

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

August 30, 2012

Commissioners Present: Joseph C. Palmer, Jr. (VA) – Chairman, Dennis C. Fleming (MD) – Vice-Chairman, Ida C. Hall (VA) – Secretary, , William L. Rice, Sr. (MD), Jack G. Travelstead (VA), Robert H. Bowes (MD), Kyle J. Schick (VA), and Thomas J. O’Connell (MD).

Officers Present: Kirby A. Carpenter – Executive Secretary, Ellen B. Cosby – Assistant Executive Secretary and Michael C. Mayo – Legal Officer.

Others Present: Lt. Shawn Garren – MdDNR Law Enforcement; 1st Sgt. Adam Friend – VMRC Law Enforcement; Troy Tuckey – VIMS; Elgin Nininger and John Morris – Crab Advisory Committee; Robert T. Brown and Kenneth Wicker – Finfish Advisory Committee; John F. Tucker Brown and Paul Springer – Oyster/Clam Advisory Committee; Barry Kratchman and Mitchell Feigenbaum – Delaware Valley Fish Co.; Sam Dorrough, Glenn Parks, Frankie Hannah, III, David Franklin, Reid Franklin, Matt Pruitt, Bob Holden, Jimmy Trossbach, Henry Parker, Junior Parker and several others who did not sign the guest register.

Press: Susan Pietras-Smith (Westmoreland News)

Chairman Palmer called the meeting to order at 9:00 a.m. Commissioner Schick provided the invocation and Mr. Mayo led the Pledge of Allegiance.

Consideration of Minutes

A motion was made by Commissioner Hall, seconded by Commissioner Rice and passed to approve the minutes of June 7, 2012 as presented. The motion passed unanimously.

Oyster/Clam Advisory Committee Report

John F. Tucker Brown, Chairman of the Oyster/Clam Advisory Committee presented the report to the Commission. He stated the committee met on August 1, 2012 with six members present. He reported the following issues were discussed and/or presented at the meeting.

Blue Ribbon Oyster Panel Update – Mrs. Cosby presented this report to the committee and updated the status of the Oyster Management Reserve Program. She noted that the program was approved to move forward with a scaled back version of the original program. The model showed that the program would be self-sustaining with twenty people planting four acres. The oyster seed planting took place June 28th and 29th on Ragged Point and was very successful.

Discussion of Proposed Regulation VIII, Oyster Management Reserve – Mrs. Cosby explained the proposed Draft Regulation VIII would only deal with the Oyster Management Reserve Program. It will have its own Regulation, license and funding. After the discussion, two recommendations were made as follows: **to retain the oyster license surcharge fee of \$300 for the public fishery and to recommend approval of Regulation VIII as presented.**

Order 2012-xx – 2012-2013 Oyster Season Dates, Days & Time Limits – Mrs. Cosby presented the draft order for the upcoming oyster season. Mr. Craig Kelley stated he would like to see the time limit for hand scraping extended from 1:00 p.m. to 3:00 p.m. to allow more time to find oysters. The committee felt there should be some sort of compromise and suggested 2:00 p.m. **A recommendation was made to change the hand scrape time limit from 1:00 p.m. to 2:00 p.m.**

Discussion of Methods for Financing the Natural Seed Planting Program – Mrs. Cosby explained the committee was charged with developing some ideas as to how a natural seed planting program could be developed in the Potomac River, and how it could be funded. The committee discussed this issue at length and came up with the following ways to generate funding: 1) donations/sponsorships from users of the river (ex. businesses and sewage treatment plants); 2) some percent of Discharge Permit fees (legislation required); 3) portion of CLR fees; 4) regular oyster license fees and surcharge fees; 5) an increase in the oyster tax (legislation required); 6) possible donation of oyster seed from industry. **A recommendation was made to plant \$30,000 worth of diploid seed on Gum Bar and seek legislation to increase oyster taxes, and increase license fees. Another recommendation was made to have half of the \$50 CLR fees go towards planting diploid seed on public oyster bars.**

Opening Jones Shore – Craig Kelly recommended opening Jones Shore and felt that would generate funding for the natural seed program. There was much discussion on this topic and Mr. Carpenter advised that opening Jones Shore may produce one or two years of harvest, but would not be considered a sustainable fishery and it will also require a regulation change. **A recommendation was made to open Jones Shore to harvest by hand scrapes to generate revenue to help jump start the diploid portion of the restoration program.**

Mr. Brown stated the committee was to develop a self-sustaining public oyster fishery for the planting of the natural diploid oyster. He felt the committee discussed the issue but was not able to complete the task before them that night. Mr. Brown presented the Commission with a proposal that he developed, along with Mrs. Cosby, as a rotational natural oyster harvest plan. The plan was designed to help the Potomac River Fisheries Commission come up with a self-sustaining public oyster fishery for planting natural diploid oyster seed on a rotational plan on five oyster bars in the Potomac River. The plan was outlined as follows:

- Select 5 oyster bars (i.e. Stoney Point, Gum, Swan Point, Cedar Point, & Yates)
 - These oyster bars are above disease line and below severe freshet line
 - Will provide maintenance of new brood stock in the middle river
 - Will get 4-year growth of oysters before harvest allowed (ecosystem benefits)
- Rotate - Plant one bar each year and open each bar for one year after 4 years
 - Plant natural (diploid) seed from a reliable source in the Chesapeake Bay system
 - This diploid seed to be planted in hand tong area of river
 - Amount of seed planted each year will be based on available finances that year

- Only one of the five oyster bars will be open at any time
- Only harvest between 60-75% of market oysters, then close bar
 - Need daily harvest amounts to track – have buyers call in
- All oysters not harvested on the bars will serve as brood stock
- Will result in multiple age classes scattered around in river
- Commission to provide \$50,000 (seed money) for first 4 years, plus
 - Maintain current \$300 oyster license surcharge fee and oyster license fees, plus
 - Give this program half of the CLR funds (other half goes to OMR)
- Pursue increasing oyster tax and penalty fees at General Assemblies (MD& VA)

The Commission is responsible for managing the oyster fishery in the Potomac River. Replanting oyster bars and maintaining brood stock requires investment which should be shared by the Commission, watermen and everyone who uses the river.

Oyster Management Reserve Participants Meeting Report – August 6, 2012

Mr. John F. Tucker Brown presented the report. He noted the meeting took place on August 6, 2012 and six out of the twenty participants attended the meeting, which he felt was not uncommon this time of year. He noted participants were introduced to each other and the group elected him (Mr. Brown) as Chairman. He then stated the group reviewed a background history of how the Oyster Management Reserve Program was developed. The participants discussed the following items: the first triploid spat on shell planting on Ragged Point, and discussion of Regulation VIII, which they all supported. A discussion took place on how they felt about the program and all seemed very positive about it.

Mr. Brown felt this is a good start and it's not going to please everyone, but you have to start somewhere. He felt there was a great deal of foresight put into this program and hopes to see it last down the road.

