

POTOMAC RIVER FISHERIES COMMISSION
LA PLATA, MARYLAND
SEPTEMBER 9, 1977

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

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

VISITORS: Senator James C. Simpson, Md. State Senator; Scarlett S. Mower, Aide; Delegate Calvin G. Sanford, Va. House of Delegates; Robert V. Hancock, Howard S. Hudnall, C. E. Thomas, Jr., Virginia Marine Resources Commission; Harry L. George, Paul C. Wentzell, H. C. Batchelor, Janet Van Lassel, Philip R. Mohler, Maryland Department of Natural Resources; Doug Ritchie, Marine Extension Agent, CES; Elgin A. Dunnington, University of Md., CBL, Dexter Haven, William J. Hargis, Jr., Herbert M. Austin, VIMS; Jon C. Paulson, Edward A. Ames III, C. I. Manning, Walter Parkinson, Jerry L. Elliott, Clifford D. Reynolds, H. M. Webb, Jr., Alan L. Hundley, George C. Hundley, Harry T. Stine, Robert R. Lousman, Tucker Brown, Robert T. Brown, Irving Daiger, Irene E. Coultly, James W. Dutton, Melvin Hart, Eugene Scott, Thomas Shymansky, James Louis Hancock, Walter I. Maddox, Wallace M. Maddox, William L. Bowie (plus about 20 visitors who did not sign the list).

PRESS: Jim Henderson, Westmoreland News; Rusty Dennen, Free Lance-Star; Jack Kieshaw, The Enterprise, Anne Hazard, Richmond Times-Dispatch.

The meeting was called to order at 9:45 a.m. by Chairman Robert J. Rubelmann, who then asked for consideration of the Minutes of the June 3, 1977 meeting, mimeographed copies of which previously had been circulated to each Commissioner. The following motion was made and seconded:

"That the Minutes of the June 3, 1977 meeting be approved as written and distributed." The motion was approved.

Mr. Norris reported that during the 1977 Oyster Repletion Program eight (8) middle river bars were sprinkled with 104,600 bushels of seed oysters from Jones Shore, at a total cost of \$54,466.59. Also, 385,831 bushels of shell cultch were planted on 100 acres of Jones shore - this utilized both fresh and reef shells and cost \$105,373.80. He said that seed transplanting was discontinued because of lack of funds, not lack of seed as counts per bushel were still well within acceptable limits and the supply seemed good. Mr. Dunnington said that having seed available, but not being able to move it, pointed out the need for increased funding of the PRFC.

Mr. Carpenter reported that work on replacement and/or repair of the jurisdictional line markers was about one-third (1/3) completed, and that it was being done on a time and material basis. At this point, it seemed the total cost should be reasonably close to the budgeted cost.

Mr. Norris read the list of proposed license fee changes agreed upon by the Finance Committee on August 3, 1977. In addition to the changes in the dollar amounts of the license fees, which are listed below, the Committee recommends: 1) combining Anchor and Stake Gill nets into a single license; 2) have separate haul seine license for a 1200 foot net and a 2400 foot net; 3) have separate licenses for fish pots and eel pots; 4) combine all crab trot line licenses into a single license; 5) that the license year for clamming be changed to a calendar year basis.

Proposed New License Fees:

Anchor or Stake Gill Net	\$25	Hand Tong	\$50
Drift Gill Net	40	Tong Boat Tags	5
Haul Seine up to 1200'	35	Hand Scrape-PERSONAL	100
Haul Seine up to 2400'	70	Hand Scrape-VESSEL	100
Pound Net	60	Oyster Buyer	50
Fish Pot	25	Any Crab Trot Line	25
Eel Pot	50	Peeler Trap	10
Fish Trot Line	10	Crab Pot	50
Fyke Net	15	Crab Buyer	50
		Clam	100

Mr. Wise said that he had prepared the modifications in fees, etc., in PRFC regulations for advertising and incorporated only the above-mentioned changes, and that as written they were of sufficient legal content to be in compliance with the requirements of the Compact.

Mr. Dutton stated, as a member of the Finance Committee, it was his understanding that the regulation allowing use of one (1) free household crab pot would be eliminated if license fees are increased, Mr. Rubelmann said this proposal needs further study and consideration and requested it be considered by the Legislative Committee.

There was a brief discussion on a few of the proposed changes in fees. Mr. Rubelmann then said the proposed changes must be advertised and a public hearing held allowing ample opportunity for discussion and consideration of the proposals. He requested that the proposed changes be attached to and made a part of these Minutes. The following motion was made and seconded:

"That the proposed changes in license fees and licenses listed above be approved for advertising for public hearing." The motion was approved.

