

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

December 4, 2009

Commissioners Present: Robert H. Bowes (MD) – Chairman,– Kyle J. Schick (VA) – Vice-chairman, Steven G. Bowman (VA) – Secretary , William L. Rice, Sr. (MD), Ida C. Hall (VA), Dennis Fleming (MD), J. T. Holland (VA), Thomas J. O’Connell (MD).

Officers Present: Kirby A. Carpenter – Executive Secretary, J. Clifford Hutt and Michael C. Mayo – Legal Council. J. Clifford Hutt as Senior Advisor.

Others Present: Lt. Charles Sauter – MdDNR Law Enforcement; Capt. J.R. Rose and 1st Sgt. Adam Friend – VMRC Law Enforcement; Dr. Tom Miller – CBL; Joe Grist – VMRC; Herman Delvo and John Morris – Crab Advisory Committee; Craig Bolen, Keith Saunders, Joseph Rodgers, Jeff Davis, Stanley Dixon, James Martin, Ruth Morris, Talma Deane, Martin Osakowicz, Joseph Boswell and several others who did not sign the guest register.

Chairman Bowes called the meeting to order at 9:30 a.m. Commissioner Schick provided the invocation and Commissioner Bowman led the pledge of allegiance.

Chairman Bowes took a moment to recognize three former Commissioners who attended today’s meeting. They were Bill Pruitt, Gordon Birkett and Jack White. Commissioner Bowman stated it was an honor to have these three distinguished guests here today. They served many, many years in a tireless effort to make the Potomac River a better place to both work and recreate. Their understanding of the resource and the sheer enthusiasm for the Commission is amazing.

Consideration of Minutes

A motion was made by Commissioner Holland, seconded by Commissioner Hall to approve the minutes of June 11, 2009 as presented. The motion passed with Commissioner Bowman abstaining because he was not present at the June 11th meeting.

Order 2010-01 – 2010 Recreational and Charter Striped Bass Seasons and Restrictions

Mr. Carpenter stated Order 2010-01 deals with the recreational and charter boat striped bass fishing regulations and seasons for 2010. It is very similar to last year’s order and contains calendar updates and changes to the quota for the upcoming season.

A motion was made by Commissioner Holland, seconded by Commissioner Rice and unanimously passed to adopt Order 2010-01 as presented.

ORDER #2010-01
(replaces 2009-01)

**2010 RECREATIONAL AND CHARTER
STRIPED BASS SEASONS AND RESTRICTIONS**

THE POTOMAC RIVER FISHERIES COMMISSION, having found it necessary for the preservation of the striped bass (rockfish) population to impose restrictions on fishing for striped bass, and pursuant to its authority under Regulation III, Sections 9, 10, 11 and 13(b); **HEREBY DECLARES AND ORDERS:** the following restrictions shall apply to the recreational and charter striped bass fishery:

Spring Season:

Dates:	April 17 through May 15, 2010
Open Area:	Downstream of Harry W. Nice Bridge (Rt.301)
Creel Limit:	One (1) fish per person per day
Minimum Size Limit:	Twenty-eight (28) inches total length
No High-Grading:	Unlawful to return fish to the water after it is placed into a cooler or storage area.
Bait Restrictions:	No live eel. No more than two (2) hooks or sets of hooks for each rod or line may be used. Artificial lures or plugs with multiple hooks are considered one set of hooks.
Quota:	MD/VA/PRFC Combined Bay-Wide

Summer/Fall Season:

Dates:	May 16 through December 31, 2010
Open Area:	Downstream of Woodrow Wilson Bridge (I95)
Creel Limit:	Two (2) fish per person per day with only one (1) over 28"
Minimum Size Limit:	Eighteen (18) inches total length
Bait Restrictions:	None
Quota:	Recreational – 577,984 pounds Charter – 72,248 pounds

AND IT IS FURTHER DECLARED AND ORDERED: this Order #2010-01 shall become effective January 1, 2010, shall supersede and repeal Order #2009-01 and remain in effect until further notice.

Order 2010-02 – Commercial Striped Bass Catch Limits and Restrictions

Mr. Carpenter explained this order is dealing with the commercial side of the striped bass restrictions and strictly deals with updating the quotas. The number of striped bass tags issued will remain constant and the seasons and other restrictions will also remain as they were.

A motion was made by Commissioner Bowman, seconded by Commissioner Hall and unanimously passed to adopt Order 2010-02 as presented.

ORDER #2010-02
(replaces 2009-02)

2010 COMMERCIAL STRIPED BASS CATCH LIMITS AND RESTRICTIONS

THE POTOMAC RIVER FISHERIES COMMISSION, having found it necessary for the preservation of the striped bass (rockfish) population to impose restrictions on fishing for striped bass, and pursuant to its authority under Regulation III, Sections 10 and 13(b); **HEREBY DECLARES AND ORDERS:** the catch limits for striped bass (rockfish) provided for in Regulation III, Section 10, Sub-sections (a) and (b) shall be 794,727 pounds and divided by gear type as follows:

- 1) Commercial Hook and Line: 113,249 pounds (17,400 ID tags) total for all licensees, plus any available gill net allocation as may be allowed under Regulation III, Sec. 13(d).
- 2) Pound Net: 174,840 pounds (30,000 ID tags) total for all licensees. Each pound net licensee must have at least one net set and fishing before receiving his share of the total, and such share will be proportional to the total number of pound net licenses issued and the number held by the licensee.
- 3) Miscellaneous Commercial Gear: 23,842 pounds (3,520 ID tags) total for all licensees. This gear type includes and is limited to fyke net, haul seine, fish pot, and fish trot line licenses only. The yearly total number of ID tags shall be divided 50% haul seine, 30% fyke net, 10% fish pot and 10% fish trot line, and further divided equally among fishermen who have held the specific license type and who have fished such gear and reported catch of other species during each of the last 3 license years.
- 4) Gill Net: Published Separately

BE IT FURTHER DECLARED AND ORDERED: that striped bass identification tags may be used only on fish harvested with the gear type for which the striped bass identification tags were issued.

