be furnished by the Potomac River Fisheries Commission. (Section 1 (a) adopted 6-24-66, effective 7-31-66; amended 7-31-67 effective 8-30-67; amended 2-4-77, effective 3-7-77.)