

MINUTES OF THE MEETING AND PUBLIC HEARING
OF THE POTOMAC RIVER FISHERIES COMMISSION
LEONARDTOWN, MARYLAND
August 18, 1978

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

Officers - Robert M. Norris, Jr., Executive Secretary;
Kirby A. Carpenter, Asst. Exec. Secretary;
J. Owen Wise, Legal Officer

Visitors - Supervisor C. E. Thomas, Virginia Marine Police;
Major Paul C. Wentzell and Sergeant John F. Mattingly, Maryland Marine Police; Dr. Herb Austin, VIMS; S. M. Rogers, VMRC; Doug Ritchie, University of Maryland Sea Grant; Pat White Coop. Extension Service; Philip R. Mohler, Maryland DNR Extension Service; Harold A. Davis, Jr., and Pam Duket, DNR; Jack Russell, President St. Mary's County Waterman's Association; Larry Simms, President Maryland Waterman's Association; James W. Dutton, George T. Purcell, Rep. Virginia Waterman's Association; Cameron Kelly, George W. Mapp, Jr., Gordon Jones

Press - Anne Hazard, Richmond Times-Dispatch; Rick Boyd, Enterprise; Robert Hedelt, Free-Lance Star

The meeting was called to order at 9:35 a.m. by the Chairman, Mr. James E. Douglas, Jr. Mr. Douglas announced that the first item of business would be the Public Hearing on the proposed regulation changes approved for advertising at the last meeting.

OPEN PUBLIC HEARING

The Chairman asked if the proposed ten (10) regulation changes had been advertised and published in accordance with the provisions of the Maryland-Virginia Compact of 1958. Mr. Norris replied that all the provisions of the Compact had been complied with. Mr. Douglas announced that copies of the proposals were available and that they would be discussed by subject and not order of appearance in the regulation book. The following comments or statements were made on each proposal:

Regulation I, Section 1 (a) - No Comments.

Regulation V, Section 1 (b) (1) - No Comments.

Regulation I, Section 1 (b) - The Chairman stated that this proposal deals with licenses and should not be confused with metal tags which accompany some licenses - no other comments.

Regulation I, Section 2 (a,b,c) - No comments.

Regulation III, Section 12 - Mr. Jack Russell questioned the rationale for taking adult female crabs and was answered that the adult female will not shed again and may never reach 5" size before dying, therefore, could be lost to the industry. Mr. Simms and Mr. Dutton suggested that protection should not be eliminated on the sponge crabs as proposed. Mr. Rubelmann said that the suggested changes would be noted.

Regulation III, Section 12 (c) - Mr. Russell said the St. Mary's County Watermen's Association did not object to the proposal. Mr. Simms wanted the size of the culling container to be optional, i.e., no size proposed. Mr. Purcell suggested that the container not be a basket or barrel.

Regulation I, Section 2 (h) (1) - Mr. Dutton said that the fee for each additional head or trap should be \$25, not \$50 as proposed. Mr. Purcell questioned establishing a season on pound nets. Mr. Douglas stated that this proposal in conjunction with Regulation I, Section 2(s) was being proposed to assure that fishermen would remove stakes to prevent damage by ice or being abandoned either of which creates a hazard to navigation. Mr. Purcell objected to the proposals stating they were unnecessary and would prevent winter fishing during mild winters. Mr. Douglas said that the privilege of using the public waters and bottoms for fishing is being abused too often by leaving hazardous structures and the public is demanding that the stakes be removed.

Regulation I, Section 2 (s) - Mr. Dutton said the reflective tape poses no particular problems for the fishermen.

Regulation III, Section 10 - Mr. Dutton objected to the small mesh being proposed for haul seine and fyke nets, also to restrictions on eel pots. Mr. Rubelmann said he was opposed to the eel pot restrictions. Mr. Ritchie suggested caution on adopting any restrictions on eel pots. Mr. Simms stated that his Association had supported small mesh in Maryland to reduce the gilling of small fish in haul seines, fyke nets and pound nets.

Regulation III, Section 11 - Mr. Dutton said that Potomac fishermen should be allowed to keep up to five (5) black bass for personal use as the practice is allowed in Maryland.

There being no other comments on any of the proposed regulation changes, a motion was made, seconded and approved to CLOSE THE PUBLIC HEARING PORTION OF THE MEETING AT 11:00 A.M.

MINUTES

Mr. Douglas then asked for consideration of the Minutes of the June 2, 1978 meeting saying that mimeographed copies had been previously circulated to each Commissioner. The following motion was made, seconded and approved.