AND, IT IS FURTHER DECLARED AND ORDERED: this Order #2010-02 shall become effective January 1, 2010, shall supersede and repeal Order #2009-02 and remain in effect until further notice.

Order 2010-03 – 2010 Recreational and Charter Fishing Season, Size and Catch Limits

Mr. Carpenter noted there is one change in this Order dealing with River Herring. This fish has never been listed in this Order and is not a primary target of recreational fishing. Under the new Addendum II of the ASMFC plan, the Commission is going to propose closing that fishery simply to maintain consistency with the two states. The other changes are with Black Sea Bass and Summer Flounder that currently have listed TBA until seasons and size limits are established at the upcoming ASMFC meeting. This Order will be updated and presented to the Commission again at the March meeting.

Chairman Bowes asked Mr. Carpenter to address the Weakfish catch limits. Mr. Carpenter stated the Weakfish creel limits did change from 6 per person to 1 per person. That is by the ASMFC's management actions on Weakfish. That will be a coast-wide limit this year and will also be consistent with the two states.

A motion was made by Commissioner Holland, seconded by Commissioner Rice and unanimously passed to adopt Order 2010-03 as presented.

ORDER #2010-03
(replaces 2009-03)

**2010 RECREATIONAL and CHARTER
FISHING SEASON, SIZE AND CATCH LIMITS**

THE POTOMAC RIVER FISHERIES COMMISSION, having found it necessary to comply with certain provisions of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) and the provisions of Regulation III, Sections 9, 10 and 11; **HEREBY DECLARES AND ORDERS:** recreational and charter seasons, size limits, and catch limits provided for in Regulation III, Section 9, 10, and 11 shall be for the species named therein as follows:

<u>Species</u>	<u>Season</u>	<u>Size Limit</u>	<u>Catch Limit</u>
American Eel	Jan. 1 - Dec. 31	6" min.	50 per person
Atlantic Croaker	Jan. 1 - Dec. 31	No limit	25 per person
Black Bass (Large or Small Mouth)	March 1 - June 15	15" min.	5 per person
	All other times	12" min.	5 per person
Black Drum	Jan. 1 - Dec. 31	16" min.	1 per person
Black Sea Bass	Jan. 1 - Dec. 31	TBA ⁽¹⁾	TBA
Bluefish	Jan. 1 - Dec. 31	No limit	10 per person
Catfish: Bullhead	Jan. 1 - Dec. 31	6" min.	No limit
Channel	Jan. 1 - Dec. 31	8" min.	No limit
White	Jan. 1 - Dec. 31	10" min.	No limit
Blue	Jan. 1 - Dec. 31	No limit	No limit
Pike or Chain Pickerel	Jan. 1 - Dec. 31	14" min.	No limit
Red Drum	Jan. 1 - Dec. 31	18" min. – 25" max.	5 per person
River Herring	.....	C L O S E D .....	.....
Shad (American or Hickory)	.....	C L O S E D .....	.....
Spanish Mackerel	Jan. 1 - Dec. 31	14" min.	15 per person
Spot	Jan. 1 - Dec. 31	No limit	No limit
Spotted Sea Trout	Jan. 1 - Dec. 31	14" min.	10 per person
Striped Bass	.....	P U B L I S H E D S E P A R A T E L Y .....	.....
Sturgeon (Atlantic or Shortnose)	.....	C L O S E D .....	.....
Summer flounder*	Apr. 15 - Sept. 13	TBA	TBA
Tautog	Jan. 1 - Dec. 31	14" min.	No Limit
Weakfish	Jan. 1 - Dec. 31	12" min.	1 per person
White perch	Jan. 1 - Dec. 31	6" min.	No limit
Yellow perch	Jan. 1 - Dec. 31	9" min.	5 per person

(1) – **Black Sea Bass** – The tail filament is not to be included in the total length of the fish.

***IT IS FURTHER DECLARED AND ORDERED:** that when the recreational summer flounder fishery is closed in either the Maryland or Virginia portion of the Chesapeake Bay, the Potomac river recreational summer flounder fishery will be closed.

AND, IT IS FURTHER DECLARED AND ORDERED: this Order #2010-03 shall become effective January 1, 2010, shall supersede and repeal Order #2009-03 and remain in effect until further notice.

Commissioner Fleming questioned if the River Herring closure will also be for the tributaries of the Potomac for recreational anglers. Commissioner O'Connell stated Maryland has yet to decide, however it's very likely that will take place.

Commissioner Bowman stated Virginia has not made a decision but the fishery deserves significant attention.

Order 2010-04 – 2010 Commercial Fishing Season, Size and Catch Limits

Mr. Carpenter stated the Black Sea Bass and Summer Flounder are listed as TBA, which is for the same reasons as the recreational Order adopted earlier. There is also the addition of the River Herring for the commercial fishery. Staff is proposing a 50 lb./per day limit. This will mainly affect the pound net fishermen. Under the ASMFC plan the Commission could have as high as a 150 lb./per day limit on River Herring, but because of the status of the stock and fewer than 10,000 lbs. landed in the last few years, staff believes a 50 lb. limit is sufficient to handle most of the catch. The same is true for Weakfish. Staff has proposed a 50 lb./per day limit based on previous harvest records and the status of the stock.