Commissioner Rice asked for clarification on what the CLR funds are. Mr. Carpenter explained it's the \$50 Commercial License Registration fee (CLR) that every watermen pays prior to the purchase of any commercial license(s). Commissioner Rice said he thought all the funds from the CLR were supposed to go towards natural seed plantings. Mr. Carpenter explained the funds are also being used by the Oyster Management Reserve Program (OMRP). He noted the proposal presented by Mr. Brown stated that both programs need a little help getting started and the funds from the CLR should be divided between them until the OMRP becomes fully self-sustainable. Commissioner Rice said he thought the two programs were considered two separate animals. The people participating in the OMRP were footing their own bill and the CLR funds were being used for planting natural oyster bars. Mr. Carpenter referred to the model that was used to determine if the OMRP could be self-sustaining or not, and that model did include the CLR for that program. The model has been tested with only half of the CLR funds going to that program and it still maintains its self-sustainability. The main objective of the CLR was to get oysters on the river bottom. Commissioner Rice stated he understood the intent and is in favor of both programs and felt he may have misunderstood in terms of the CLR and where the funds would be used. Mr. Carpenter explained the Commission agreed to subsidize the OMRP for the first two years and part of that subsidy was coming from the CLR fee. After that two year period, we can review the program and it should be more self-sustaining in the future as production takes place, particularly if the oyster inspection tax is increased to something higher than the current \$1.00 per bushel that's being charged now.

Commissioner Schick asked if the model will or has been tested on the proposed diploid rotational program. He also questioned if that program would be a limited entry program and basically how would it work. Mr. Carpenter explained the program Mr. Brown presented would be an open fishery and the key to this program is that it's not only for harvest, but there's a four year delay in being able to harvest, which will create a brood stock benefit to this program. Having a brood stock in the middle part of the river is critical if we're going to try to restore the public fishery. Mr. Carpenter doesn't feel this program will be self-sustaining initially, as the OMRP, because he doesn't expect anyone to purchase a license until the fourth year when oysters are ready to be harvested. There's no incentive to buy a license for the first three years when everything is closed. He felt the rotational plan is similar to the oyster management program that Maryland instituted a few years ago and thought that program was working very well.

Commissioner O'Connell stated Maryland has had a managed reserve program for the last ten years or so. It was successful in producing a marketable oyster, unfortunately the economics didn't play out for it to be a sustainable fishery. The amount of money put into the program to plant seed was nearly exceeding the return of the bushel. With that said, there are more ways to make it more efficient and the industry in the Potomac River is willing to make an investment to try that approach. He liked the idea presented today and thinks it's important to go down a similar pathway and take a look at a model to see what costs are needed to make this program work.

Commissioner Fleming stated that Mr. Brown alluded to the fact that in order for this to work, there needs to be increased penalties for poaching. He questioned about the mechanics of the Commission getting an increased penalty structure. Mr. Carpenter explained the Compact limits the maximum fine to \$1,000 and it would require legislative action from Maryland and Virginia to raise that amount. Mr. Mayo added that the Compact limits any violation to be a misdemeanor offense. Right now our misdemeanor offense is limited at \$1,000, but could be increased to \$2,500 with legislative approval from both states. Commissioner Fleming responded if the Commission needs to get legislative approval from both states and we know how the Government works, this could take a long time. He questioned how do we begin the process?

Commissioner O'Connell stated this is something important that needs to be reviewed as we move forward with the OMRP. Recognizing that there is a lot of money invested in seed lying on the river bottom and since it will be resting there for three years, this provides the time needed to work on these penalties. He felt this is worthwhile for the Commission to discuss and initiate something for the 2013 General Assembly. There have been some recent advancements made in Maryland and he will speak with the legislative person in the Attorney General's Office about this. He would also be willing to work on some language with Mr. Mayo. Two years ago, Maryland increased some of its fines in regards to oysters and he feels it's something worth discussing.

Commissioner Travelstead stated he did not disagree with pursuing changes to the penalty fees and also suggested making use of the license revocation procedures as a further deterrent. Mr. Carpenter reminded the Commission when the striped bass hearings were taking place, there was a person who was called to the hearing to have his license(s) revoked and he did not even have a

license to revoke during the entire process. For general purposes, we need to increase the fines not only for oyster poaching, but for other situations as well.

Chairman Palmer questioned Mr. Mayo about implementing a civil fine instead of a criminal penalty. Mr. Mayo stated there is no provision in the Compact to support a civil fine. Mr. Carpenter responded that revoking a license is a civil penalty.

Commissioner O'Connell stated only a few of the Commissioners have spoken so far, but it seems to be an issue worth pursuing. If there is no objection, Commissioner O'Connell suggested having staff work with Mr. Mayo and the two states to explore some options that can be presented at the December Commission meeting. If significant progress is made, the Commission would be in a position to seek legislative sponsors from both states and move forward.

Commissioner Schick agreed that this should be looked into, but would also like the possibility of implementing civil fines, which would provide the flexibility to fine a percentage of what's harvested illegally.

Elgin Nininger stated he was not clear what's being done with this oyster situation. He agreed with Commissioner Rice in regards to the CLR and where it was supposed to be used. He is in favor of both programs and feels the Commission would be better off using the CLR towards planting different public oyster bars in hopes of rebuilding the river.

Mr. Carpenter recalled the Blue Ribbon Oyster Panel came up with a three prong approach. The first prong was the Oyster Management Reserve, and the second prong was to restore the native oyster public fishery. The \$50 CLR was adopted to put towards the oyster resource. It doesn't specify that it goes to the natural oysters; it says "the oyster resource". The CLR was implemented to help get the first phase of the management reserve program off the ground. That first phase has had its first planting and the Commission has a two year commitment to keep that program going. The proposal presented by Mr. Brown today would be a proposal for the second phase to do something for the native oysters. It's a very straight forward plan that the Commission could handle at the same time and as the OMRP becomes more self-sustaining, more of the CLR can go to the native oyster public fishery.

Elgin Nininger questioned if diploid and triploid oysters could coexist together and felt having both types of oysters in the OMRP may offer better benefits in the lower river. Commissioner Schick explained that a triploid program is basically fished until all the oysters were harvested. It would be hard to mix diploid and triploid oysters if that were the concept. If there was a situation where a natural strike occurred, the triploid oyster would at least have some shell available for a strike and help in the cleaning process. This triploid concept works because the gear is so efficient, and it wouldn't make sense to plant diploid seed if the intent is to fish the bar to a 95% level. The diploid oyster areas could be fished to 75% level, so it leaves some brood stock.

Mr. Brown felt that poaching is overrated right now because everyone knows there's nothing going on out there. He does not feel a necessity to revoke someone's license unless they are a

repeat offender. Mr. Brown says punishing a family of a man for something he's done is not right. He agreed to imposing fines and he doesn't feel it will be easy to find a judge who will take a man's livelihood. As far as mixing the two breeds of oysters, it's just not done. He suggested we take an overall look at what this is all about. This is to get oysters on the river bottom not to only help the watermen, but to help every user group who utilizes this river. He knows there are concerns about the CLR funds, but keep in mind part of the goal is to generate oyster life and we started in the lower river where disease is less prevalent. If you want a good solid program, you need to create a rotation program in order for it to work.

Commissioner Travelstead questioned if we are being asked to support this rotational natural oyster harvest plan today, and if so, what is staff's recommendation? Mr. Carpenter stated Mr. Brown has presented a well detailed program to the Commission; however, it wasn't fully discussed at the Oyster/Clam Advisory meeting. Any move the Commission would make in regards to this proposal would take place next spring. There is time to review this plan and a decision could be made at the next Commission meeting and still provide staff enough time to develop the program. Mr. Carpenter noted this plan does ask the Commission to provide \$50,000 in seed money for the first four years. He feels this plan is asking for equal treatment with the OMRP and Mr. Carpenter felt the Commission could handle that financial commitment. It definitely needs more thought and can be presented at the November meeting.