The Chairman directed consideration by the Legislative Committee of a change in the size of striped bass from pounds to inches; modification of the household use of a free crab pot, and any other regulation changes which would seem appropriate; and requested that the Legislative Committee meet early in 1978 to begin these studies.

An administrative procedure for enforcing the seafood catch reporting provisions of the PRFC regulations was presented by Mr. Carpenter and Mr. Wise. The procedure involves sending the delinquent licensee a "Notice of Failure to Submit Catch Reports", followed by a "Notice of Hearing", then a hearing held before a Commission appointed Hearing Officer, then the Hearing Officer reporting his findings and recommendations to the full Commission, who would then take final action. The Commission's final action could be: 1) no action, 2) suspend license(s), 3) revoke license(s), 4) or refusal to issue new license(s). The Chairman stated that this system would take about 90 days before final action by the Commission; but if the "consecutive step" system above is used by the licensee as a delaying tactic in submitting the reports, one of the administrative penalties may still be imposed, even though the reports were filed before final action of the Commission. This procedure affords the licensee "due process" through the hearing process, and the licensee could still appeal any final Commission action through the court system. The following motion was made and seconded:

"That the administrative procedure for enforcing the seafood catch reporting provisions of the PRFC regulations, as stated above, be approved for immediate use." The motion was approved.

Mr. Rubelmann reported that upon learning that the PRFC has been charged an export tax on reef shells purchased from Maryland, he had begun an investigation to determine why the PRFC is being charged the export tax. He has requested an opinion from the Attorney General's Office and hopes to have an answer for the Commission by or before the next meeting.

Mr. Robert V. Hancock reported that he and Major Harry George had met and discussed problems and procedures of law enforcement on the Potomac. He stated that they were in agreement on most issues, but due to some last minute changes in the language of their report, it was not ready now but would be submitted as soon as possible through the Executive Secretary. Mr. Rubelmann asked if Mr. Hancock would outline the areas of agreement. In response, Mr. Hancock said that better radio communication between the Maryland and Virginia law enforcement men was desirable, but there are minor technical problems; monthly meetings between the supervisors would be started; all new officers on the Potomac should be given a tour of briefing of the PRFC to be informed of its regulations and its general operating procedure.

The use of warning tickets was explored but no satisfactory agreement was reached. On the question of where to set trial for an alleged offender, it was agreed that the alleged offender should always be taken to his home state, unless the possibility of physical danger existed, and then the nearest place of incarceration should be utilized, but the language outlining this procedure is being studied currently. Mr. Rubelmann requested that the report be submitted to the Legal Officer for review before being placed in the hands of the Commission.

Mr. Wise reported that the Supreme Court decision in the case of Seacost vs. Douglas was vague in respect to residency requirements for licenses, and he suggested that this Commission take no action to change its regulations until such time as the decision affects the PRFC directly.

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

The Chairman asked the Commissioners to examine the cumulative disbursements listed in their folders for the months of March through June 1977. He noted that each budget line compared with the total (not itemized) disbursements and the budgeted amount for that item. The following motion was made and seconded:

"That the disbursements for the months of March through June 1977, totaling \$136,713.88 (of which \$106,407.63 was for oyster repletion expenses), be approved." The motion was approved.

A statement of funds on hand, as of September 8, 1977, was presented. It totaled \$111,898.74, which includes \$11,898.74 in checking account and the balance of \$100,000 in C/D's. Mr. Hickman noted that the Maryland appropriation has not been received. Mr. Rubelmann said that it will be forthcoming in the near future.

Mr. Norris reported that the PRFC had been requested to supply the Virginia Department of Planning and Budget with a projected appropriation request for the next six (6) years. After discussion with Commissioner Douglas, he had requested \$100,000 annually for the next two (2) years (1979-80), \$150,000 annually for the next two years (1981-82) and \$175,000 annually for the final two years (1983-84). He stated that a lone line request, rather than an itemized request was submitted because the Commissioners by virtue of provisions of the Compact adopt and approve a budget, and it has never gone through the usual budgetary channels of the two states because differing accounting systems are involved. Mr. Rubelmann said that the Secretary of the Department of Natural Resources would like to have an itemized PRFC budget, rather than a one line request, when he is preparing the DNR budget. Mr. Rubelmann said that the PRFC would have to prepare its budget much earlier and submit it to DNR for inclusion in DNR's budget request. The net effect of this would require preparing a PRFC budget two years in advance.

Mr. Norris asked for authority to destroy obsolete records under the supervision of and with the joint approval of the Maryland and Virginia State Auditors. These would include the: 1) 1973-74 Oyster Buyer's and Tax Remittance Reports, 2) 1974 Fish, Crab and Oyster License Applications with the first carbon copy of licenses, and 3) 1974 Seafood Catch Reports. The following motion was made and seconded:

"That the destruction of the listed obsolete records, as approved by the Maryland and Virginia State Auditors, be approved." The motion was approved.