Commissioner O'Connell felt that even with a 50 lb./per day limit on the Weakfish, there could be a potential to allow for an expansion of this fishery at a time that the stock needs significant protection. He felt staff should monitor the harvest over time and if there is some evidence of rebuilding, the fishery should be reassessed to determine if the 50 lb./per day limit is sufficient.

Commissioner Fleming assumed rather than going with the closed season for the River Herring, that those River Herring that are taken from pound nets are so fragile and are primarily considered by-catch. Mr. Carpenter stated the River Herring catch is a by-catch fishery given the status of the stock. He explained there is an item on the agenda where staff is going to request the Commission to advertise for public hearing a requirement for pound nets to implement the use of fish cull panels. Currently it is a voluntary program, but at this point in time something needs to be done to make it a requirement.

A motion was made by Commissioner Rice, seconded by Commissioner Hall and unanimously passed to adopt Order 2010-04 as presented.

**O R D E R #2010-04
(replaces 2009-04)**

**2010 COMMERCIAL
FISHING SEASON, SIZE AND CATCH LIMITS**

THE POTOMAC RIVER FISHERIES COMMISSION, having found it necessary to comply with certain provisions of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) and the provisions of Regulation III, Sections 9, 10 and 11; **HEREBY DECLARES AND ORDERS:** that commercial seasons, size limits, and catch limits provided for in Regulation III, Section 9, 10, and 11 shall be for the species named therein as follows:

<u>Species</u>	<u>Season</u>	<u>Size Limit</u>	<u>Catch Limit</u>
American Eel	Jan. 1 - Dec. 31	6" min.	No limit
Atlantic Croaker	Jan. 1 - Dec. 31	No limit	No limit
Black Bass (Large or Small Mouth)		C L O S E D	
Black Drum	Jan. 1 - Dec. 31	16" min.	1 fish
Black Sea Bass*	Jan. 1 - Dec. 31	TBA ⁽¹⁾	TBA
Bluefish*	Jan. 1 - Dec. 31	No limit	No limit*
Catfish: Bullhead	Jan. 1 - Dec. 31	6" min.	No limit
Channel	Jan. 1 - Dec. 31	8" min.	No limit
White	Jan. 1 - Dec. 31	10" min.	No limit
Blue	Jan. 1 - Dec. 31	No limit	No limit
Pike or Chain Pickerel	Jan. 1 - Dec. 31	14" min.	No limit
Red Drum	Jan. 1 - Dec. 31	18" min. - 25" max.	5 fish

River Herring	Jan. 1 - Dec. 31	No limit	50 lbs / day
Shad (American or Hickory)	.....	C L O S E D	
Spanish Mackerel*	Jan. 1 - Dec. 31	14" min.	No limit*
Spot	Jan. 1 - Dec. 31	No limit	No limit
Spotted Sea Trout	Jan. 1 - Dec. 31	14" min.	No limit
Striped Bass	.....	P U B L I S H E D S E P A R A T E L Y	
Sturgeon (Atlantic or Shortnose)	.....	C L O S E D	
Summer flounder**	Jan. 1 - Dec. 31	TBA	TBA
Tautog	Jan. 1 - Dec. 31	14" min.	No limit
Weakfish***	July 28 - Dec. 31	12" min.	50 lbs / day
White perch	Jan. 1 - Dec. 31	6" min.	No limit
Yellow perch	Jan. 1 - Dec. 31	9" min.	No limit

(1) – **Black Sea Bass** – The tail filament is not to be included in the total length of the fish.

***BE IT FURTHER DECLARED AND ORDERED:** the commercial fisheries for black sea bass, bluefish, and/or Spanish mackerel, have daily catch limits (landing limits) imposed subject to ASMFC notification and may be closed immediately by Order of the Commission upon notification by both Maryland and Virginia that the ASMFC/MAFMC established commercial harvest quota for such species has been landed and the state waters are closed for the harvest of such species.

****BE IT FURTHER DECLARED AND ORDERED:** that when the PRFC summer flounder quota, based on the ASMFC quota as established by the MD/VA/PRFC In State Commercial Summer Flounder Landings Memorandum of Understanding, is reached the fishery shall be closed. Providing that daily landing limits may be imposed when 80% of the quota is projected to be landed.

*****BE IT FURTHER DECLARED AND ORDERED:** that subject to the provisions of Regulation III, Section 11(c)(4) and the ASMFC Weakfish Management Plan qualified pound netters are permitted to possess no more than 50 lbs. (1 bushels) of legal size weakfish from January 1st through July 27th. The allowance must be less than or equal to the poundage of other lawfully harvested species.

AND IT IS FURTHER DECLARED AND ORDERED: this Order #2010-04 shall become effective January 1, 2010, shall supersede and repeal Order #2009-04 and remain in effect until further notice.

Request for Public Hearing – Pound Net Cull Rings (River Herring and Weakfish)

Mr. Carpenter explained staff believes the time has come for all pound nets to use fish cull panels to help reduce by-catch in that fishery. It is a voluntary program at the present time and anyone who has them installed is allowed a 2% by-catch allowance. There are a number of species that would benefit from the use of these cull panels and staff thinks it's time to have the public hearing and possibly require fish cull panels for the 2011 fishing season.

