

**Minutes of the Regular Meeting
Potomac River Fisheries Commission
Colonial Beach, Virginia
September 10, 1998**

Commissioners Present: Kenneth W. Williams, Sr. (VA) – Chairman, Paul H. Kellam, III (MD) – Vice Chairman, Gordon M. Birkett (VA) – Secretary, John T. Parran (MD), William A. Pruitt (VA), William L. Rice, Sr. (MD), Sarah J. Taylor-Rogers (MD), and John W. White, Sr. (VA).

Officers: Kirby A. Carpenter – Executive Secretary, J. Clifford Hutt and Michael C. Mayo – Legal Counsel.

Others Present: Delegate Tim Hutchins – Maryland House of Delegates, Ellen Cosby – Virginia Marine Resources Commission, Lt. William Bates – MdDNR Law Enforcement, Capt. M. Ray Jewell and Russell A. Dunton – VMRC Law Enforcement, Tucker Brown, John Morris, Jr., Dean Bowie, Russ Messick, Elgin Nininger, Jr., Charles Clift, Bob Boarman, Roger Hill – Shellfish Advisory Committee, Jim Drummond, James Bowling, John Dean - Finfish Advisory Committee, Douglas Jenkins, Sr. – Twin River Waterman's Group, Ivan G. Evans, Clarence McKenney, Gerald Hamilton, Donald E. Davis, Donald C. Davis, Gary Bowie, Roland Bowie, Richard Daiger, John Morris Sr., George Perry, Phillip Burch, Bill Kilinski, James Coates, John Kass, Donald Clark, George Bowling, William Allison, Mark Beale, James Ficklin, Reverel Conly, G. Gale Willett, Phil Hayden, Jr., Bobby Pinkert, Charles Bournne, Herman Beasley, Kris Minnich, William Hill, Glenn Delano, Timothy Gough, Booker Webb, James Trossbach, Robert T. Brown, Mike Gadwill, Les Campagne, Bert Hayden, Mike Hayden, Eddie Hayden, Joe Quade, George C. Verlander, James T. Russell, II and several others who did not sign the register.

Chairman Williams called the meeting to order at 3:00p.m. Commissioner White provided an invocation.

Consideration of Minutes

A motion was made by Commissioner Parran and seconded by Commissioner White to approve the minutes of June 26, 1998 as written and distributed. The motion passed unanimously.

Introduction

The Executive Secretary introduced Mrs. Lynn Reeves the new office secretary. The Commission welcomed her.

Public Hearing

The Executive Secretary reported all items scheduled for public hearing today had been advertised in conformity with requirements of the Compact for a total cost of \$2,038.03.

Open Public Hearing

Chairman Williams opened the public hearing at 3:02 p.m.

Commercial Hook & Line – The proposal would set the number of unlicensed crew member(s) allowed to assist a licensed commercial hook and line fisherman, require identification of commercial fishing vessels by flying a pennant, provided by the Commission, with either the license number or the year on it, and would prohibit the use of a commercial hook and line license aboard a charter boat carrying fee-paying passengers. The Executive Secretary reported that staff and the Finfish Advisory Committee supported this proposal, no other comments were received on this issue.

Extension of Hand Scrape Area – The proposal would move the hand scrape area line further up the river to a line from Neale Sound on the Maryland shore to the Mouth of Popes Creek on the Virginia shore.

For background information, a report written in 1982 by Dexter S. Haven of the Virginia Institute of Marine Science and Elgin A. Dunnington of the Chesapeake Biological Laboratory to evaluate the impact of hand scraping in the river was provided. The authors reviewed landings, recruitment and repletion activities of the time and concluded that “The present upriver hand scraping line is close to the upriver limit of recruitment that is adequate, if cultch is available, to support oyster harvest by this gear.” Commissioner Parran asked if today’s conditions were any different than those during the time when the report was written. The Executive Secretary replied that setting and recruitment patterns in the mid river area were the same, the only difference is the impact of MSX and Dermo in the lower river.