The following motion was made and seconded:

"That one (1) inoperative R. C. Allen adding machine purchased in 1967 and one (1) brief case purchased in 1964 be declared surplus." The motion was approved.

Mr. Elgin Dunnington reported that an informal check on the conditions of the oyster bars was conducted on August 30 and 31. He said that in general conditions looked normal for this time of the year - most oysters were not fat because they were spawning or had just finished spawning. He noted a very low mortality throughout the river and observed a good set on Cornfield Harbor, but no set was seen in the upper river.

There were several requests by persons present to have the upriver bars opened for harvest this season, and one request for Saturday tonging. After a few minutes of discussion of the subject, both pro and con, the Chairman asked the scientific advisors to evaluate the opening of the upriver bars and to report their recommendations at the next meeting.

Mr. Rubelmann announced that recent discussions about a PRFC office in Maryland had been held by Secretary Coulter of the DNR, Commissioner Parran, Maryland State Senator James Simpson, himself and others. DNR has recently opened a branch office in the Mechanicsville area of St. Mary's County, and Mr. Coulter has offered to make office space and personnel available to the PRFC for a Maryland office. Mr. Rubelmann said he felt that a Maryland office would be very beneficial to the Maryland watermen, who would be able to get information and purchase any PRFC license through this office. With DNR making space and personnel available, any other costs to the PRFC should be minimal.

Mr. Dutton questioned this action, stating that he felt it would only result in more cost and confusion. He said that the only PRFC license that cannot be obtained from the Clerks of the Courthouses in Maryland at present is a fixed location fishing device, and the master chart system in Colonial Beach seems to be working satisfactorily for everyone. Besides, for many Maryland watermen, it would be more convenient to travel to Colonial Beach than to Mechanicsville.

Mr. Norris asked if opening a PRFC office in Mechanicsville would mean that the arrangements with the Courthouses for issuing PRFC licenses would be discontinued. He was answered that it would not alter any arrangements with the "Clerks" Offices in Maryland.

Mr. Douglas said that under this proposed arrangement, the PRFC would have very little, if any, capital investment in a Maryland Office, and if it did not work out satisfactorily, the PRFC could withdraw without any loss of funds. He made the following motion, which was seconded:

"That the staff study the details, including a cost estimate, of a Maryland office, and present their report at the next meeting." The motion was approved.

Mr. Robert Brown said that the difference between the hours for clamming in other Maryland waters and the Potomac during the months of June, July and August could be a serious problem when the clam population in the Potomac reaches a harvestable level. He asked that the PRFC modify its order to be in agreement with the Maryland regulations before the problem presents itself. The following motion was made and seconded:

"That the legal officer prepare an amendment to our Regulations to make the hours for clamming during June, July and August agree with the Maryland regulations for that period." The motion was approved.

Senator Jim Simpson made a brief statement asking for uniformity between the Maryland, Virginia and PRFC regulations. He also stated that he had been one of the major supporters of a PRFC office in Maryland, but in light of the opposition expressed here today, he felt additional consideration of the proposal was in order.

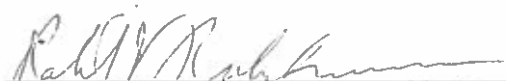
Mr. Robert Brown explained some problems he was having in getting the Maryland Wildlife Service to remove some "duckblind markers" (driven wood pilings), which were placed in haul seine berths around St. Clement's Island. Mr. Rubelmann assured him that he would contact the Wildlife Service and have the markers moved.


Mr. H. M. Webb, Jr., representing the Virginia Watermen's Association, presented a petition signed by 21 Virginia watermen requesting that Great Neck be closed to hand scraping this season. The Chairman said that hand scraping had been started as an experiment with very strict regulations and that changing the areas before the experiment had been completed would only make evaluation that much more difficult. Besides, it was too late to effect any change in the regulations before the beginning of the land scrape season. Therefore, the request to close Great Neck was not considered further.

Mr. Carpenter reported that the Charles County Economic Development Commission was actively seeking the location of a cardboard recycling plant in the Morgantown area. He advised that details were very sketchy, and he would keep the Commission advised on developments as they were available. Mr. Rubelmann said that the Water Resources Administration would be responsible for issuing any discharge permits and that all information concerning the issue would be available through them in time to make appropriate comments.

The next meeting and public hearing on Proposed Regulation modifications was set for December 2, 1977 at 9:30 am- the Chairman to announce the place at a later time.

At 12:25 p.m. a motion to adjourn was made, seconded and approved.


Robert J. Rubelmann, Chairman


John T. Parran, Jr., Secretary

September 9, 1977

NOTICE OF HEARINGPROPOSED 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 relating to license fees are proposed by the Potomac River Fisheries Commission.