Commissioner Travelstead stated he likes the proposal and feels staff should pursue looking at it in more detail and presenting a final proposal at the next meeting. This plan is somewhat similar to the rotational harvest program in Virginia that has proven to be successful in the last four to five years. Mr. Carpenter stated staff will follow the Commission's direction.

Commissioner Rice stated the plan Mr. Brown presented is fantastic and he would like to see the participants in the OMRP maintain their program, and once established, have more of the CLR funds go towards Mr. Brown's rotational plan. Commissioner Rice fully agreed with the rotation of oyster bars as well as harvesting every four years.

Commissioner Bowes asked if the oysters on the bars presented in Mr. Brown's plan are capable of reproducing. Mr. Carpenter explained that reproduction in the middle part of the river is a sporadic event and has been for a long time. The middle and upper part of the river has a history of once a decade, once every 12 to 15 years. The last river-wide set that occurred in the upper river was in 1992 and there hasn't been once since then. We need some brood stock in the river to even have the possibility of a natural set. Currently the brood stock is so low in the middle and upper part of the river, that any oyster we can plant and leave in the river is one more that could possibly spawn when conditions are right. It's not going to be like Virginia's rotational program, because they don't plant seed. They are working from a natural set. We are not going to have that capability, because we are going to have to rely on planting seed until we get a natural set.

Commissioner Bowes fully agrees with trying to get the natural oyster back in the river, but noted we are going down the road with one program already and feels the Commission should move cautiously towards implementing another program until we can see how the OMRP goes.

Order 2012-08 2012-2013 Oyster Season Dates, Days and Time Limits

Mr. Carpenter presented a draft Order for the upcoming 2012-2013 oyster season. He noted the only changes are calendar year changes, except for the Oyster/Clam Advisory Committee's recommendation to extend the hand scrape time limit to 2:00 p.m. He also noted the committee made a recommendation to open Jones Shore to hand scraping. Jones Shore is currently open to hand tonging and is the area we did use in past years as a seed area.

Commissioner O'Connell stated that his understanding is that the industry is asking for this request because it's getting harder to harvest their bushel limits. Unlike other species, there is no harvest target for oysters and we've been managing oyster harvest through seasons, days and time limits. We've experienced a declining trend with oysters and just like any other species in trouble, we would use management tools to reduce the harvest target and achieve our goal. Since we don't have a harvest target, he could not support an expansion of time limits at a time that the population is decreasing.

Commissioner Travelstead agreed with Commission O'Connell and also felt lengthening time periods is not a good idea.

Commissioner Bowes questioned if there are any indications of young oysters on Jones Shore? Mr. Carpenter noted seed has never been planted on Jones Shore and whatever oysters are there are natural diploid oysters that are living and surviving in a disease prevalent area.

A motion was made by Commissioner O'Connell, seconded by Commissioner Fleming and unanimously passed to adopt Order 2012-08 with the same season dates, days and time limits as the 2011-2012 season. (The Order # was changed to 2012-07 for clerical purposes).

**O R D E R #2012-07
(replaces #2011-08)**

2012-2013 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 I, Section 7(a)(1), **HEREBY DECLARES AND ORDERS:** The 2012-2013 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 thru Dec. 31, 2012	Monday thru Friday	Sunrise to 1:00 p.m.
	Jan. 1 thru Mar. 31, 2013	Monday thru Friday	Sunrise to 3:00 p.m.
Hand Scraping	Nov. 1, 2012 thru Mar. 31, 2013	Monday thru Friday	8:00 a.m. to 1:00 p.m.

BE IT FUTHER 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 #2012-07 shall become effective September 30, 2012 and remain in effect through March 31, 2013.

Opening of Jones Shore

Commissioner O'Connell feels this is a difficult situation and finds it hard to consider expanding a gear type to exploit a resource that's pretty low. For the rotational native oyster plan, we will be trying to reach a population level where an oyster bar can be harvested, once there is growth and survival, and it is proposed that only 60 to 75% of those oysters would be harvested. If there was a situation in the management framework like that and we thought that was the proper level of oysters to be removed, it doesn't matter what type of gear you use. Here we have Jones Shore and if we have a situation that we are trying to use this new proposal to get to, do we want to expand the gear that's going to increase the harvest? Based upon the comments previously from Mr. Carpenter, it would probably not allow Jones Shore to be sustainable. Is there a way to establish a harvest target and provide an opportunity to harvest? But once you reach that harvest target, you close the bar to try and optimize its sustainability.

Commissioner Fleming asked what the average harvest was from Jones Shore in recent years. Mr. Carpenter replied zero.

Commissioner Hall advised that the idea from the Oyster/Clam Advisory meeting was to have limited harvest and would not be the intention to completely exploit Jones Shore. There was also discussion of a bushel limit and Mr. Carpenter advised that using a time limit was a better way to regulate the harvest. The idea was to get some harvest off of Jones Shore, not necessarily exploit the area and to generate revenue for funding the diploid program.

Commissioner Schick stated there has been no strike on Jones Shore for the last 10 years. If we keep taking and taking, there's not going to be anything left unless we put it back in. He doesn't have a problem with harvesting, but we have to have a system in place to make sure seed is planted back. The goal in the oyster fishery is to achieve sustainability and we have to replenish what we harvest.

Commissioner O'Connell thanked Commissioner Fleming for asking his question, because he was under the impression there was a more plentiful resource there than it sounds. If there has been no harvest there using hand tongs, it suggests to him that the resource is pretty low and if that's the case, he would be concerned with allowing a more efficient gear on Jones Shore.

A motion was made by Commissioner Fleming, seconded by Commissioner Travelstead and passed with one opposition that Jones Shore remains closed to hand scraping.

Oyster Inspection Tax

Commissioner O'Connell stated the Commission did not discuss the issue of seeking legislation to increase the oyster tax. His understanding right now is that the Compact restricts the Commission to setting an oyster inspection tax no greater than either Maryland or Virginia's and right now it's set at \$1.00. The way the OMRP is evolving in the Potomac River, he thinks there is good reason to allow the Commission greater flexibility in changing that oyster inspection tax to help pay for the programs we're talking about. Before we leave this topic he feels this would be another item staff should work on with the two states. Mr. Carpenter advised this issue will be discussed under Tab 9 under new business. We do have it listed as a separate item.

Finfish Advisory Committee Report

Robert T. Brown asked if Mr. Carpenter would present the committee report and he will add his thoughts concerning American eel. Mr. Carpenter noted the Finfish Advisory Committee met on July 31st and discussed the following items:

Order 2012-xx – 2012-2013 Gill Net Season and Restrictions and Commercial Striped Bass Catch & Size Limit – The committee was advised that staff was proposing a start to the gill net season on November 12th and the quota would remain the same as last year. **The committee recommended to adopt Order 2012-xx as presented.**

Mr. Carpenter added there is an issue to advise the Commission of that was not discussed at the advisory meeting. The ASMFC's Addendum III to the Striped Bass Management Plan requires the tagging of all fish now and requires certain key elements to be on each tag. The PRFC meets the minimum criteria right now with our tags, but there is a request to have the season dates for the various gear types on the tag itself. Generally the gill net season opens on the second Monday in November each year, which changes the date every year. Mr. Carpenter asked the Commission to consider changing the start of the season to November 15th each year to help alleviate the cost of printing the seasons on the striped bass tags.