Mr. Carpenter went on to explain at the last Commission meeting there were a number of technical changes that needed to be advertised for the next public hearing that dealt with the pre-payable fine schedule and changes in the coding information.

Commissioner Rice asked Mr. Carpenter how is the participation with the use of fish cull panels. Mr. Carpenter stated there are several pound netters that use the cull panels on some nets but is not considered a general practice. Commissioner Rice then asked how do the pound netters feel about the results. Mr. Carpenter thought that the people who use them feel it saves them time and energy in culling their catch and their harvest is a better product. Commissioner Rice then asked what the time table was for moving forward with a public hearing. Mr. Carpenter advised a public hearing could be held at the March Commission meeting and if the Commission adopts a Regulation in regard to cull panels, it would become effective for the 2011 season.

Commissioner Rice stated he assumed this issue would be referred to the Finfish Advisory Committee for comment to come back to the Commission. Mr. Carpenter agreed.

A motion was made by Commissioner Rice, seconded by Commissioner Schick and unanimously passed to allow staff to move forward with this item as part of the public hearing to be held at the March Commission meeting.

Update on National Saltwater Angler Registry

Mr. Carpenter stated this issue comes from your local Congress and federal partners, who are here to help us. Essentially, with the reauthorization of the Magnuson Stevens Act a few years ago, a requirement was put in place for people fishing in the EEZ, who must now register with NMFS if they are recreationally fishing. All commercial vessels are already required to do so. The law also included anyone fishing for anadromous species in tidal waters throughout the country would also need to be registered. This includes fish such as striped bass, herring and shad. If you are fishing for summer flounder or black sea bass, you also have to be registered. The way the program is designed, each state is given the opportunity to have a state fishing license and the state must provide data collected to the Federal Government, whereby fishermen from that state can be exempted from the federal registry. PRFC is working with Maryland and Virginia to get the Chesapeake Bay and Potomac River areas recognized. Currently the states and PRFC have a boat license that the Federal Government is not happy with and the decision has not been made as to what will be done in the future. For 2010, the registration requirement is a federal mandate and is free to everyone. Mr. Carpenter then presented a sample of the registration form that would be printed on the back of all PRFC sport fishing licenses.

Commissioner O'Connell spoke for the state of Maryland. He explained that the sport fishing community in Maryland has advised the state that it would like to continue purchasing the pleasure boat license. In order to continue with that license, the state would have to develop a phone registry process that would be free to the angler and would cost Maryland a small amount of money. In regard to other compliance requirements to the sport fisheries license, Maryland will be pursuing some license fee structure changes in the 2010 General Assembly.

Commissioner Bowman spoke for the commonwealth of Virginia. He stated unlike Maryland, Virginia anglers are saying to do away with the boat license so that everyone can be accounted for accordingly. He reported that collectively the states do not want the Federal Government to be involved in handling this process.

Mr. Carpenter stated there are several situations that may involve the PRFC sport licenses. The actions of the two states may directly involve the reciprocal license agreement between the jurisdictions. If the three jurisdictions have different license structures, it may have a dramatic impact on the fishing community.

Commissioner Fleming expressed that the Commission should try to retain the pleasure boat license, otherwise it would have a great impact on the PRFC budget. Commissioner Bowman suggested that everyone lobby their constituency group to let them know what you want.

Mr. Carpenter explained the reason for this registry would be Summer Flounder and Black Sea Bass fisheries. These two species, that are primarily ocean species, are largely recreational fisheries in addition to the commercial fisheries. The current system is referred to as the MRIS (marine recreational information survey), which has two components. One is where surveyors go to the docks and public landings and interview fishermen and record their landings. This achieves a catch rate. The second part to this is a random telephone survey that is conducted, which is used to estimate the number of people who have gone fishing. They multiply the two and that equals the harvest. On a coast-wide basis that number is relatively accurate. The problem comes down to a state by state system. As a consequence, from time to time, states had to close or make their regulations more restrictive because they went over their target the previous year. This program is designed to narrow down the errors and knowing who to call when gathering the information.

Commissioner Fleming questioned if the pleasure boat licenses for 2010 are in jeopardy. Mr. Carpenter stated everything would be fine for 2010; it's 2011 that needs attention.

Commissioner Steve Bowman added that the MRIS system is undisciplined. Quotas are set for the recreational fishermen based on the data received by the MRIS survey, which is flawed at best. What this program intends to do is have everyone that is involved in taking fish be available to give comment, so that an accurate representation can be made when quotas are set.

2009 Oyster Survey Report

Mr. Carpenter stated the oyster survey was conducted October 27th through October 29th. It resembles the last several surveys that we have had. He recalled the lack of spat set throughout the river. The lack of small oysters results from the fact that there was little to no spat set in prior years and also resulted in very low markets. He noted the observed mortality column and in places like Cornfield Harbor and Kitts Point, the mortality is as high as 50%. No good news is coming from this report.

Oyster Harvest Report

Mr. Carpenter noted so far this season, harvesters have reported 75 bushels of oysters caught. That compares to the same period last year with 348 bushels harvested. There is very little participation with 6 tong boats and 7 hand scrape boats operating.

Commissioner Rice stated that as bad as these numbers are, watermen are only going to oyster when it pays to do so. He felt it was awful right now, but because no one is working makes it look even worse. This is as close to a moratorium as you can get without enforcing one. If people were participating in the fishery, these harvest numbers would increase.