Several people, including Tucker Brown, Doug Jenkins, Robert T. Brown and James T. Russell, II spoke in favor of extending the hand scrape area. Tucker Brown suggested a repletion program conducted by industry members with the input of biologists for this mid river area. Mr. Brown stated that he could provide seed and Doug Jenkins stated he could provide shell for these efforts. Other suggested advantages were increased license sales and bushel tax revenue that could be used for additional repletion efforts. This proposal was endorsed by the Shellfish Advisory Committee.

Oyster Size Limits in Hand Scrape Area – The proposal would change the minimum size limit from 2 ½ inches to 3 inches and increase the maximum size limit from 4 inches to 4 ½ inches for oysters harvested within the hand scrape area. A letter from Jack Russell was presented which endorsed the proposal. Richard Daiger representing the Cowart and Bevans Seafood companies, James T. Russell, II, Tucker Brown, Robert T. Brown and Doug Jenkins all spoke in favor of the proposal. The most expressed reason to increase the minimum was that the 2½ inch oyster is difficult to shuck and many of them end up in the shell pile. They felt this was a waste of the resource as it would be more valuable left on the river bottom. This proposal was also endorsed by the Shellfish Advisory Committee.

Identification of Crab Pot Buoys – The proposal would prohibit more than one Potomac River license number on the buoys, require all buoys, if painted, to be the same color scheme and deem all such buoys as crab pots.

Mr. Robert Barlow, a King George County Board Supervisor, stated that he had met with crabbers from Charles County, Stafford County and King George County and they were concerned about the declining crab harvest. His constituents supported the proposal stating that it was a good start but also stating that the regulations needed to go beyond that. Perhaps other restrictions needed to be examined Bay-wide to help ensure healthy crab populations in the future. Some suggestions by those crabbers included: reducing the number of pots (200-300 pots) allowed to be placed in the river, a bushel limit (20 bushels of males) per day, and to make licenses non-transferable. He commented on the Bi-state Blue Crab meeting held the previous day in Richmond, VA and that the papers reported the committee’s conclusion that the crab population is being overfished.

John B. Morris, Jr. was opposed to the color scheme stating that he uses different color buoys to identify pots with long or short length lines. Mike Gadwill was also opposed to the color scheme stating that he uses different color buoys to distinguish between his hard crab and peeler pots and suggested using a small tag attached to the buoy instead. James Bowling from Charles County was opposed to using the tags because he stated that he has lost over 100 pots this year. He supported painting the buoys the same color and reporting color scheme to the Commission office. John Dean from St. Mary’s County was also opposed. He stated that he has several license numbers. It was clarified that the proposal to have only one Potomac tag number on the buoy did not mean a person’s Maryland or Virginia number could not be on the buoy. Bobby Boarman of Charles County suggested crabbers who use more than one color scheme place a device on their boat displaying each color he uses.

Commissioner Parran asked for comments from law enforcement. Lt. Bates supported allowing only one Potomac number on the buoy, stating that it would be easier to enforce if there were only 1 PRFC number on the cork. He also said the color requirement would help but an officer would still need to physically look at the number on each buoy when identifying a pot.

Commissioner Pruitt, responding to Mr. Barlow's comment on the Bi-State Blue Crab Committee Meeting, stated that he was at that meeting and that the committee had come to no conclusions that the crabs were overfished. Two scientists at the meeting had differing opinions on that issue. He felt that what is needed is continuous study as the effects of regulations placed on the fishery during the last few years by Virginia, Maryland and the PRFC, are not conclusive. Commissioner Pruitt further commented that water quality and habitat improvement issues needed to be examined.

Recreational Crabbing Provisions – The proposal would provide for regulation of recreational crab pots, crab trot lines, collapsible crab traps, crab dip nets and hand lines.

The Executive Secretary stated that Maryland and Virginia both now have recreational crabbing regulations and licenses. We have been asked by the two states to implement a recreational crabbing license for two purposes, to help generate revenue to conduct research on crabs, and to provide a database to help estimate the recreational crab harvest.

Commissioner Parran introduced Delegate Tim Hutchins of Charles County.

Delegate Hutchins spoke on behalf of the property owners and supported an increase in the number of crab pots that could be set from their piers. He stated the Maryland regulation used to be 4, but was reduced to 2 by way of COMAR. He is now recommending the limit be returned to 4. Delegate Hutchins does support having a recreational crabbing license to gather data on the harvest. He stated that there has been no data or survey done in the past 10 years for property owners.