Reg. III, Sec. 11(c) – Return of Incidental Catch – Mrs. Cosby explained this is clarification to the Regulation concerning the gill net and pound net by-catch tolerance for American and/or hickory shad and will now be specified by Order of the Commission. **The committee recommended the approval of this Regulation as presented.**

Reg. III, Sec. 13(e) – Individual Striped Bass Identification (SBID) Tag Allocation Transfer for a Commercial Hook and Line License – Mrs. Cosby explained this new Regulation is to help clarify the process of receiving a hook and line license and striped bass tags associated with that license. **The committee recommended the approval of this Regulation as presented.**

Reg. III, Sec. 13(f) – Individual Striped Bass Identification (SBID) Tag Allocation Transfer for Pound Net License(s) – Mrs. Cosby explained this is another new Regulation to address a pound net problem of transferring striped bass tags during the season. **The committee recommended the approval of this Regulation as presented.**

Emergency Order 2012-07 – American Eel Season Closure – Mrs. Cosby explained this emergency Order was drafted based on the fact that the American eel landings are at an extremely low level and actions need to be addressed. The committee felt that the Commission was trying to make a decision before ASMFC has had a chance to discuss the issue and is acting too soon. There was a lengthy discussion on this issue and **a recommendation was made to accept staff's recommendation to have a fall season closure, but the motion failed with 2 in favor and 11 against. Another recommendation was made and passed to wait and see what ASMFC reports.** Since the advisory meeting, Mr. Brown reported that ASMFC has announced what they will be doing for this upcoming year. He stated the committee does recognize that the American eel harvest is at the lowest it's ever been. It's always nice to lead the rest of the coast and make a decision first, but the committee felt there wasn't enough information to make a

sound decision. The committee will discuss this item once we have received more guidance from ASMFC.

Pound Net Lighting – Mrs. Cosby advised that funding is available to support a study that would test flashing, solar powered lights on pound nets. The committee members who currently have pound net licenses wanted no part of this study and it was suggested that a letter seeking volunteers would be sent out to all pound netters to see if anyone was interested in participating in the study.

Election of Chairman and Vice-chairman – **The committee voted to keep Robert T. Brown as Chairman and Steve Scala as Vice-chairman.**

Miscellaneous Commercial Gear Quota – Mrs. Cosby asked the committee if there were any concerns or recommended changes that the committee wanted to make regarding how striped bass tags were issued to miscellaneous gear types. **The committee made no recommendations on this issue.** Mr. Brown said that completed the Finfish Advisory Committee Report.

Chairman Palmer asked Mr. Brown when pots are primarily set to harvest eels in the Potomac River. Mr. Brown explained watermen will start setting eel pots in April and work up to the end of October.

Commissioner Bowes asked what's the percentage of harvest for the last few months compared to the rest of the year. Mrs. Cosby responded that May, June, July and September are the months with highest average harvest.

Commissioner O'Connell stated there was a motion to move forward with some restriction that strongly failed and he was curious if the two people that supported that motion were eel harvesters and why did they support that motion. Mr. Brown stated they were not eel harvesters; the supporters were other members of the committee based on the low harvest numbers being reported, a belief that something needed to be done and not sit by and do nothing. We all agreed something needed to be done, but felt more information was needed.

Commissioner Travelstead asked Mr. Carpenter to refresh his memory on where ASMFC stands on this issue. Mr. Carpenter explained the Eel Management Board moved to draft an Addendum to be developed for preliminary review by the Eel Management Board at the October annual meeting. They did approve the benchmark stock assessment, which did find that the population was depleted and they developed a list of options that are being considered for management that should show up in the new addendum that will be presented in October. Mr. Carpenter then reviewed the possible options that will be considered: 1.) moratorium on glass and silver eels; 2.) reduction in effort on the glass eel fisheries in Maine and South Carolina; 3.) reductions in the yellow eel harvest and effort; 4.) increase the minimum size limit from 6" to 8 to 12" to reduce mortality; 5.) establish a maximum size to protect large eels nearing maturation; 6.) capping the number of licenses to take eels to prevent the expansion of the fishery; 7.) establish a coast-wide quota to establish sustainable harvest levels; and 8.) to set season and gear closures to protect the silver eels. That Addendum should be voted on at the Board's March meeting.

Commissioner Fleming referred to a chart presented in the packet that showed a substantial decline in the average harvest per year for licensees who worked. In 2011 the average harvest was 1600 pounds per harvester, true or false? Mr. Carpenter responded that the data provided in the chart is as accurate as the catch reports we receive. Commissioner Fleming then questioned what the average price was paid for eels this past season. Mr. Brown referred that question to Mr. Jimmy Trossbach.

Jimmy Trossbach, who is a member of the ASMFC Eel Advisory Panel as a representative for the PRFC and a Potomac River eel harvester, says he accounts for about 90% of the numbers reported on these charts and is the largest eel harvester on the Potomac River. The reason for such a dramatic decline in the Potomac River is because he didn't work in the river in 2011. He feels that when 90% of your business goes somewhere else, then the numbers are going to drop dramatically. As for the CPUE he can verify that 2012 was the best season in 25 years. He felt that acting on this today would be a vote of no confidence for ASMFC, because they have the best minds working on this at the present time. Mr. Trossbach also advised that the average price per pound for eels is \$3.00.

Commissioner Fleming noted in a \$4,000 per year fishery per harvester, restricting the last couple of months wouldn't make or break a man's business.

Commissioner O'Connell thanked Mr. Trossbach for attending the meeting today and appreciates his time serving on the advisory panel at ASMFC. The ASMFC process provides an opportunity to explore a range of management strategies to achieve our goals and includes the advisory panels to provide industry input as to which options are suited for the industry, but still accomplish the goals. Commissioner O'Connell asked Mr. Trossbach, noting that what's before us today is an option that's limited to seasonal closures while ASMFC is exploring a range of options, if we came to a point in time where action is warranted, would seasonal closure be a preferred approach by the eel harvester in the Potomac River? Mr. Trossbach stated with a seasonal closure you know up front what's facing you. When gear restrictions are imposed, it's hard to keep a business going when you don't know what's around the corner. Seasonal closures are easier to manage.

Chairman Palmer stated when he started in the fishing industry, he started as an eel harvester. The biggest money he made from eeling was in the fall when he looked towards the Christmas market. Eeling is not a cheap fishery to get into and you also have to maintain a live product. When people go in and out of the industry, that's when numbers become skewed.

Mrs. Cosby stated she is a member of the ASMFC Eel Technical Committee and one of the discussions that took place was the concern about protecting the silver eels in the fall. They do not pot when they are starting to physically change to a silver eel. The main harvest of silver eels is taken in either pound nets or fyke nets. The TC discussions were not of limiting pots in the fall, but to prohibit the taking of eels from pound nets and fyke nets; so that may be something the Commission may want to consider.