Oyster Study Committee Update

Mr. Carpenter advised at the last Commission meeting he was asked to put together a committee. One of the first tasks of that committee was to develop a hydrographic model of the Potomac River, which was demonstrated at the last meeting. He then asked Mrs. Cosby to comment on the

progress of that. Mrs. Cosby stated she spoke with the scientists that are working on the model and they have completed the maps and have begun running simulations for the model. Currently they have 24 done so far. The intent is to get a general picture of the connectivity patterns in the river using these simulations and then run more detailed simulations afterward. The first set of results should be available within the next few weeks.

Commissioner Rice asked Commissioner O'Connell to bring the Commission up to date with what Maryland is doing in terms of oysters. Commissioner O'Connell advised that Governor O'Malley announced a new proposal for a new oyster restoration and aquaculture development plan in Maryland. This has been in the works for the past six years following completion of the EIS. This is just a proposal, but will include extensive public participation with the hopes of having a regulatory proposal by mid February. This proposal will significantly increase the amount of sanctuaries in Maryland's portion of the Chesapeake Bay and these sanctuaries will be focused on some of the remaining productive areas. Secondly, it will open up significant areas for aquaculture both on natural oyster bars and open water throughout the Eastern Shore counties, which have been closed prior to the 2009 legislation. Those first two options will cause less area available for the public fishery, but there will remain close to 170,000 acres of natural oyster ground for the public fishery. Over the next year, a new fisheries management plan will be developed that has scientifically based targets, which are not available right now for oysters. It is a major change in management direction in Maryland with a greater emphasis on ecological restoration. All of this information is available on the MdDNR website.

Commissioner Bowman felt that Virginia and Maryland have given a collective effort, as far as the Chesapeake Bay is concerned, to restore the oyster to what was once a prolific position. The states are working together to make the Chesapeake Bay a better place as far as oysters are concerned. He applauds his sister state on where their going.

Chairman Bowes verified that the first models would be available in a couple weeks. He then asked Mr. Carpenter what the Commission's next step would be. Mr. Carpenter thought once the Commission has the models, he would call together the appropriate people to review the model and see if it passes the first level of review. After that, a larger group of constituents would meet and begin to develop a more comprehensive management plan for the Potomac River. There should be some preliminary information available by the March Commission meeting.

Commissioner Schick asked if there was any update on leasing Potomac River oyster bottom. Mr. Carpenter stated not at the present time. He explained a meeting was held with Maryland several months ago and there has been no additional effort on that issue.

Commissioner Hall asked how staff plans to involve the industry in this study. Mr. Carpenter thought he would get the correct model first and then try to create a rough draft management plan before the Commissioner and industry are brought in. That's when their input is most critical and needed.

Commissioner O'Connell commented to Mr. Schick's question of leasing Potomac River oyster bottom. He felt while there are some obstacles to overcome, the Maryland tributaries of the Potomac River have significant areas available for leasing. He announced that funds are available for training and capital assistance is available to anyone.

Crab Harvest Report

Mr. Carpenter presented the preliminary crab harvest report for the 2009 crab season. It shows 68,751 bushels of hard crabs harvested, a peeler crab harvest of 22,865 pounds and a soft crab harvest of 1,481 pounds. He noted the hard crab harvest showed a 10% increase compared to last year, which given the status of the stock, shows the Commission is moving in the right direction. All three values are still well below the long-term average.

Commissioner Schick questioned if there was any data available on the reduction of female catch compared to last year. Mr. Carpenter stated staff has not had the opportunity to analyze that data yet.

Request for a Male Crab Bushel Limit

Mr. Carpenter advised that a request was received by fax from Mr. Charles E. Davis to evaluate the male crab harvest with the possibility of setting a bushel limit. Mr. Carpenter contacted Mr. Davis as to what his concerns were. Mr. Davis explained they are looking for some kind of daily bushel limit on male crabs starting July 10th when the size limit increases to 5 ½". These are crabbers down river who don't see the fall run of male crabs. This is an effort to make it beneficial to them.

Mr. Carpenter suggested forwarding this item to the Crab Advisory Committee. Commissioner Rice agreed to send this item to the committee for further discussion.

Medical Exemption Request – John Morris, Jr.

Mr. Morris would like the Crab Advisory Committee to review allowing another commercial crabber to work another crab pot license if that person is injured and can supply a medical note from the doctor. He explained that Mr. Carpenter required that he transfer his son's crab pot license to another person so that they could continue working.

Mr. Carpenter explained there is already a medical exemption letter in place for this situation. Mr. Morris's situation is unique because he and his son work together and have a permit allowing two crab pot licenses on one boat. With this permit, Mr. Morris would not be allowed to work his and his son's license at the same time. Therefore, his son's license was transferred to another person until he could work again. If it had been an individual crabber who was injured, a letter could be issued to allow someone else to work his license until he was able to return.

Commissioner Bowman felt hardships are what they should be, hardships. They shouldn't be a matter of convenience. At the same time, stacking licenses could be a deterrent to the resource. He felt that was very important to keep in mind.

Mr. Carpenter felt it would have been possible for Mr. Morris to work his son's crab pot license if they did not have the two on one boat permit. Exemptions are already in place for individual crab potters.

Update on the MD/VA License Buy-back Program

Mr. Carpenter stated the Commission has requested funds from both Virginia and Maryland to develop a buy-back program for the Potomac River. He asked both state representatives to comment on this issue.

Commissioner Bowman explained Virginia had developed a system for its buy-back program that was consistent with the plan that was provided to the Federal Government in order to obtain the funds. All the funds have been expended to licensed crabbers in Virginia, therefore the state is not in a position at this time to provide additional funds to the PRFC. The Virginia buy-back program was successful, but there were concerns of putting watermen out of business. The intent of the program was to curb latent effort that might resurrect when the resource rebounds. The licenses that were obtained through the buy-back program were retired permanently or until Virginia acts again. The program removed the potential of over 76,000 crab pots from the waters of the Commonwealth of Virginia. He advised if more money becomes available in the future, Virginia will take into consideration the request from the PRFC to include the PRFC in that plan.