"That the Minutes of the June 2, 1978 meeting be approved as written."

BUDGET

Mr. Norris reported that the FY78-79 Budget presented at the last meeting had been adjusted as of June 30, 1978 by inserting the year-end unexpended cash balance. The FY78-79 Budget now shows a footing of \$339,946.90 as opposed to the \$333,800 (estimated) at the last meeting. The following motion was made and seconded.

"That the FY78-79 Budget totaling \$339,946.90 be adopted." The motion was approved.

REPLETION PROGRAM

A report on the 1978 shell planting was presented. It showed that 280,740 bushels of fresh shells were planted on St. George's, Great Neck and Jones Shore plus 399,259 bushels of reef shells planted on Jones Shore. Fresh shell cost 30½¢ per bushel, reef shell 24.8¢ per bushel, and count and control men \$1,596.84 making the total cost \$185,509.99.

REGULATION CHANGES

A motion was made to amend Regulation I, Section 1 (a) as published and distributed by striking the word "and" in line 1 and inserting the word "or" in its place. The motion was seconded and approved.

A motion was made to adopt Regulation I, Section 1 (a) as amended and Regulation V, Section 1 (b) (1) as published and distributed. The motion was seconded and approved.

A motion was made to adopt Regulation I, Section 1 (b) as published and distributed. It was seconded and approved.

A motion was made to adopt Regulation I, Section 2 (a,b,c) as published and distributed. It was seconded and approved.

A motion was made to amend Regulation III, Section 12 as published and distributed to read as follows:

Kinds and Sizes of Crabs. It shall be unlawful for any person to take, catch or have in possession any hard crabs measuring less than five (5) inches across the shell from tip to tip of spike, except mature female crabs identified by the rounded apron, or any peelers measuring less than three (3) inches across the shell from tip to tip of spike. Once taken, peelers shall be kept separate from other crabs. Peelers are hereby defined as having a soft shell that is developing under the hard shell, on which there is a white, pink or red line or rim on the edge of that part of the back fin next to the outer section of this fin. Nor shall any person take, catch or keep in floats or in his possession any sponge crab, spawn crab, blooming female crab and mother crab, or the female crab from which the egg pouch or bunion has been removed. The enforcement officers on the Potomac River are hereby authorized to confiscate and liberate into the waters of the Potomac River any sponge crab, spawn crab, blooming female crab and mother crab, or female crab, from which the egg pouch or bunion has been removed, where found, and held in violation of this section, and said officers are authorized to confiscate any hard crabs or peelers of a size less than the measurements herebefore provided, wherever found and shall dispose of any crabs so confiscated. A tolerance of four (4) undersized hard crabs per bushel, and ten (10) undersized hard crabs per barrel shall be allowed. (Note: Reference to sponge crab, spawn crab, etc. was proposed to be stricken but re-inserted by above motion.)

The motion was seconded and approved.

A motion was made to adopt Regulation III, Section 12 as amended. The motion was seconded and approved.

A motion was made to amend Regulation III Section 12 (c) as published and distributed by adding the words "which shall not be a basket or barrel" after the word "container" in the first sentence. The motion was seconded and approved.

A motion was made to adopt Regulation III, Section 12 (c) as amended. It was seconded and approved.

A motion was made to amend Regulation I, Section 2 (h)(1) as published and distributed by making the fee for each additional head or trap \$25, not \$50 as proposed. The motion was seconded and approved.

A motion was made to adopt Regulation I, Section 2 (h) (1) as amended with reservation that the dates of the season be subject to change by a motion of the Commission at the next meeting and that the effective date of this regulation shall be December 1, 1978. The motion was seconded and approved.

A motion was made to adopt Regulation I, Section 2 (s) as published and distributed. It was seconded and approved.

A motion was made to amend Regulation III, Section 10 as published and distributed by deleting the words "Each eel pot set in the Potomac shall incorporate at least twenty (20) square inches of 1 inch x 1/2 inch wire mesh in the holding compartment of the pot." The motion was seconded and approved.

A motion was made to adopt Regulation III, Section 10 as amended. It was seconded and approved.

A motion was made to amend Regulation III, Section 11 as published and distributed by deleting the word "any" and adding the words "more than five (5)" before the words "black bass". It was seconded and approved.

A motion was made to adopt Regulation III, Section 11 as amended. It was seconded and approved with Mr. Rubelmann abstaining from voting.

A motion was made and seconded that the foregoing regulations as amended be adopted effective December 1, 1978 and that a copy of same be attached to and made a part of these minutes. The motion was unanimously approved.