Commissioner Rice said we are already limiting the harvesting of small eels with a 1/2" by 1/2" mesh on the eel pots, which allows the small eels to escape. In realistic terms, whatever we do

right now will not make a big difference in the stock. It would benefit us to follow ASMFC's lead and gather information from them, see where they are going and what we should do instead of going out on our own and doing something that they may not like in the first place. Commissioner Rice feels the Commission should take this under advisement that this is a fishery that needs to be monitored closely and stay on top of this situation. He recommends the Commission take no action and continue with the meeting.

Commissioner Travelstead commented that he appreciates staff bringing this issue to the Commission's attention. It's obviously a serious situation and ASMFC also has concerns about the status, otherwise they wouldn't be moving forward with an amendment to their management plan. The measures they are looking at are very significant. In addition, the federal authorities (USF&W) are looking at placing the American eel on the endangered species list and that alone should tell us something about the status of this resource. Having said that, he agreed with Commissioner Rice and taking no action at this point. One river on the Atlantic Coast probably will not affect the final status of the resource.

Commissioner Rice pointed out that the eels are not the only thing endangered. There's a gentleman here today that this will affect and we need to keep this in mind when moving forward with this issue. He quoted former Commissioner Bill Pruitt stating "Sometimes it's not always about the resource, it's about the people" and we have to worry about the people as well as the resource.

Commissioner Fleming stated that looking at the information presented to the Commission by staff, seeing a serious decline in the eel population and hearing what was said today about the eels, he would make a motion. **A motion was made by Commissioner Fleming to take staff's recommendation and adopt Order 2012-XX for a closure of the eel harvest from November 1st through December 31, 2012. There was no second to the motion, therefore the motion fails.**

Order 2012-09 – 2012-2013 Gill Net Season and Restriction & Commercial Striped Bass Catch and Size Limit

A motion was made by Commissioner Rice, seconded by Commissioner Hall and unanimously passed to adopt Order 2012-09 as presented. (The Order # was changed to 2012-08 for clerical purposes).

ORDER #2012-08
(replaces #2011-10)

**2012-2013 GILL NET SEASON AND RESTRICTIONS
& COMMERCIAL STRIPED BASS CATCH AND SIZE LIMIT**

THE POTOMAC RIVER FISHERIES COMMISSION, having found it necessary for the preservation of the striped bass (rockfish) population, and pursuant to its authority under Regulation I, Section 8 and Regulation III, Sections 9(a), (b) and 10(a): **HEREBY DECLARES AND ORDERS**: the gill net fishery shall be allowed under the following conditions and limitations:

- a) **Season** - The gill net season shall be from November 12, 2012 through March 25, 2013.

b) Permitted Nets - Each licensee, shall be permitted to set and fish a single properly identified net, in the number of his licensed locations (stands) as follows:

- i) November 12th through February 29th – all stands, and;
- ii) from March 1st through March 15th – 4 stands, and;
- iii) from March 16th through March 25th – 3 stands.

c) Other Conditions – Once renewed no change of the ownership of any gill net licenses will be allowed during the remainder of the open gill net season. Two or more licensees may, and are encouraged to, jointly fish lawfully licensed and set nets belonging to one or more of the individuals.

d) Quota – The gill net striped bass quota shall be 449,002 pounds (59,120 ID Tags) total for all licensees, less any taken with a hook and line as may be allowed under Regulation III, Sec. 13(d). Each individual's striped bass quota will be proportional to the number of gill net licenses held by that individual and will be represented by a number of striped bass identification tags issued to that individual.

e) Striped Bass Size Limit

November 12, 2012 through February 14, 2013
February 15, 2013 through March 25, 2013

18" Min.
18" Min. / 36" Max.

AND IT IS FURTHER DECLARED AND ORDERED: this Order #2012-08 shall become effective November 1, 2012, shall supersede and repeal Order #2011-10 and remain in effect for the year 2012-2013 or until such time the Commission has taken further action.

American Eel YOY Survey

Dr. Troy Tuckey from VIMS presented the American Eel YOY survey results in a slide show entitled "Estimating recruitment of young-of-year American eel in the Potomac River 2012". Dr. Tuckey reported above average recruitment at Gardy's Millpond and the highest recruitment observed at Clark's Millpond in 2012. There was no trend in elver abundance at either collection site. Potomac River glass eels were dominated by pigment stage 7 eels in 2012; whereas in the York River, pigment stage 2 and 3 eels were dominant. Dr. Tuckey noted that years with high index values (strong recruitment events) are dominated by pigment stage 7 glass eels (i.e. 2004, 2007, 2010 and 2012). Reports of strong recruitment in the spring of 2012 were received from scientists in several other East Coast states. In summary, there is stable recruitment in the Potomac River.

Commissioner Travelstead said with having at least 10 years of data, Dr. Tuckey referred to a number of those years as peak years or above average years. He questioned how might those peaks compare if we had data back to 30, 40, 50 years ago. Dr. Tuckey explained that the longest data sets that he has are from New Jersey and North Carolina that date back to the 1980's and they are reporting a declining recruitment trend with a longer time series. He noted what we have is a snap shot and it could vary either way.

Elgin Nininger questioned with the situation we're in, why are some areas allowed to harvest glass eels? Dr. Tuckey advised his study only catches, counts and releases the young eels. Mrs. Cosby noted that they do allow the harvest and sale of glass eels in Maine and South Carolina. Mr. Nininger stated that was his concern.

Mitch Feigenbaum, Pennsylvania Commissioner for ASMFC and co-owner of Delaware Valley Fish, addressed the Commission. He referred to a handout provided to the Commissioners and referenced Figure 6.2 that shows a long-term YOY index of abundance (recoupment) along the Atlantic Coast. It shows there is a coast-wide pattern of relative stability. The scientists describe

it as variable but stable or variable but no trend. When the U.S. Fish and Wildlife Service decided in 2007 not to list American eel as endangered, they specifically cited the fact of long-term recoupment indices. This data also shows stability and low variability during the time period indicated. He pointed out in light of Commissioner Travelstead's comments earlier, that the ASMFC Technical Committee and stock assessment does say the stock is depleted but that very committee has, after the peer review, said there is no finding about overfishing taking place. Over the last 30 years we've seen a very stable trend in both recoupment and standing stocks. As we go forward, we believe the Commission should take no action on an emergency basis today. You can feel very good that the ASMFC Plan Development Team, which includes Mrs. Cosby, will work vigilantly to make sure eel populations are protected. The point everyone agrees with is that the problem with eels is a problem with habitat and passage. Mr. Feigenbaum hopes that everyone will harp on the power companies and the Federal Government to continue increasing passage and increasing habitat. When we increase habitat, the eels repopulate.

Crab Harvest Report

Mrs. Cosby presented the preliminary crab harvest report for April through July, 2012. She noted that harvest was depressed in April and May and values were comparable in June and July but slightly lower than last year's harvest. However, all four months were below the long-term average. There were 27,935 bushels of hard crabs harvested, 16,701 pounds of peelers harvested and 851 pounds of soft crabs harvested so far this season. The CPUE was down in April and May, but is showing an increasing trend and the season continues. She felt as the season progresses more crabs are becoming available to harvest. It started out slow and the forecast from the scientists at the beginning of the season was that the recruitment of small crabs was a record high and as these crabs have time to shed and grow, there should be plenty of crabs by the end of the season.

Open Public Hearing – 10:45 a.m.