Commissioner O'Connell explained Maryland's buy-back program is still continuing. There is a healthy budget that still remains. Because the appropriations funded were for the states of Maryland and Virginia, he followed up with the National Marine Fisheries Service and pursued the opportunity to provide the PRFC with funding. The NMFS reviewed the situation and thought it was consistent with the scope of the appropriation. He announced the state of Maryland is committed to making a \$100,000 available for the Commission to participate in a buy-back program. The next step is for the Commission to provide a working budget to the state of Maryland, which will then be distributed to the NMFS for their review and approval before the funds can be released. Hopefully, that process can be completed within the next few months.

Commissioner O'Connell expressed the Maryland buy-back program was also a success. In July, a reverse auction process was available to all the limited crab catcher licenses. There were 4,000 LLC licenses in Maryland and 1,100 of those licenses have not reported harvest over the last five years. The intent of the program was to remove that latent effort from the fishery. Through the reverse auction process, the state received bids that ranged from less than \$100 to over a \$1,000,000. The program has a budget of \$3,000,000 and with the reverse auction bid, Maryland would have only been able to buy 125 licenses. The state worked with some economists and made counter offers for a fixed price of \$2,260 and made that offer to all LLC license holders. The response has been very successful and to date, the state has purchased over 560 LLC licenses. There is approximately \$1.3 million dollars still available, so that offer is still standing for other individuals who would like to sell that license. Those LLC licenses who do not take the offer by the state to purchase their license now have two other options. They are going to have to choose between having their license limited to a male only harvest and only having the ability to transfer that license to a beneficiary in the future, or have their license temporarily frozen and retain the ability to have a business transfer in the future. That freeze would continue until a later point in time in which the state believes the stock could withstand some additional pressure. At that point, there would be some reentry to the fishery, but not all of those licenses would be able to reenter. He felt there is still a big latent effort problem that needs to be addressed and the state is fortunate enough to make \$100,000 available for the Commission.

Commissioner Bowman stated Mr. Grist was here from VMRC if anyone had any other questions about Virginia's buy-back program.

Commissioner Fleming asked Mr. Grist what the average buy-back price was in Virginia. Mr. Grist stated he did not have the exact average, but saw an overall range from \$500 to \$175,000 bids accepted. There was a maximum of \$634,000 put in as a bid. Of the \$6.7 million that was allocated to Virginia, 50% was allocated to full time crabbers, 30% part time crabbers and 20% for the waiting list crabbers. A formula was used for the full and part time crabbers, which consisted of their bid amount, their average days of work and the amount of pot license they had. All that was factored in and each crabber was ranked using this formula. Through that ranking, bids were accepted for the most active licenses in the full and part time categories. The waiting list category was ranked according to the bid submitted and the pot amount allocated. Real effort was reduced as well as latent effort through this bid process.

Commissioner Bowman stated every applicant who submitted a bid was evaluated on activity and pot numbers utilized. Those who provided a bid, and the ones most reasonable, enabled Virginia to get the most bang for the buck to get them out of the system.

Commissioner O'Connell cautioned against a comparison between Maryland and Virginia's buy-back programs. Virginia has done a much better job over the years at addressing the latent effort problem. Maryland has a more significant issue. Whereas Maryland has purchased a greater number of licenses through the buy-back process, Virginia has removed a larger number of pots from the water. Commissioner Bowman added that both programs were evaluated extensively by the Federal Government before they were approved. Both sought to achieve and will achieve the same goal of reducing latent effort. By doing what both states have done, we are in a position to ensure that the stock rebounds, manage the rebound of the stock when it occurs, and to capitalize on the hardworking sacrifices that have been made.

Commissioner Hall asked Commissioner O'Connell of the \$1.3 million dollars still available, is there a timeframe in which the state has to use the funds and if the PRFC receives funds is the Commission under the same restrictions. Commissioner O'Connell stated the funds are available for 3 years, which should be the middle of 2012, and the funds should be encumbered. Maryland's program will remain open until all funds are exhausted or the focus of the funds is changed. Maryland also has \$3,000,000 that is being retained to offer a similar program for the tidal fish licenses. This will take a longer time to develop and a much more comprehensive evaluation because it deals with a variety of fisheries.

Mr. Carpenter added the \$100,000 that Maryland is willing to provide will not take that long to spend. He said the Commission will not run out of time, they will run out of money first. He thanked both states for the detailed information in how their programs were developed and conducted, along with the results. This will help aid the Commission in preparing the documentation to provide the state of Maryland.

Free Cull Ring Program

Mr. Carpenter quickly announced the Commission is repeating the free crab cull ring program during renewal season. It was very successful last year and staff felt it was a minimal cost to the Commission to encourage the use of a 2 ½" cull ring.

ASMFC Issues

Mr. Carpenter noted this year's ASMFC annual meeting was well represented by the Commission. Five of the eight Commissioners attended the meetings and some were fulfilling dual roles in their state positions. Mr. Carpenter appreciated the support the Commissioners have provided. Meeting updates were covered earlier with regard to Summer Flounder and Black Sea Bass. There were no further comments from the Commission.