Tucker Brown stated the Shellfish Committee supported trot lines and collapsible crab traps for recreational crabbing. He suggested using 20-30 collapsible traps and not commercial crab pots.

The Chairman closed the public hearing at 4:30 p.m.

Close Public Hearing

Consideration of Regulation Changes

Commercial Hook & Line Issues - A motion was made by Commissioner Pruitt, seconded by Commissioner Taylor-Rogers and unanimously approved to amend Reg. I, Sec. 2(1)(2) as follows to become effective January 1, 1999:

Sec. 2(1)(2) Hook and Line. For each person licensed to commercially fish as defined in Regulation I, Section 5(a) with a hook and line and/or a rod and reel, except fish trot line, a license fee of \$50.00. A maximum number of hook and line licenses may be established from time to time by the Commission thereby making it a limited entry fishery. Renewal of such license shall be pursuant to Regulation I, Section 1(c). Whenever the licensee is fishing under this license the boat or vessel being used shall fly the pennant, which was issued with the license, in such a manner as to be clearly visible to passing boats. When a sole licensee is aboard the vessel and the said pennant is being displayed he may be accompanied by no more than 2 unlicensed crew members. This license may not be used or the pennant flown from a licensed charter boat that has fee paying passengers aboard. Any boat or vessel not flying such pennant shall be deemed to be sport fishing and all persons shall be subject to those license requirements, seasons, creel and size limits.

The following motion was then made by Commissioner Pruitt, seconded by Commissioner Taylor-Rogers and unanimously approved:

“That the Commission’s License Policy Statement shall be amended to reflect the foregoing regulation change.”

Commercial License Policy. The Potomac River Fisheries Commission issues licenses for the commercial taking or catching of seafood from the Potomac River. Three types of licenses are issued for the various types of fishing activities allowed in the Potomac. Some activities may require more than one type of license. The types of licenses are:

1. **Individual or personal oyster license** – all persons aboard any vessel from which any individual is oystering and requiring this type of license must possess their own individual license. This applies to oyster tongs and oyster hand scrapers. The exception is the oyster buyer license which is issued to the captain only.
2. **Boat or vessel license** – the boat or vessel is licensed to be used in a commercial activity and any number of persons are permitted aboard such vessel. Any vessel may be used when displaying required fishing or oystering decals properly. This type of license includes fish pots, bait pots, eel pots, crab trot line, and crab buyers. Vessels licensed for crab potting are restricted to only the vessel named on the license. Power assisted hand tong boat and hand scrape boat licenses are required in addition to the individual licenses for oystering.
3. **Equipment or gear license** – each individual piece of equipment or gear must be licensed by the owner or operator thereof. This type of license includes pound net, gill net, haul seine, fyke net, fish trot line, clam dredge and peeler trap.

Extension of the Hand Scrape Area. Commissioner Pruitt asked Tucker Brown about getting seed and he again proposed to get seed through the Piney Point Hatchery. He stated that he has control and use of 2 setting tanks there. Douglas Jenkins stated that he would donate shells. Commissioner Taylor-Rogers was concerned about opening the entire reach to hand scraping because she's concerned about the resource being able to sustain itself. Robert T. Brown stated that Heron Island was closed for 3-4 years, and agrees with opening the whole area. Commissioner Rice pointed out that Heron Island is the location of a long term experiment using several different bottom conditioning techniques.

A motion was made by Commissioner Rice and seconded by Commissioner Parran to adopt Option, A which would move the line up to Neale Sound, Maryland and Popes Creek, Virginia. Upon a roll call vote Commissioners Kellam, Parran, Rice, White and Williams voted aye. Commissioners Birkett, Taylor-Rogers, and Pruitt voted no. The motion failed. The Compact requires six affirmative votes to enact a regulation.

After further discussion, a motion was made by Commissioner Taylor-Rogers and seconded by Commissioner Parran and unanimously passed to adopt the proposed Reg. II, Section 2(a)(4), as follows to become effective in 30 days:

Section 2(a)(4) Closed Areas. The following area(s) 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) "All areas lying upstream from a straight line between a point (38°12.600' North Latitude, 76° 44.455" West Longitude) at the PRFC marker "PR M4A" at St. Clements Island in St. Mary's County, Maryland and a point (38°09.868' North Latitude, 76°45.144' West Longitude at the PRFC marker "PR V6B" at Hollis Marsh in Westmoreland County, Virginia."