HOURS FOR TONGING

The following motion was made and seconded:

"That the hours for tonging oysters in the Potomac River will be from sunrise to 4:00 p.m. EDT (or 3:00 p.m. EST) daily Monday through Friday, and that the cull boards shall be cleared 15 minutes thereafter, and further that this order of the Commission shall remain in effect until further notice." The motion was approved.

Mr. Jack Russell asked if this was the proper time to suggest some changes in the hand scraping regulations. Mr. Douglas said hand scraping had been started on an experimental basis and he suggested that no changes be made without first having been fully discussed. Mr. Douglas directed the staff to arrange a meeting to consider Mr. Russell's request. Representatives of CBL, VIMS, watermen and the staff should participate in this meeting.

APPROPRIATION REQUEST

The following motion was made and seconded:

"That the Potomac River Fisheries Commission request the annual appropriation from Maryland and Virginia be \$100,000 each for the FY 1979 and FY 1980." The motion was approved.

FEES COLLECTED BY PRFC

The following motion was made and seconded:

"That the Commission affirm the policy of charging a fee of \$1 for the replacement of lost identification tag(s) (except HS which is \$5 by Regulation) and for a certified photocopy of lost or misplaced license(s), but that licenses issued to vessels for crabbing, fishing and/or oystering be written in such a manner that any vessel may be used when displaying required tags properly." The motion was approved.

INVESTMENT OF FUNDS

The following motion was made and seconded:

"That the Commission policy of investing funds originally adopted 1/22/71 be continued. That is, that the Executive Secretary follow the policy of maintaining an average balance of \$10,000 in checking account, thereby keeping any funds over this amount in interest bearing accounts." The motion was approved.

CATCH REPORTS

Mr. Carpenter reported that the procedure adopted earlier this year for correcting the failure of watermen to comply with the catch reporting provision of the Regulations had been initiated applying to May and June delinquent crab catch reports. He reported that 397 crab licenses were issued prior to and during that period for which reports should have been filed. Of that number, 189 were sent "first notice" of failure to report, 132 were sent "second notice" and only 56 have still not reported their crabbing activity during May and June. The following motion was made and seconded:

"That the Commission appoint Mr. J. Owen Wise, Legal Officer as the "Hearing Officer" and that he arrange with the Executive Secretary to schedule such hearings for persons delinquent in reporting." The motion was approved. Mr. Douglas thereupon declared Mr. Wise so appointed.

DISBURSEMENTS AND CASH ON HAND

A report on the total disbursements for the April-June 1978 quarter by budget item was presented. It totaled \$126,674.41, \$104,304.11 of which was payment for seed and shell plantings. The following motion was made and seconded:

"That the report of disbursements for the fourth quarter of FY 78 totaling \$126,674.41 be accepted and approved." The motion was approved.

A statement of cash on hand as of August 16, 1978 was also presented. It showed the following:

Bank of Westmoreland: Checking	\$ 4,747.03
C/D's	40,000.00
Bank of Southern Maryland: C/D's	20,000.00
Peoples Bank of Montross: C/D's	15,000.00
Maryland National Bank: Savings	4,664.26
C/D's	30,000.00
Total	\$114,411.29

Mr. Norris said that these investments include Virginia's appropriation of \$100,000 for FY 79 with the Maryland appropriation not yet received.

VIRGINIA EMPLOYMENT COMMISSION

Mr. Wise reported that the Virginia Unemployment Compensation Act was amended in 1977 and became effective on 1/1/78. He said that prior to the 1977 amendment the PRFC was exempt from the Act, but the amendment changed the definition of an "Employment Unit" thereby making the PRFC subject to the provisions of the Act. Mr. Wise related that after researching the Act, it provides two options for payment (1) a quarterly payment at various rates (depending on past experience and the overall state experience) or (2) a reimbursement option, where the PRFC would repay any claims charged against us by the VEC, but under the second option a bond or some other approved security must be maintained. Mr. Wise recommended the Commission elect to "self-insure" under the reimbursement option. Mr. Douglas concurred with this recommendation and stated that the Virginia Appropriation Act contains an item which is a central fund to reimburse any agency of the state in the event unemployment compensation is awarded to any recent ex-employee(s) by the VEC. He thinks the PRFC qualifies to participate in this fund. The following motion was made and seconded:

"That the Commission elect the reimbursement option to comply with the 1977 Amendments to the Virginia Unemployment Compensation Law." The motion was approved.

Mr. Douglas asked Mr. Norris to file necessary forms with the VEC.