Delinquent Seafood Catch Report Hearing

Craig A. Bolen, Jr. – Mr. Bolen is present. This is Mr. Bolen's first offence for failure to send in his fyke net reports. His reports were filed one week prior to the hearing. Mr. Bolen stated it was his mistake and he thought he had filed them. ***A motion was made by Commissioner Rice, seconded by Commissioner Bowman and unanimously passed to place Mr. Bolen on probation for one year.***

Joseph J. Boswell, Sr. – Mr. Boswell is present. This is Mr. Boswell's first offence for failure to send in crab pot reports. His reports were filed one week prior to the hearing. Mr. Boswell stated he had no comment other than he is responsible for his actions. ***A motion was made by Commissioner Holland, seconded by Commissioner Hall and unanimously passed to place Mr. Boswell on probation for 1 year.***

Michael C. Yeatman – Mr. Yeatman could not attend the hearing but did send a letter by fax that was presented to the Commission. This is Mr. Yeatman's first offence for failure to send in his crab pot reports. His reports were filed one week prior to the hearing. Commissioner Bowman felt the one thing missing in the letter was why Mr. Yeatman could not be here. Part of accountability is to come before this Commission and explain your action in person. Mr. Carpenter advised the letter sent to these offenders does give them the option to be represented by someone, provide written comment or appear in person. If the Commission wants to change that policy and make appearance mandatory, that can be done. Commissioner Bowman felt they should appear before the Commission and explain their actions or inactions. Without them being here to provide further information, it makes it difficult for this Commission to adjudicate these cases. Commissioner Bowman then asked that the Commission consider a change in policy as far as these violations are concerned.

Commissioner Fleming noted there are offenders here today representing themselves when they could be making money. From a standpoint of fairness, it's not.

The item of changing the policy will be discussed under new business later in the meeting.

A motion was made by Commissioner Schick, seconded by Commissioner Bowman and unanimously passed to place Mr. Yeatman on probation for 1 year.

Douglas S. Hands – Mr. Hands is absent. This is Mr. Hands's first offence for failure to file his eel pot reports. His reports have not been filed one week prior to today's meeting.

Commissioner Bowman stated he does not understand providing the violator with a specific determinant sentence when they have not complied with the requirements. He thought it would be more logical to revoke Mr. Hand's license and activity until he provides the catch reports. These reports are so important for determining what comes out of the Potomac River. He asked Mr. Carpenter for an explanation as to why a recommendation is provided to the violator prior to being called to a hearing.

Mr. Carpenter explained a staff recommendation is provided to the Commission based on the guidelines that were developed. In all fairness to the violators, staff was advised they should also be aware of what the possible action(s) could be. The letter sent to the violator states what the offence was, what the staff's recommendation is going to be to the Commission and their rights on how to handle the situation. If the Commission would like to change the recommendations, that can also be done with a motion under new business.

Commissioner Bowman felt he could not support a pre-determinant, and a rather lenient, sentence or adjudication on someone that is not doing what they are suppose to do.

A motion was made by Commissioner Bowman, seconded by Commissioner Schick to revoke Mr. Hand's licenses indeterminately until he has turned his reports in.

Commissioner O'Connell stated he has only attended three meetings and has been impressed with the way Virginia handles late reports. He wished Maryland had a system in place like this. He offered a substitute motion to include a one week suspension upon the reports being turned in.

Commissioner Bowman accepted the substitute motion. The goal is to get the reports in. Commissioner Schick also agreed to the substitute motion.

A motion was made by Commissioner Bowman, seconded by Commissioner Schick and unanimously passed to suspend Mr. Hand's licenses indeterminately until he has turned his reports in and that no new licenses be issued until he is off suspension from that offence. Upon issuing a new license, impose a 1 week suspension.

David L. Hanson – Mr. Hanson is absent. This is Mr. Hanson's first offence for failure to file his hook and line reports. His reports have not been filed one week prior to today's meeting.

A motion was made by Commissioner Schick, seconded by Commissioner Bowman and unanimously passed to suspend Mr. Hanson's licenses until his catch reports are up to date and a 1 week suspension and 1 year probation after that.

Bobby J. Taylor – Mr. Taylor is absent. This is Mr. Taylor's first offence for failure to file his crab trot line reports. His reports have not been filed one week prior to today's meeting.

A motion was made by Commissioner Bowman, seconded by Commissioner Holland and unanimously passed to suspend Mr. Taylor's licenses until his catch reports are up to date and a 1 week suspension and 1 year probation after that.

Martin L. Osakowicz – Mr. Osakowicz is present. This is Mr. Osakowicz's second offence for failure to file his hook and line reports. His reports were filed one week prior to the hearing. Mr. Osakowicz stated it was his lack of responsibility for not turning in his reports. Commissioner Schick asked if he received his late notices. Mr. Osakowicz stated he did receive the notices but just laid them aside.

Commissioner Fleming asked what it is that the Commission can convey to Mr. Osakowicz this time that he didn't seem to understand with his first offence. Mr. Osakowicz stated it was his fault and he accepts responsibility for that.

A motion was made by Commissioner Bowman, seconded by Commissioner Holland and unanimously passed to suspend Mr. Osakowicz's license for two weeks, August 1st through August 15th and one year probation.

Conrad B. Morris – Mr. Morris is absent. This is Mr. Morris's sixth offence for failure to file his crab pot catch reports. Mr. Morris has not filed his reports one week prior to the hearing.

A motion was made by Commissioner Bowman, seconded by Commissioner Rice and unanimously passed to revoke all of Mr. Morris's licenses.