The foregoing delineation of closed area(s) shall not be construed to limit or proscribe the Commission's authority to open or close areas pursuant to these Regulations.

Oyster Size Limits in Hand Scrape Area. The Executive Secretary stated that a survey would be done in late November. Because of the higher salinities this summer, we expect increased oyster mortality in the lower river.

A motion was made by Commissioner Rice and seconded by Commissioner Kellam and unanimously approved to establish a 3" minimum and no maximum size limits of oysters harvested within the hand scrape area by amending Regulation II, Sec. 2(f)(1) as follows to become effective in 30 days:

Section 2(f)(1) Sizes. It shall be unlawful for any person to take, catch, sell, offer to buy or expose for sale or have in possession oysters which consist of five percent (5%) or more by volume of oyster shells and oysters whose shells measure less than three inches.

Upon a roll call vote all Commissioners voted aye except for Commissioner Pruitt who was not in the room when the vote was taken.

Identification of Crab Pot Buoys. A motion was made by Commissioner Parran and seconded by Commissioner Taylor-Rogers to adopt Regulation I, Section 2(d)(1) that would prohibit more than one license number on the buoys, require all buoys, if painted, to be the same color scheme and deem all buoys as crab pots. Upon a roll call vote Commissioners Kellam and Rice voted no. Commissioners Birkett, Parran, Taylor-Rogers, White and Williams voted aye. Commissioner Pruitt did not vote on this item, as he was not in the room when the vote was taken. The Compact requires six affirmative votes to enact a regulation.

After further discussion a motion was made by Commissioner Kellam and seconded by Commissioner Rice and approved to amend Regulation I, Section 2(d)(1) as follows to become effective January 1, 1999:

Sec. 2(d)(1) Crab Pots. For each boat or vessel used in taking or catching crabs with crab pots, as defined in Regulation VII, Section 1(a), a minimum license fee of \$100.00 valid for the use of up to 300 crab pots. A maximum number of crab pot licenses may be established from time to time by the Commission thereby making it a limited entry fishery. A license fee of \$150.00 for up to 400 crab pots and a license fee of \$200.00 for up to 500 crab pots shall also be available for 1995 to those persons holding a valid 1994 crab pot license. Providing that thereafter, such persons may continue to renew their license for the number of pots selected in 1995 or for a lesser number of pots as set forth above, but in no instance for more than the number of pots licensed in the preceding year. No more than one license may be issued to any single boat and the maximum number of pots may not exceed the number specified on the license. Each crab pot set in the water shall be marked with a buoy easily visible on the surface which must legibly display the boat decal number herein provided in not less than one (1) inch numbers in contrasting color. Each buoy shall have only one Potomac River boat decal number displayed and all such buoys set in the Potomac shall be deemed to be crab pots. The boat decal must be displayed in a clearly visible position on the outside starboard side of the hull of the boat or vessel. Any crab pot in the water not identified in this manner may be seized by the duly authorized enforcement officers and shall be subject to forfeiture. Whenever crab pots are being set, fished, or removed the license must be aboard the boat or vessel and available for inspection by an authorized enforcement officer of the State of Maryland or Virginia or agent of the Potomac River Fisheries Commission. Renewal of such license shall be pursuant to Regulation I, Section 1(c).

Upon a roll call vote all Commissioners voted aye except for Commissioner Pruitt who was not in the room when the vote was taken.

Recreational Crabbing Provisions. There was much discussion regarding the proposal as presented. Specifically requirements for property owners, and whether or not a separate license would be needed for each type of recreational crabbing. The following motion was made by Commissioner Pruitt seconded by Commissioner Kellam and unanimously approved:

“That the proposal be referred back to staff, legal counsel and law enforcement officers from each state for clarification of these issues and a re-draft be presented to the Commission for consideration at the next meeting.”

Effective Date

The Chairman stated that except as noted for Reg I, Sec 2(d)(1), the foregoing regulations adopted by the Commission would become effective in 30 days pursuant to provisions of the Compact.