Chairman Palmer opened the public hearing and Mr. Carpenter reported that advertising took place as required by the Compact so that the Commission can proceed with the public hearing today. The following items were considered for this public hearing:

1. To adopt **Reg. I, Sec. 2(d)(6)** Two Crab Pot Licenses on One Boat converting Order 2011-06 to a new Regulation and issue a placard to be displayed on the outside starboard side of the boat instead of issuing crab pot decals for this permit.
2. To amend **Reg. III, Sec. 11(c)** Return of Incidental Catch allowing the shad by-catch to be set from time to time by appropriate Order.
3. To adopt **Reg. III, Sec. 13(e)** Individual Striped Bass Identification (SBID) Tag Allocation Transfer for a Commercial Hook and Line License establishing how to obtain a commercial hook and line striped bass identification tag allocation for a new license.
4. To adopt **Reg. III, Sec. 13(f)** Individual Striped Bass Identification (SBID) Tag Allocation Transfer for Pound Net License(s) establishing how to obtain a pound net striped bass identification tag allocation for a new license.
5. To amend **Reg. VII, Sec. 5(d)** Crab Pot Longlines to change the water depth restriction from not less than 20' MLW to not less than 10' MLW.
6. To adopt a new **Reg. VIII, Oyster Management Reserve Program, Sections 1-10**, establishing a program for a financially self-sustaining "put and take" public oyster fishery. This Regulation will provide the rules and procedures and empower the participants to develop a set of bylaws and guidelines.

7. To adopt an **Emergency Order** American Eel Closure closing the fall season for the commercial harvest of American eel effective September 30, 2012

Reg. I, Sec. 2(d)(6) – Two Crab Pot Licenses On One Boat

Mr. Carpenter advised this Regulation would be to codify the two crab pot licenses on one boat issue that has been dealt with by Order of the Commission since Hurricane Katrina, 7 years ago. It has had several changes made throughout the years and has been adopted as an Order several times. This would codify into Regulation form the most recent Order that was in effect, with one change. A placard would be issued for the boat instead of decals for each crab pot, since we now require crab pot decals/tags for all crab pot licenses.

Paul Springer, representing the Charles County Watermen's Association, said seven years ago he requested that he and his son be allowed to work together because of his age. It also eliminated the burden of financing two boats, by being able to work from one boat and it worked very well. For some others, it allowed many different types of family members and friends to work together. There were concerns that businesses would want to come in and take over the industry and that simply did not happen. There have only been seven to eight permits issued annually and it helped the people in the fishery. He would like to see this permit continue as part of the crab fishery and make it a permanent thing.

Robert T. Brown, President of the St. Mary's County Watermen's Association, agrees with everything Mr. Springer stated. It's a tool that's needed and the association supports it.

Sammy Dorough stated he appreciated Mr. Carpenter trying to help him because he has a crab pot license in a business name and he would like to take advantage of this permit. But because the boy who helps him is only 14 years old and has not had two years experience working on his own, he does not qualify to obtain the permit. He would like the opportunity to have anyone work that business license and qualify for two crab pot licenses on one boat. He also does not like the crab pot ID tags that were implemented last year. He thought they were considered as a trial and would be addressed for the upcoming season. Mr. Carpenter helped Mr. Dorough paint some of this crab pots to show him how difficult it is to deal with these tags/decals.

Mr. Carpenter explained that Mr. Dorough has two issues, the first is the conditions of the permit stated both licenses must have actively crabbed in the Potomac River for at least 30 days in each of the last two years. With these conditions, the 14 year old boy would have to work by himself and that's not something Mr. Dorough thinks is reasonable. The other issue Mr. Dorough has is that his second crab pot license is in his business name and the permit states that both licensees have to be natural persons. He wants a permit but is not allowed to obtain one because of the way the Order has been structured in the past.

Commissioner Travelstead questioned if there was a way to change the name on the license from a corporation to another person? Mr. Carpenter stated he could put the license in the name of the boy, but it still doesn't have the history of working the licenses for the past two years under the boy's name, therefore it still would not qualify.

Mr. Dorough said there's no guarantee who might be working for you in the next two years. The boy is 14 now, but by the time he turns 16 could have moved on to a different and better profession.

Commissioner O'Connell wondered how critical "Item a" (the 2 year working history) is to be part of this Regulation. It would provide the industry with more flexibility with getting assistance in their operations. Mr. Carpenter explained that condition was placed as criteria to help control the number of crab pots that are actually being worked in the river. This is to prevent the explosion of latent effort returning to the river. The idea behind this permit was to have two active crabbers working together, and to preserve the 'independent waterman', thus "Item e" was included to limit corporate participation in this program.

Commissioner Fleming asked how we might accommodate Mr. Dorough. Commissioner Travelstead suggested making an exception for a family member.

Mr. Dorough explained he has held that crab pot license for almost three years now and it shouldn't matter who works the license. Mr. Dorough felt that if he pays for the license there is no need to restrict him.

Commissioner Fleming felt that an answer was not needed to his question because this is far more complicated than what we have time for today. Commissioner Fleming then asked if this item could be discussed at a later meeting. Mr. Dorough said he has been before the Commission twice and today would be the third time and he would like something done.

Robert T. Brown suggested inserting language so that the Commission could review situations like this on a case by case basis and a waiver could be issued.

Paul Springer thought that in an effort to accommodate Mr. Dorough, he questioned if the Commission had the authority to grant such a waiver. If that was possible, he asked wouldn't there be a line at the door for that. Mr. Springer felt the Commission should discuss the possibility of a waiver and consider helping Mr. Dorough today.

Commissioner Schick thought that was a good idea, but didn't know how to achieve that. He also noted what's being asked here is a corporation to be able to assign the license to whoever he wants whenever he wants. That's not been this Commission's philosophy. There are a lot of corporations that may want to do that and the reason that hasn't happened is because the Commission hasn't allowed it. If we open the door to one corporation, we have to open it to all corporations. How we could make an exception for family members to come into the corporation may be considered, but there should be a list of criteria that could be met in order to qualify for that. Commissioner Schick could not support the concept of being able to assign a worker to a crab boat at will.

Commissioner Rice suggested the Commission review the possibility of carrying the license history with a transfer of that license.

Mr. Carpenter suggested in the interest of trying to get something done, that the Commission not adopt a Regulation today. The Commission could deal with this issue as an Order for one more year, and give staff the opportunity to figure out how to solve this issue without creating too many other problems. Staff could bring this issue back to the next Commission meeting as an Order for review.

Chairman Palmer stated that currently family members are taking advantage of this permit. What Mr. Dorrough is trying to do is run his own two licenses off of one boat, himself plus one entity that he gets to name at any particular time, which does not seem to be the intent of the two licenses to one boat. Mr. Carpenter responded that's why "Item e" is in the Order.

Commissioner Rice stated he was hoping that the Commission would adopt this as a Regulation and be done with it today. He questioned if there is a possibility the Commission could bring this back to the next Commission meeting, without having to re-advertise for another public hearing. Mr. Mayo replied yes, that could be done.

A motion was made by Commissioner Schick, seconded by Commissioner Travelstead to table this issue to the next meeting, so issues can be worked out to accommodate some of the public's concerns.

Commissioner Rice suggested that the violation section should also be reviewed. He felt that violations when using the permit should be considered, but violations regarding crabbing itself should be dealt with as they normally are. Two men working together should not have a separate set of laws with a separate set of penalties.