Commissioner Fleming asked what becomes of Mr. Morris's revoked crab pot license. Mr. Carpenter explained he has the opportunity to file for renewal of that license during the renewal season. A license deposit will be taken and he will need to appear before the Commission at the March meeting and the Commission can decide what will happen with that license. If he does not come in to renew the license during the renewal period, then the license will be retired.

Female Crab Harvest Violation Hearing

The following individuals were called to a hearing for reporting female harvest after the season closed.

Bryan K. Saunders – Mr. Saunders is present. Mr. Saunders stated that these female crabs should have been reported on his Virginia reports. It was a mistake on his part.

A motion was made by Commissioner Bowman, seconded by Commissioner Holland and unanimously passed to place Mr. Saunders on probation for the 2010 year.

Commissioner Fleming stated this is a catch 22 process. Here these gentlemen are here telling the truth and they are self incriminating themselves. There seems to be a misunderstanding of the Regulation because why would someone self incriminate themselves.

Jeffery E. Davis – Mr. Davis is present. Mr. Davis did call the office when he received his letter and Mr. Carpenter advised him to appear before the Commission to explain. Mr. Davis stated he crabs Maryland waters and placed the wrong harvest on his Potomac River reports.

A motion was made by Commissioner Bowman, seconded by Commissioner Schick and unanimously passed to place Mr. Davis on probation for the 2010 year.

Gary S. Kilmon – Mr. Kilmon is absent. Mr. Kilmon submitted a letter explaining that he had mistakenly reported his Virginia catch on his Potomac report.

A motion was made by Commissioner Bowman, seconded by Commissioner Rice and unanimously passed to place Mr. Kilmon on probation for the 2010 year.

James M. Morris – Mr. Morris is present. Mr. Morris stated his harvest was also placed on the wrong reports. His wife took responsibility for placing the data on the wrong form.

A motion was made by Commissioner Bowman, seconded by Commissioner Rice and unanimously passed to place Mr. Morris on probation for the 2010 year.

John T. Kimmitz – Mr. Kimmitz is not present but submitted a letter in writing of his wrong doing. He thought the end date for female harvest was October 30th, therefore he filled out his crabbing report accordingly.

A motion was made by Commissioner Bowman, seconded by Commissioner Rice and unanimously passed to place Mr. Kimmitz on probation for the 2010 year.

First Quarter Disbursements and Cash on Hand

A report of the first quarter disbursements (July through September) for the operational budget was presented, by budget item, totaling \$312,552. A report of the cash-on-hand was presented showing \$335,712.47 as of December 2, 2009. There were no unusual items to note at this time.

A motion was made by Commissioner Rice, seconded by Commissioner Schick and unanimously passed to adopt the first quarter disbursements and cash-on-hand as presented.

Appointment of the Nominating Committee

Chairman Bowes nominated Commissioners O'Connell and Holland to serve as the nominating committee, asking them to report a slate of officers at the next meeting.

Advisory Committee Vacancies

Chairman Bowes advised there were a few vacancies on the Finfish Advisory Committee. He asked anyone who is willing to serve to please contact the Commission. Mr. Talma Dean was nominated for the Virginia Middle/Upper River Recreational Fisherman. Mr. Dean could not attend today's meeting but staff supported his nomination. Chairman Bowes appointed Mr. Dean to the Finfish Advisory Committee.

Seafood Catch Report Enforcement Policy

A motion was made by Commissioner Bowman, seconded by Commissioner Holland and unanimously passed to ask the Commission for permission and consideration for a change in policy, where anytime an individual has violated a Regulation that would result in the potential suspension or revocation of a license(s) be compelled to attend a meeting to answer any questions the Commission may have.

Mr. Carpenter stated future letters being sent out calling an individual to a hearing, will require their attendance here at a meeting. Staff will consult with legal staff to develop the proper language. Mr. Carpenter suggested the Commission make a decision on the pre-determined categories and should consider having all of them subject to suspension or revocation of the licenses.

Commissioner Bowman agreed and explained in Virginia, staff provides a recommendation to the Commission and staff does not provide a recommendation to the individual being called to the hearing. Ultimately the decision rests with the Commission.

Mr. Carpenter suggested that he consult with legal staff and revise not only the enforcement policy, but the letter that is sent to the individual as well and circulate that for the Commission to review prior to the next delinquent hearing.

Artwork

Mr. Carpenter noted the art work displayed is by the Colonial Beach Art Guild. There are a number of local artists displayed and all the artwork is for sale.

Holiday Schedule

Mr. Carpenter requested permission from the Commission to follow the Maryland and Virginia schedule of holidays for the holiday season. In the case where both states are closed, the Commission will close and in the case where one state is closed and the other remains open, the Commission will split the difference and close a half day.

The Commission agreed and Commissioner Bowman stated based on the great work done by the Commission and its staff, they should be commended and complemented on the great job that they do. In light of that, should Maryland or Virginia be more liberal than the other, he suggested following the state that is more liberal.

Commissioner O'Connell agreed with Commissioner Bowman and stated he has enjoyed serving on the Commission and is looking for to continuing his work with the Commission.

Date and Place of Next Meeting

The next meeting is scheduled for Friday, March 5, 2010 at 9:30 a.m. in the John T. Parran Hearing Room of the Potomac River Fisheries Commission Building. After the Commission meeting a phone ballot was taken to change the meeting date to Friday, March 12, 2010 at 9:30 a.m. and reschedule the public hearing for the June Commission meeting.

Adjourn

The meeting adjourned at 12:00 p.m.

Respectfully submitted,

Robert H. Bowes, Chairman

Steven G. Bowman, Secretary