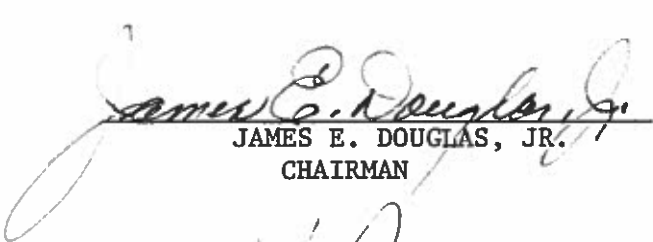
LOCATION OF MEETINGS

Mr. Dutton suggested that future Public Hearings held by the Commission be in Colonial Beach because that location is more central to all watermen of the Potomac who are affected by changes in Regulations. Mr. Douglas thanked Mr. Dutton and said that in the future an effort would be made to hold such meetings at Colonial Beach.

FUTURE MEETING

The date of the next regular Commission meeting was set for October 27, 1978 at 9:30 a.m. in Colonial Beach.

A motion to adjourn was made, seconded and approved at 12:45 p.m.


JAMES E. DOUGLAS, JR.
CHAIRMAN


JOHN T. PARRAN
SECRETARY

(REGULATION I)

Section 1 (a). Any citizen of the States of Maryland or 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, clams 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 Maryland 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 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. (Amendment adopted 11-19-71 effective 1-1-72; amended 8-18-78 effective 12-1-78) ✓

(b) Unlawful Use of License and Giving False Information. It shall be unlawful for any person: (1) to permit any other person to use or exhibit his or her personal oyster tonging, hand scraping or clamming license, or (2) to display or exhibit any oyster tonging, hand scraping or clamming license not issued to that person, or (3) to give false information concerning his or her identity. (Sub-section (b) adopted 8-18-78 effective 12-1-78)

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

(a) For each individual taking or catching crabs commercially by dip nets, trot lines or patent trot lines, a license fee of \$25. (Amendment adopted 6-24-66 effective 7-31-66; amended 12-2-77 effective 1-2-78; amended 8-18-78 effective 12-1-78) ✓

(b) For each peeler trap, a license fee of \$10. (Amendment adopted 6-24-66 effective 7-31-66; amended 12-2-77 effective 1-2-78; amended 8-18-78 effective 12-1-78) ✓

(c) Patent Trot Lines (Amendment adopted 6-24-66 effective 7-31-66; amended 12-2-77 effective 1-2-78; repealed 8-18-78 effective 12-1-78) ✓

(h)(1) Pound Net. For each pound net, a license fee of \$50. A pound net shall be defined as a fixed fishing device with one (1) head or trap on the channel end and only one (1) leader or hedging. For each additional head or trap on same leader or hedging, there will be an additional fee of \$25. The season for fishing pound nets shall be February 15th thru December 15th of each year. The licensee shall be responsible for correctly locating each pound net. Each pound net may be identified by the licensee with at least one permanent marker pole or stake which shall project above the surface of the water at least eight (8) feet at mean high tide and located at the channel end of the structure. The licensee's tag accompanying his license shall be attached to said pole at all times as provided in Regulation I, Section 2 (n). Any pound net set at any other time or in any other manner, than that prescribed in these regulations, shall be unlawful. (Amendment adopted 7-19-63 effective 8-19-63; amended 12-2-77 effective 1-2-78; amended 8-18-78 effective 12-1-78) ✓

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(REGULATION I)(Section 2 Cont'd)

(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 fishing structure or apparatus, whether the net be attached or not, shall be marked with red, water-proof, reflective tape, at least 4" wide and giving 360 degree visibility at the channel end of the fishing structure or apparatus. All fish net stakes shall be pulled and removed from the Potomac River by the licensee within fifteen (15) days after the close of the respective fishing seasons except the pound net marker pole provided in Regulation I, Section 2 (h)(1). The pound net licensee may start setting stakes or poles no sooner than fifteen (15) days before the fishing season. Failure to remove fish net stakes as herein provided shall constitute a separate offense for each and every day said stakes remain after the prescribed time for removal thereof. (Sub-section (s) adopted 6-24-66 effective 7-31-66; amended 11-19-71 effective 1-1-72; amended 3-15-75 effective 9-15-75; amended 3-18-78 effective 12-1-78)

(REGULATION III)

Section 10. Sizes of Mesh. It shall be unlawful to take or catch, or attempt to take or catch, finfish on the Potomac River with any net whose size of stretched mesh is less than herein provided, to wit: pound net 1½ inches; haul seine 1½ inches; fyke or hoop net 1½ inches; or in the case of a gill net a minimum of 2½ inches and a maximum of 7 inches. Nothing in this section shall apply to pound nets set within 1000 feet of the mean low water line. A reasonable tolerance for shrinkage, stretching and/or manufacturing variance shall be allowed in the case of each measurement. (Amendment adopted 6-29-65 effective 7-29-65; amended 7-31-67 effective 3-30-67; amended 12-14-73 effective 2-1-74; amended 3-18-78 effective 12-1-78)