Oyster Repletion Program Report

The Executive Secretary reported the 1998 repletion program was complete and provided the following summary report:

	Date	Bar	# Acres	# Bushels	Cost
Seed Planting	May 5&6	Swan Point	42	10,386@3.43	35,623.98
Fresh Shell Planting	June 15-26	Jones Shore	12	40,480@80¢	32,384.00
Reef Shell Planting	August 5-7	St. George's	68	182,578@47¢	85,932.05
Count and Control					1,758.24
				Total Cost	\$155,698.27

1998-99 Oyster Season Dates, Days and Time Limits

A motion was made by Commissioner Rice, seconded by Commissioner Kellam and unanimously approved to adopt Commission Order #98-14 as follows to establish the 1998-99 oyster seasons and limits as endorsed by staff and the Shellfish Advisory Committee:

ORDER #98-14
1998-99 OYSTER SEASON DATES, DAYS AND TIME LIMITS

THE POTOMAC RIVER FISHERIES COMMISSION, having considered the protection, promotion, growth and conservation of the oyster resources and pursuant to its authority under Regulation II, Section 2(b) and Regulation II, Section 3(b), **HEREBY DECLARES AND ORDERS:** The 1998-99 oyster season dates, days and time limits shall be as follows:

<u>Gear</u>	<u>Season</u>	<u>Days</u>	<u>Hours</u>
Hand Tonging	Oct. 1 through Dec. 31, 1998	Monday through Friday	Sunrise to 1:00 pm
	Jan. 1 through Mar. 31, 1999	Monday through Friday	Sunrise to 3:00 pm
Hand Scraping	Nov.1 through Dec. 31, 1998	Monday through Friday	8:00 am to 1:00 pm
	Mar. 1 through Mar. 31, 1999	Monday through Friday	8:00 am to 1:00 pm

BE IT FURTHER DECLARED AND ORDERED: Possession of a hand scrape shall be permitted during the aforesaid times and from one hour before and for two hours after such times. The use or possession of any hand scrape at any other time is unlawful.

AND, IT IS FURTHER DECLARED AND ORDERED: That this Order #98-14 shall become effective September 15, 1998 and remain in effect through March 31, 1999.

Oyster Sanctuaries

As part of the continuing effort to establish 1,000 acres of oyster sanctuary in the Potomac River, as required by the Maryland-Virginia Chesapeake Bay Oyster Management Plan, a proposal to designate Bluff Point Lumps in the upper-middle part of the river as a sanctuary was presented by staff. The Shellfish Advisory Committee discussed this issue at their last meeting but due to lack of quorum could make no recommendations. After further discussion a motion was made by Commissioner Kellam, seconded by Commissioner Birkett and unanimously approved to adopt Order #98-15 as follows:

ORDER #98-15 (replaces order #98-12)
ESTABLISHMENT OF OYSTER SANCTUARIES

THE POTOMAC RIVER FISHERIES COMMISSION, having considered the protection, promotion, growth and conservation of the oyster resources, and the provisions of the Maryland-Virginia Chesapeake Bay Oyster Management Plan, and subject to provisions of Regulation II, Section 3(b),

HEREBY DECLARES AND ORDERS: All natural oyster bars in the Potomac River, including the charted natural oyster bars of Metomkin Point (80 acres), Stuart Point (106 acres) and Chotank Lumps (207 acres), which are west and south of Upper Cedar Point Light #8; and,

BE IT FURTHER DECLARED AND ORDERED THAT: the natural oyster bar Bluff Point Lumps (310 acres), which is an area north and east of the main ships channel, west of 76° 56.800' West Longitude, and south of 38° 17.600' North Latitude; be closed for the purpose of taking or catching or attempting to take or catch oysters by any means at any time.

AND IT IS FURTHER DECLARED AND ORDERED: this Order #98-15 shall become effective October 1, 1998 and remain in effect until further notice.

Report on Agent Sport License Sales

Pursuant to actions taken at the last meeting to allow agents to sell PRFC sport fishing licenses, the Executive Secretary reported that three businesses have participated in the new procedure selling 102 individual and 28 pleasure boat licenses generating an additional \$1,526.00 in revenue for the Commission.

