

POTOMAC RIVER FISHERIES COMMISSION
 COLONIAL BEACH, VIRGINIA
 December 2, 1977

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

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

VISITORS: Supervisor C. E. Thomas, Jr., Va. Marine Police;
 Sargent John F. Mattingly, Md. Marine Police;
 Elgin A. Dunnington, CBL; Dexter S. Haven, VIMS;
 Janet Van Tassel, Philip Mohler, Robert H. Forste,
 DNR; Howard S. Hudnall, VMRC; James W. Dutton,
 Pres., Charles County Watermen's Association;
 Richard Holbrook, William Atwell, Stanley Rollins,
 R. S. Doyle, L. L. Curley, Elgin Nininger, William
 Bowie, Alan T. Hundley, George Poe, Alvin Haynie,
 James Weeks, Wallace Owens, Willard W. Elliott,
 Larry Crowder, William E. Green, James F. Simms,
 Lawrence Self, Robert T. Brown, Douglas Jenkins.

PRESS: Isabel Gough, Richmond News Leader; Anne Hazard,
 Richmond Times-Dispatch; Rusty Dennen, Free Lance-
 Star; Lawrence Latane, Westmoreland News; Dick
 Myers, Maryland Independent; Jack Kershaw, The
 Enterprise.

The meeting was called to order at 9:35 a.m. by Chairman Robert J. Rubelmann, who said that the Public Hearing on the proposed regulation changes would be delayed until 10:00 a.m., as it had been advertised for that time. He asked for consideration of the Minutes of the September 9, 1977 and November 11, 1977 meetings, mimeographed copies of which previously had been circulated to each Commissioner. The following motion was made, seconded and approved:

"That the Minutes of the September 9th and November 11, 1977 meetings be approved as written and distributed."

Mr. Carpenter reported that replacement/repair of the PRFC jurisdictional line markers on both sides of the river from the mouth to Indian Head and Occoquan has been completed, and the total cost of all materials, paint, hardware, daymarkers and labor for the 57 markers is \$21,425.18. Mr. Norris, Mr. C. E. Thomas, Jr., and Mr. Carpenter personally supervised the work, which took 26 1/2 days to complete. He also reported that the installation of the six (6) seed area markers on Jones Shore had been completed under similar supervision in 6 1/2 days, at a cost of \$4,500.35. The total project cost for both the Jurisdictional and Jones Shore Markers is \$25,925.53. By comparison, he said that the cost of installation of the Jurisdictional line markers in 1968-69 was \$32,393.68.

Mr. Rubelmann re-capped the administrative procedure for enforcing the seafood catch reporting provisions of the PRFC regulations adopted at the September meeting and asked the Commissioners for thoughts on appointment of a Hearing Officer. Mr. Norris reviewed the problems which necessitated the adoption of this procedure, and Mr. Wise reviewed the procedure. Mr. Parran said the various Watermen's Associations could and should be helpful in convincing each waterman of the value and necessity of the catch reports and asked for their support in correcting this problem. He said that probably a written request for the associations' cooperation on this matter would be beneficial. He then made the following motion, which was seconded:

"That each Commissioner be authorized to act as a Hearing Officer and that the Executive Secretary proceed to schedule such hearings as may be necessary." The motion was approved.

* The Chairman reported that the final report of the Chief Law Enforcement Officers of Maryland and Virginia on enforcement procedures on the Potomac had been received and accepted. It is substantially the same as outlined at the September meeting, with the provision that an alleged offender be taken to his home state for jeopardy, in which case the nearest or most accessible court jurisdictional facilities would be utilized.