Reg. I, Section 2(a) is amended by deleting from the third line thereof the words "Four (\$4) Dollars.: and inserting in lieu thereof "\$25." and by deleting from the fourth line thereof "\$3", and inserting in lieu thereof "\$10."

Reg. I, Section 2(b) is amended by deleting from the third line thereof "\$10." and inserting in lieu thereof "\$25."

Reg. I, Section 2(c) is amended by deleting from the second line thereof "\$15." and inserting in lieu thereof "\$25."

Reg. I, Section 2(d) is amended by deleting from the second line thereof "\$20." and inserting in lieu thereof "\$50."

Reg. I, Section 2(e)(1) is amended by deleting from the second line thereof "\$8." and inserting in lieu thereof "\$50."

Reg. I, Section 2(f)(1) is amended by deleting from the third line thereof "\$12.50." and inserting in lieu thereof "\$50.", and by deleting from the last line thereof "\$3.00" and inserting in lieu thereof "\$5."

Reg. I, Section 2(g) is amended by deleting from the second line thereof "\$10." and inserting in lieu thereof "\$50." and also adding thereto the following new sentence "The license issued pursuant hereto may be used by a duly authorized agent or employee of the licensee for temporary or emergency purposes, provided said agent or employee and the license are aboard the boat used in purchasing oysters and the licensee shall continue to be responsible therefor."

Reg. I, Section 2(h)(1) is amended by deleting from the end of the only sentence thereof "\$15." and inserting in lieu thereof "\$60."

Reg. I, Section 2(h)(2) is amended by deleting therefrom the first sentence thereof and inserting in lieu thereof "No anchor gill net shall exceed a maximum length of 1200 feet, and the license fee for any such net, whether of the maximum length or under, shall be \$25. Any person having a license for either a stake or anchor gill net may place either type of net, but not both, at the location for which the license has been issued, without additional fee or license."

Reg. I, Section 2(i)(1) is amended by deleting therefrom the first sentence thereof and inserting in lieu thereof "No stake gill net shall exceed a maximum length of 1200 feet (including lines, stakes, and rings) and the license fee for any such net, whether of the maximum length or under, shall be \$25. Any person having a license for either a stake or anchor gill net may place either type of net, but not both, at the location for which the license has been issued, without additional fee or license."

Reg. I, Section 2(i)(2) is amended by deleting therefrom the first sentence thereof and inserting in lieu thereof "No drift gill net shall exceed a maximum length of 1200 feet and the license fee for any such net, whether of the maximum length or under, shall be \$40."

Reg. I, Section 2(j) is amended by deleting the same in its entirety and inserting in lieu thereof "No haul seine rig shall be used in the Potomac River without first obtaining a license therefor, and the said license shall be present aboard the same boat as the rig whenever the equipment or rig is also aboard or being used for fishing. For each haul seine having a maximum length of 1200 feet or under, the annual license fee therefor shall be \$35. For each haul seine having a length of over 1200 feet and under 2400 feet, the annual license fee therefor shall be \$70. No haul seine shall be used in the Potomac River of a greater cumulative length than

the licensed measurement or 2400 feet, including the brail line if used.

Reg. I, Section 2(k) is amended by deleting from the end of the only sentence thereof "\$5." and inserting in lieu thereof "\$15."

Reg. I, Section 2(l) is amended by deleting from the end of the only sentence thereof "\$5." and inserting in lieu thereof "\$10."

Reg. I, Section 2(m) is amended by deleting therefrom the first sentence thereof and inserting in lieu thereof "No boat or vessel may be used in taking or catching fish or eels with fish or eel pots without first obtaining a license therefor.", and by adding after the last sentence thereof "No fish or eel pot shall have a maximum length in excess of 10 feet. No fish pot shall have a mesh which is less than 2 inches measured at its longest axis. The annual license fee for each boat or vessel fishing fish pot(s) shall be \$25. The annual license fee for each boat or vessel fishing eel pot(s) shall be \$50."

Reg. V, Section 1(b) is amended by deleting from the 19th line thereof "\$25." and inserting in lieu thereof "\$100.", and deleting from the 24th line thereof "July 1st to June 30th" and inserting in lieu thereof "January 1st to December 31st".

NOTICE OF HEARING

Notice is hereby given to all interested persons that a public hearing will be held by the Potomac River Fisheries Commission on the adoption of the foregoing Proposed Amendments to Regulations on Friday, December 2, 1977 at 9:30 a.m. in Colonial Beach, Virginia.

POTOMAC RIVER FISHERIES COMMISSION

By: Robert J. Rubelmann
Chairman

ATTEST:

Robert M. Norris, Jr.
Robert M. Norris, Jr.
Executive Secretary