Update on Bleach Issue

To follow up on the request of the Shellfish Advisory Committee to determine the effects of cleaning crab pots with chlorine solutions, the Executive Secretary reported the response from Maryland Department of the Environment was forwarded to all Potomac River licensed crab potters. In that memo, the telephone number for the Southern Regional Office of the Maryland Department of the Environment was provided for anyone who had further questions.

Financial Reports

A report on the fourth quarter (April through June 1998) disbursements was presented with budget items totaling \$167,918.85, of which \$69,766.22 was expended for oyster repletion. No unusual expenditures were reported.

A report of cash on hand as of September 9, 1998 was presented as follows:

First Virginia Bank (Checking – includes \$400 petty cash)	\$ 30,872.03
Nations Bank (Savings – DNR License Sales)	5,722.32
Virginia Local Government Investment Pool	280,148.07
Maryland Local Government Investment Pool	<u>276,465.08</u>
	\$593,207.50

The following motion was made by Commissioner Parran, seconded by Commissioner White and unanimously approved:

“That fourth quarter disbursements of \$167,918.85 be approved as presented.”

Partial Funding for Striped Bass Spawning Stock & Assessments

The Executive Secretary reported the State of Maryland has requested financial assistance to conduct the 1999 Potomac River striped bass spawning stock assessment. He noted that the Commission has helped fund this particular project in the past.

The following motion was made by Commissioner Pruitt, and seconded by Commissioner Kellam:

“That the Commission allocate \$15,000 in funds to the State of Maryland to supplement the cost of conducting the 1999 Potomac River striped bass spawning stock assessment.”

Upon a roll call vote all Commissioners voted aye except for Commissioner Williams who voted nay. The motion was declared carried.

Crab Harvest Report

A preliminary report on 1998 Potomac River Crab landings during April through August was presented which showed a total of 78,513 bushels of hard crabs and 78,889 pounds of peelers harvested in the Potomac. This was compared to the 1997 April through August totals of 98,782 bushels of hard crabs and 84,705 pounds of peelers and a twelve year average for those same months of 86,144 bushels and 56,647 pounds respectively. He noted the number of crab pots set increased dramatically this year and may be the cause for some concern.

Shellfish Advisory Committee Report

Because no quorum was presented at the advisory committee meeting, Commissioner Pruitt requested to strike the Shellfish Advisory Committee Report from the agenda.

ASMFC Issues

Annual Meeting – It was reported the ASMFC annual meeting would be held October 18-22 in Jekyll Island, Georgia. A delegation consisting of Commissioners White, Parran and Birkett, the Legal Officer, the Executive Secretary and Chairmen of the advisory committees were authorized to represent the Commission at the meeting.

Crabbing Issues

The Executive Secretary reported receiving complaints from several crabbers about the number of pots being fished above the 301 Bridge and requested the Shellfish Advisory Committee review and evaluate some suggestions for the long term approach to crab management in the Potomac. The Commissioners discussed the current crab situation, tendencies of the species, and current activities of review groups throughout Maryland and Virginia. Their desire was not to overreact to this situation. The Chairman requested the advisory committee continue to review the crab fishery and its management as part of its normal function.

Surplus Equipment

The Executive Secretary reported several pieces of equipment were old and not repairable. In addition, the Commission's computer system was being upgraded which left several machines obsolete. A motion was made by Commissioner Pruitt, seconded by Commissioner White and unanimously passed that the following items be declared surplus and be disposed of accordingly by the Executive Secretary.

Canon 35mm Camera purchased 11-02-84, Swintec Typewriter purchased 12-12-86, Printer Transfer Switch purchased 04-12-88, Swintec Typewriter purchase 05-04-92, ZEOS Computer purchased 12-23-93, ZEOS Computer purchased 02-23-94, ZEOS Computer purchased 06-27-94, ZEOS Computer purchased 03-01-95, Generic Computer purchased 01-16-96.

Next Meeting

The next meeting was scheduled for Friday, November 20, 1998 at 9:30 a.m. in Colonial Beach, VA.

Adjourn

The meeting adjourned at 6:00 p.m.

Respectfully submitted,

Kenneth W. Williams, Sr., Chairman

Gordon M. Birkett, Secretary