CORRECTION - insert following line between lines 4 and 5 of last paragraph on page

"trial unless the enforcement officer determines that human life or safety is in"

Mr. Norris reported oyster harvest data for October 1st through November 26th as follows: licenses issued - hand tonging 1031, hand scraping 36, buyers on boats 16, unlicensed buyers 27, "OT" tags for boats 544, "HS" tags 19. He said that hand scraping effort in river is light with 2,288 bushels reported taken. Including this figure, a total of 91,447 bushels of oysters have been reported by buyers, with an inspection tax total of \$22,344 paid. Since the upper river bars have been opened, 240 tonging licenses have been sold, but these are included in the total of 1031 listed above. He pointed out that 20,942 bushels taken from newly opened bars have been reported by buyers, also included in the above total, with some buyers' reports still not received in PRFC office. He added that some sources think that as many as 50,000 bushels have been taken off the upriver bars, and that these figures indicate the need of more accurate and prompt reporting by the watermen. Mr. Robert Brown suggested that the reduced effort in hand scraping reflects the higher license fees, and that the oystermen can make more money elsewhere. The following motion was made and seconded:

"That the upriver oyster tonging areas opened at the November 11, 1977 meeting, remain open until further notice." Mr. Parran said that he could only support the continued opening with the understanding that the watermen would provide better catch reports. The motion was then approved.

At 10:00 a.m. the meeting was recessed, and the Public Hearing on proposed regulation changes was called to order. Copies of the proposed regulations, as advertised, were distributed. Mr. Rubelmann said that every person could have time to speak to the proposals but would be limited to one statement only.

Mr. Robert Brown stated that the St. Mary's County watermen felt that \$25 was too much for a gill net license and they recommended a \$20 fee. Also, he thought the pound net fee of \$60 was too large an increase and recommended it be reduced to \$25.

Mr. Alan Hundley said the Virginia Watermen agree with the statements and recommendations of the Maryland Watermen.

Mr. Willard Dutton wanted the \$15 fyke net fee to include a 1200 foot location, in which a man could set any number of fyke nets. He also stated his hope that these new license fees would not be changed anytime 'soon'.

There being no further comments on the proposed regulations, Mr. Rubelmann closed the public hearing and reconvened the regular meeting at 10:15 a.m.

Mr. Parran offered the following motion, which was seconded by Mr. Hickman:

"That the license fee for pound nets be reduced from \$60, as advertised, to \$50 and that all other license fees remain as advertised, and further that the foregoing regulations then be, and are hereby, adopted as proposed, to become effective on the 2nd day of January, 1978, provided that the fees set forth herein shall apply to all licenses valid for any period after the 1st day of January, 1978, regardless of when said license shall be issued, and that a copy of said regulations be attached to and made part of these Minutes." The motion was approved unanimously.

The Chairman stated that each Commissioner had received a copy of the annual joint Maryland-Virginia audit report of this Commission for the fiscal year ended June 30, 1977. He noted that it contained no exceptions to the operation of the Commission, and he thanked Mr. Norris and the PRFC staff for a job well done. The following motion was made and seconded:

"That the audit report made jointly by the Maryland-Virginia state Auditors for the fiscal year ending June 30, 1977 be accepted." The motion was approved.

Mr. Norris reported that subsequent to the September meeting, he had inquired about the details of establishing a Maryland Office for issuing PRFC licenses. He introduced Mrs. Janet Van Tassel, who is in charge of the Maryland Department of Natural Resources Mechanicsville Regional Office. He found that all Maryland employees are covered by a blanket bond policy, and he has received a joint report from the Maryland and Virginia State Auditors recommending accounting procedures for PRFC licenses sold by the DNR Mechanicsville office. One step is to establish a PRFC bank account in a Maryland bank as a depository for all monies collected, and that withdrawals be made only by PRFC personnel as transfers of funds to the PRFC general account.

Mr. Norris also estimated the cost of this additional service to the watermen of Southern Maryland to be about \$338 for one time set-up charges, such as additional stocks of licenses, applications, other forms and drafting equipment, etc., and about \$1,600 annually to cover such expenses as telephone, travel, postage, tags, charts and the like.

Mr. Wise asked if the blanket bond on Maryland employees also covered PRFC monies. The Chairman asked Mr. Norris to explore this.

Mr. Parran offered the following motion, seconded by Mr. Hickman:

"That the PRFC will accept the offer of the DNR, providing space, facilities and personnel at the Mechanicsville office, to sell PRFC licenses, and that an account be established with the Maryland National Bank, Mechanicsville, Maryland to be a depository for PRFC funds, as recommended by the auditors."