Commissioner Bowes stated there may also be issues with transferring the crab pot license. Based on current Regulations, all 400 and 500 pot licenses when transferred become a 300 pot license. This may affect this man's business as well.

Mr. Dorrough responded that Regulation is wrong and when a 400 or 500 pot license is transferred it should transfer as such.

Commissioner Rice asked if public comment taken today regarding this issue would be carried forward to the next meeting. He felt there were other people who wanted to speak about this issue today who may not be able to attend the next meeting, but want their opinion to be noted in the public comment forum.

Commissioner Schick withdrew his motion until the appropriate time to do so, Commissioner Travelstead withdrew his second.

David Franklin stated he and his son take advantage of the permit and had to wait two years for his son to qualify for the permit. He agrees with Mr. Springer and Mr. Brown and feels it's a good thing to have. Having the ability to work together cuts down on the cost of operating a boat and he would like the Commission to adopt this as a Regulation so it doesn't need to be addressed every year.

John Morris would also like to see this permit continue. Two crabbers working from the same boat does not hurt the industry, because you are still fishing the same amount of crab pots allowed for each license and it does save a tremendous amount of money. Mr. Morris and his son also take advantage of this permit.

Reg. III, Sec. 11(c) – Return of Incidental Catch

Mr. Carpenter advised this would allow the Commission to set the American Shad by-catch provision by Order of the Commission rather than by Regulation. It was endorsed by the Finfish Advisory Committee and staff supports the change. **There was no public comment on this issue.**

Commissioner Bowes asked why the Regulation contains catfish as a by-catch for all fisheries. Mr. Carpenter explained it's a tolerance for undersized catfish pertaining to White and Channel catfish. Currently there is no size limit requirements for Blue catfish.

Reg. III, Sec. 13(e) – Individual Striped Bass Identification (SBID) Tag Allocation Transfer for a Commercial Hook and Line License

Mr. Carpenter advised this is a new Regulation that would codify procedures under which striped bass tag allocations are transferred with a hook and line license. This has been before the Finfish Advisory Committee, and they approved it and staff supports the Regulation as well.

Robert T. Brown, representing the St. Mary's County Watermen's Association, is in favor of this Regulation as well as Reg. III, Sec. 13(f).

Reg. III, Sec. 13(f) – Individual Striped Bass Identification (SBID) Tag Allocation Transfer for Pound Net License(s)

Mr. Carpenter noted this is a similar Regulation to the hook and line Regulation just presented and is supported by staff and the Finfish Advisory Committee.

There were no other comments in regards to this Regulation.

Reg. VII, Sec. 5(d) – Crab Pot Longlines

Mr. Carpenter advised this Regulation would change the minimum depth requirement for crab pot longlines from 20' to 10' MLW. Staff recommendation would be to leave the Regulation as it exists.

John Morris stated he uses crab pot longlines and they help against crab pot loss. Crabbing in 20' during the summertime, you might as well not crab. It's an efficient way to save crab pots and it doesn't increase effort.

Bob Holden noted the idea of crab pot longlines was originally created to be used in deep waters so large boats and ships could pass by. Two years ago, a compromise was made to reduce the

depth restriction from 30' to 20' MLW. Here we are again today with the same watermen wanting to change the Regulation again for their purposes. He felt there could be a conflict of interest by allowing the depth restriction to be lowered. He is not in favor of changing the Regulation.

Reg. VIII – Oyster Management Reserve Program

Mr. Carpenter advised this Regulation is new and it will codify the Oyster Management Reserve Program. The Oyster/Clam Advisory Committee, the Oyster Management Reserve Participants and staff all support Regulation VIII. He noted that there are a couple of suggested changes and reviewed them accordingly. **There were no public comments in regards to Regulation VIII.**

Close Public Hearing – 11:25 a.m.

Commissioner Rice verified that now the public hearing is closed, the issue of two licenses on one boat has officially been moved forward to the next Commission meeting. The Commission agreed.

Reg. III, Sec. 11(c), 13(e) and 13(f)

A motion was made by Commissioner Rice, seconded by Commissioner Schick and unanimously passed to adopt Regulations 11(c), 13(e) and 13(f) as presented.

Reg. III, Sec. 11(c) Return of Incidental Catch

Any fish, whose size is prohibited or whose season is closed by these regulations, which may be caught or entrapped as an incident to other lawful fishing activities, shall be immediately released and returned to the waters where found, provided, however, the following tolerances shall be allowed:

- (1) For all fisheries. A tolerance of 5% per species of undersized white perch or catfish shall be allowed. The percentage will be determined by the count of the actual number of fish per species in possession or a sample of at least a one-half bushel oyster tub.
- (2) For gill nets and pound nets. The Commission may from time to time and by appropriate Order, specify a tolerance of American and/or hickory shad per licensee.

Reg. III, Sec. 13(e) Individual Striped Bass Identification (SBID) Tag Allocation Transfer for a Commercial Hook and Line License

1) Any commercial hook and line license surrendered during the license renewal period (December 1 through January 31), subject to the terms of Regulation I, Section 1(e), may be issued to any applicant (the receiving licensee) who has made timely application for the next year's license with a commercial hook and line allocation of striped bass identification (SBID) tags.

2) Any commercial hook and line license surrendered during February 1 through November 30, subject to the terms of Regulation I, Section 1(e), may be issued to any applicant (the receiving licensee) who has made timely application for the current year under the following conditions:

- a. If the licensee surrendering a license has not been issued any SBID tags, the receiving licensee shall be eligible to receive the allocation of SBID tags for the new license issued.

- b. If the licensee surrendering a license has been issued SBID identification tags, the receiving licensee will only be eligible to receive the number of SBID tags returned with the surrendered license, as provided in Regulation III, Section 10(b).

Reg. III, Sec. 13(f) Individual Striped Bass Identification (SBID) Tag Allocation Transfer for Pound Net License(s)

1) Any pound net license(s) surrendered during the license renewal period (December 16 through January 31), subject to the terms of Regulation I, Section 1(e), may be issued to any applicant (the receiving licensee) who has made timely application for the next year's license. The receiving licensee will receive the striped bass identification (SBID) tag allocation after at least one license is set and fishing, and has been verified by law enforcement.

2) Any pound net license(s) surrendered during February 1 through December 15, subject to the terms of Regulation I, Section 1(e), may be issued to any applicant (the receiving licensee) who has made timely application for the current year. The receiving licensee may only receive the SBID tag allocation under the following conditions:

- a. If the licensee surrendering a license(s) has not been issued any SBID tags, the receiving licensee shall be eligible to receive the SBID tag allocation for each new license issued, after at least one of the new licenses is set and fishing, and has been verified by law enforcement.
- b. If the licensee surrendering a license(s) has been issued SBID tags, the receiving licensee will only be eligible to receive the number of SBID tags returned with the surrendered license(s), as provided in Regulation III, Section 10(b). In order for the surrendered SBID tags to be reissued to the receiving licensee, at least one of the new licenses has to be set, fishing, and verified by law enforcement.
- c. If the receiving licensee already had a pound net license(s), but did not have any license set, fishing and verified by law enforcement, then in order to receive his/her original allocation of SBID tags, at least one of his/her original licenses has to be set, fishing, and verified by law enforcement.