Section 11. Sizes of Commercial Fish. No person shall commercially catch on the Potomac River or take or kill, sell, offer to buy or sell or expose for sale, or have in possession (a) more than five (5) black bass, large or small mouth; (b) any catfish less than 8 inches; (c) any yellow perch Perca Flavescens less than 8 inches; (d) any pike less than 14 inches; (e) any rock, otherwise known as striped bass, less than 12 inches or greater than 32 inches in length; (f) any sturgeon weighing less than 25 pounds; (g) any taylor or bluefish less than 8 inches; (h) any sea trout or weakfish less than 10 inches; (i) and any hardheads or croakers less than 10 inches. Measurements shall be from tip of nose to the end of the caudal fin or tail except in the case of rock (otherwise known as striped bass) wherein the measurement shall be from the tip of the nose to the fork of the caudal fin or tail. (Amendment adopted 6-24-66 effective 7-31-66; amended 12-14-73 effective 2-1-74; amended 3-18-78 effective 12-1-78)

Section 12. Kinds and Sizes of Crabs. It shall be unlawful for any person to take, catch or have in possession any hard crabs measuring less than five (5) inches across the shell from tip to tip of spike, except mature female crabs identified by the rounded apron, or any peelers measuring less than three (3) inches across the shell from tip to tip of spike. Once taken, peelers shall be kept separate from other crabs. Peelers are hereby defined as having a soft shell that is developing under the hard shell, on which there is a white, pink or red line or rim on the edge of that part of the back fin next to the outer section of this fin. Nor shall any person take, catch or keep in floats or in his possession any sponge crab, spawn crab, blooming female crab and mother crab, or the female crab from which the egg pouch or bunion has been removed. The enforcement officers on the

(REGULATION III)(Section 12 Cont'd)

Potomac River are hereby authorized to confiscate and liberate into the waters of the Potomac River any sponge crab, spawn crab, blooming female crab and mother crab, or female crab, from which the egg pouch or bunion has been removed, where found, and held in violation of this section, and said officers are authorized to confiscate any hard crabs or peelers of a size less than the measurements herebefore provided, wherever found and shall dispose of any crabs so confiscated. A tolerance of four (4) undersized hard crabs per bushel, and ten (10) undersized hard crabs per barrel shall be allowed. (Amendment adopted 12-14-73 effective 2-1-74; amended 8-13-73 effective 12-1-78)

(c) Culling of Crabs. Each vessel shall be equipped with one and only one crab culling container, which shall not be a basket or barrel. Any crabs not in such container shall be deemed to be in possession. No crabs shall be in such container while the vessel is in transit and all crabs being transported on the Potomac shall be in baskets or barrels. A boat or vessel shall be deemed to be in transit when crabs are no longer being taken aboard or the boat or vessel is not in close proximity to crab pots identified as those belonging to the licensed vessel containing the crabs. (Sub-section (c) adopted 8-13-73 effective 12-1-78)

(REGULATION V)(Section 1)

(b) (1) Application, License Fee, and Issuance of License. The fee for each soft shell clam license shall be \$100. Every person desiring a license to take or catch soft shell clams in the waters of the Potomac River by hydraulic or mechanical dredge and who fulfills the requirements of Section 1(a) above, shall complete an application for such license on a form approved by the Potomac River Fisheries Commission, which shall include a statement as to the name or number of his boat and the dimensions thereof. The applicant shall make oath or affirmation that he is the owner of the dredge and boat, that there is no lien on either dredge or boat held by a non-resident of Maryland or Virginia, that he shall be the master, captain, and/or operator thereof, that he has been a bona fide resident of Maryland or Virginia for a period of twelve (12) months immediately prior to making of such application, that he shall employ in operating such dredge and boat only persons, who prior to such employment, shall have resided in Maryland or Virginia for a period of one (1) year; and that all information he has furnished is true. Upon receipt of such application to which oath or affirmation has been made, together with the license fee stipulated above, the Potomac River Fisheries Commission shall issue a hydraulic or mechanical soft shell clam dredge license for the Potomac River, which shall be valid from January 1st to December 31st of each year, and which shall not be transferable to any other person. (Amendment adopted 12-2-77 effective 1-2-78; amended 8-13-73 effective 12-1-78)