Mr. Dutton, speaking for the Charles County Watermen's Association, stated that they were opposed to the establishment of a Maryland sub-office, because it would only mean additional cost and not an additional service to the watermen.

Mr. Brown said that the St. Mary's County Watermen's Association supported the opening of a Maryland sub-office.

Mr. Parran withdrew his motion, and Mr. Hickman withdrew his second. The following motion was then made by Mr. Parran:

"That the PRFC accept the Maryland DNR offer to provide space, facilities and personnel at their Mechanicsville Office to issue PRFC licenses, provided that the expense accruing to the PRFC in providing this additional service will not exceed \$1,800 annually, and that an account be established with the Mechanicsville Branch of the Maryland National Bank, following procedures recommended by Maryland & Virginia State Auditors. The motion was seconded and approved."

Mr. Rubelmann announced that the Maryland Office would begin issuing PRFC licenses after the 1st of January 1978.

Mr. Rubelmann asked Mr. Lankford and Mr. Douglas to serve on the Nominating Committee and asked them to report a slate of officers for 1978 at the next meeting.

After a brief discussion on the 25¢ per bushel oyster inspection tax, the Chairman re-appointed the Finance Committee and asked them to study the difference in the size of the Maryland and Virginia oyster tubs, and if this disparity in tube might be costing the PRFC tax revenue. He also asked that the committee study the feasibility of requesting legislative action to remove the 25¢ per bushel limit imposed by the Compact.

The following motion was made and seconded:

"That the Executive Secretary, Assistant Executive Secretary or the Office Manager of the Potomac River Fisheries Commission are authorized to sign checks and/or withdrawal orders in any amount for the purpose only of transferring funds from the license deposit account in Maryland National Bank to the general operating fund in the Bank of Westmoreland, Inc., Colonial Beach, Virginia." The motion was approved.

The following motion was made, seconded and approved:

"That Mrs. Janet Van Tassel, or her assistant, be authorized to sign licenses, permits and receipts for the PRFC that may be issued at the Mechanicsville, Maryland Office."

Mr. Carpenter reported on the Maryland Environmental Service proposal for a sludge composting facility at Cedar Point Neck, Charles County, to treat sewage sludge from the Blue Plains STP. The Chairman directed Mr. Carpenter to gather all pertinent information on the proposal, submit it to the Commissioners and place this item on the agenda for the next meeting. Mr. Dutton stated his opposition to the proposal as a member of a Citizens Advisory Committee appointed by the Charles County Commissioners to study the proposal, and that this committee had recently voted 12 to 11 against the project after extensive investigation.

A motion was made and seconded as follows:

"That the report of disbursements of \$78,627.32 (including \$53,619.45 for oyster repletion program) for the quarter ending September 30, 1977 be accepted." The motion was approved.

Mr. Robert Brown, on behalf of the St. Mary's County watermen, requested that the Potomac be opened for hand scraping 5 days a week during March and/or April 1978. Mr. Rubelmann reminded him that a portion of the river was opened for hand scraping on an experimental basis, and that he would not like to see the regulations changed at this time.

Mr. Douglas said that hand scrapers were given November and December because of the more favorable market conditions during that time of the year, but if sufficient support for the idea of hand scraping during March existed, he would like to discuss it at the next meeting. He then offered the following motion:

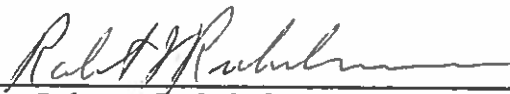
"That the staff prepare a draft regulation allowing hand scraping 5 days a week during March 1978, and that they advertise the proposed regulation at the proper time to hold a public hearing and any possible action by the Commission at the next meeting, which would be at least 30 days before the 1st of March."


He then explained that this motion was in no way a commitment by any one to allow hand scraping during March 1978 - it was merely a necessary step to allow discussion of the subject in sufficient time to effect a possible change, if any, in the regulation. The motion was seconded and approved.

Mr. Richard Holbrook questioned why he was not being allowed to fish two (2) gill net licenses (located 100 yds. and 500 yds. below the 301 bridge on the Maryland shore). Mr. Norris outlined briefly the enforcement problems with these stands in winter of 1977 and recommendations from Charles County Court, which made him decide not to license these locations in the future. After a brief discussion among the Commissioners, the staff and legal counsel, the Commission stated that they would not stop Mr. Holbrook from fishing the two stands in question for the balance of this year; but no one would be issued licenses for 1978 at that location until after the next meeting. They also directed the staff to present, at the next meeting, a full report on the circumstances surrounding the two locations in question. Mr. Holbrook thanked the Commission and said that he would not apply for the licenses for next year until after the next Commission meeting.

The next Commission meeting and Public Hearing on proposed regulation modifications was set for January 27, 1978 at 9:00 a.m. at Colonial Beach, Virginia.

At 11:45 a.m. a motion to adjourn was made, seconded and approved.


Robert J. Rubelmann
Chairman


John T. Parran, Jr.
Secretary

Underlined words indicate new matter added to existing regulations.
 CAPITALS indicate matter stricken from existing regulations.

PROPOSED AMENDMENTS TO REGULATIONS December 2, 1977

Reg. I, Sec. 2(a). (Dip nets, ordinary trot lines and peeler traps) is amended by deleting from the third line thereof the words "Four ('') Dollars." and inserting in lieu thereof "\$25." and by deleting from the fourth line thereof "\$3.", and inserting in lieu thereof "\$10." (Page 2)

Reg. I, Sec. 2(b) (Trot lines on mechanically propelled boats) is amended by deleting from the third line thereof "\$10." and inserting in lieu thereof "\$25." (Page 2)

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

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

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

Reg. I, Sec. 2(f)(1) (Oyster tonging and OT tags) 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." (Page 1 of Supplement)

Reg. I, Sec. 2(g) (Oyster buyer) For each person buying or purchasing oysters in excess of 25 bushels a year on the Potomac River, a license fee of \$10 \$50. 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. (Page 3)

Reg. I, Sec. 2(h)(1) (Pound net) is amended by deleting from the end of the only sentence thereof "\$15." and inserting in lieu thereof "\$50." (Page 3)

Reg. I, Sec. 2(h)(2) (Anchor gill net) FOR EACH ANCHOR GILL NET LOCATION OF 1200 FEET AND UNDER, A LICENSE FEE OF \$15. 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. An anchor gill' net shall be construed to be a gill net that is held stationary at its assigned location 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-end buoy or stake and said tag number shall 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 setting anchor gill nets shall be September 1st through May 31st of each year. An anchor gill net shall not be licensed for any location that has a depth of water greater than 36 feet mean low water. No anchor 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 removed in accordance with the provisions of Regulation I, Section 2(s). (Page 3)

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Reg. I, Sec. 2(i)(1) (Stake gill net) FOR EACH STAKE GILL NET LOCATION OF 1200 FEET AND UNDER, INCLUDING LINES, STAKES AND RINGS, A LICENSE FEE OF \$15. 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. 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 escape. 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 removed in accordance with the provisions of Regulation I, Section 2(s). (Page 4)

Reg. I, Sec. 2 (i)(2) (Drift gill net) FOR EACH DRIFT GILL NET OF 1200 FEET AND UNDER, A LICENSE FEE OF \$15. 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. 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. (Page 4)

Reg. I, Sec. 2(j) (Haul Seine) 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. 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. (Page 4)

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

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

Reg. I, Sec. 2(m) (Fish pots, eel pots) 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. 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. Whenever fish or eel pots are being fished, the license must be aboard the boat or vessel and available for inspection by any authorized enforcement officer of the State of

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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 or buoys; 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. No fish or eel pot shall have a maximum length of 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 pots(s) shall be \$50. (Page 5)

Reg. V, Sec. 1(b) (Soft shell clam) is amended by deleting from the 19th line thereof "\$25." and inserting in lieu thereof "\$100.", and by deleting from the 24th line thereof "July 1st to June 30th" and inserting in lieu thereof "January 1st to December 31st". (Page 26)