Reg. VII, Sec. 5(d) – Crab Pot Longlines – The Commission took no action on this Regulation.

Reg. VIII – Oyster Management Reserve Program

A motion was made by Commissioner Hall, seconded by Commissioner O'Connell and unanimously passed to adopt Reg. VIII as presented.

REGULATION VIII

OYSTER MANAGEMENT RESERVE PROGRAM

Purpose

The Potomac River Fisheries Commission (PRFC) convened a Blue Ribbon Oyster Panel to develop a Revitalization Oyster Plan for the Potomac River public oyster fishery as a means of “jump starting” the oyster resource in the river. The Panel was directed to develop a financially self-sustaining “put and take” public oyster fishery; consequently the Oyster Management Reserve Program was designed and approved by the Commission.

Section 1 Oyster Management Reserve Program

The Commission hereby establishes this Regulation with provisions that are designed for and apply only to the Potomac River Oyster Management Reserve Program. Except as noted herein Regulation VIII, the provisions of Regulations I through VII do not apply to the Oyster Management Reserve Program. For the first two years of the Program (2012 and 2013), the Commission will provide funds, purchase triploid eyed oyster larvae and have it set on shell. Participants will plant the spat on shell on the Oyster Management Reserve Area for grow out. From the third year forward, the Program will be self-sustaining and funded by the participants.

Section 2 Definitions

Hand Tongs – As defined in Regulation II, Section 1(a).

Hand Scrape – As defined in Regulation II, Section 1(e).

Natural Person – As defined in Regulation I, Section 3(a)(2).

Oyster Management Reserve License – A commercial PRFC oyster license, valid exclusively for catching or attempting to catch oysters on any Oyster Management Reserve Area in the Potomac River.

Participant – Any person or natural person who has purchased a PRFC Oyster Management Reserve License in the Oyster Management Reserve Program.

Person – As defined in Regulation I, Section 3(a)(1).

Power Assisted Hand Tongs – As defined in Regulation II, Section 1(b).

Principal Licensee – A natural person who is named on the Oyster Management Reserve License as the assigned user of the License by the person (participant) who purchased the License.

U.S. Standard Bushel Basket – As defined in Regulation II, Section 3(a).

Section 3 General Provisions

The provisions of Regulation I, Section 6 and Regulation III, Section 1, Section 2, Section 3, Section 4, and Section 5 apply to the Oyster Management Reserve Program.

Section 4 Oyster Management Reserve License

The Oyster Management Reserve License is valid exclusively for taking, catching or attempting to take or catch oysters on any Oyster Management Reserve Area in the Potomac River, and no other oyster license is required. This license shall be good for the licensing year January 1st through December 31st each year. No person may purchase more than three (3) Oyster Management Reserve Licenses.

Section 4(a) Natural Person as a Participant (i.e. individual)

Any natural person desiring to participate in the Oyster Management Reserve Program shall pay a license fee of \$550.00 (see Section 5 of this Regulation) between December 1 (for the following year) and March 31 each year and hold a valid PRFC Commercial License Registration. This license cannot be used by anyone except this licensee (participant). The participant is responsible for complying with all provisions in this Regulation, including submitting oyster harvest reports and complying with the identification tagging requirements.

Section 4(b) Person as a Participant (i.e. company)

Any person desiring to participate in the Oyster Management Reserve Program shall pay a license fee of \$550.00 (see Section 5 of this Regulation) between December 1 (for the following year) and March 31 each year and hold a valid PRFC Commercial License Registration. A natural person must be named as “principal licensee” on the Oyster Management Reserve License as the assigned user of the License, by the participant. This license cannot be used by anyone except the principal licensee. Except when renewing this license, if the participant wants to assign this license to a different natural person as the principal licensee, there will be a fee of \$50.00. The participant is responsible for complying with all provisions in this Regulation, including submitting oyster harvest reports and complying with the identification tagging requirements.

Section 4(c) Crew

Any participant who purchased an Oyster Management Reserve License, under Section 4(a) or 4(b) above, may purchase one or two additional license(s) for crew member(s) at a fee of \$600.00 each. Such crew member license is only valid when an eligible participant or principal licensee with a valid Oyster Management Reserve License is aboard the boat or vessel.

Section 4(d) Possession of Valid License

Each person on board any boat taking, catching or attempting to take or catch oysters on any Oyster Management Reserve Area is required to possess a valid Oyster Management Reserve License for the year of such taking.

Section 5 Program Eligibility Requirements

Section 5(a) Delayed Entry

There is an initial three-year delay for harvesting oysters on any Oyster Management Reserve Area for each participant entering the Oyster Management Reserve Program:

(1) Each participant must purchase an Oyster Management Reserve License and hold a valid PRFC Commercial License Registration (CLR) for the previous three (3) consecutive years, to be eligible to take, catch or attempt to take or catch oysters on any Oyster Management Reserve Area.

(2) A crew license purchased by a participant must also have been purchased for the previous three (3) consecutive years to be eligible to take, catch or attempt to take or catch oysters on any Oyster Management Reserve Area.

Section 5(b) 2012 Season Participants

The 20 participants entered in the Oyster Management Reserve Program for the 2012 season, who each purchased an Oyster Hand Scrape License and paid the surcharge fee, will be grandfathered in for the 2013 season when they purchase an Oyster Management Reserve License, and it will be counted as year-2 in the Program for those 20 people.

Section 6 Oyster Management Reserve Areas Established

Section 6(a) Areas Defined

Cobb Island Bar (360 acres) and Ragged Point Bar and Addition (302 acres), as charted on the Natural Oyster Bar charts #25-4, #26-10 and #26-11, are designated as Oyster Management Reserve Areas. The Commission may designate other Potomac River areas or oyster bars in the future by Order of the Commission, as the Program expands.

Section 6(b) Oyster Management Reserve Area Closed

It shall be unlawful for any person to take, catch or attempt to take or catch oysters by any means at any time on Cobb Island Bar, Ragged Point Bar and Addition, or other areas/bars designated as Oyster Management Reserve Areas unless the person is a participant or crew who meets the eligibility criteria in Section 5(a) of this Regulation and the Oyster Management Reserve Areas have been announced as being open and ready for harvest by the Commission.

Section 7 Provisions for the Taking or Catching of Oysters

Section 7(a) Devices for Taking or Catching Oysters

An eligible participant or crew may take, catch or attempt to take or catch oysters from any Oyster Management Reserve Area by hand tongs, power assisted hand tongs or by hand scrapes and by no other means.

Section 7(b) Dates and Times for Taking Oysters

The dates and times during which oysters may be taken or caught on Oyster Management Reserve Areas will be determined by a majority vote of the eligible participants (see Section 5(a)) each year. The Commission will then announce the Oyster Management Reserve Areas as being open and ready for harvest and will notify all eligible participants.

Section 7(c) Containers for Oysters

All oysters on board the boat which have been harvested from any Oyster Management Reserve Area must be contained in PRFC approved containers, no larger than a U.S. Standard Bushel Basket.

Section 7(d) Identification Tags Required

Each container of oysters harvested from an Oyster Management Reserve Area must be tagged with a completed PRFC issued Oyster Management Reserve Area identification tag before leaving the harvest area. No container of oysters harvested from an Oyster Management Reserve Area may be removed from the boat without said tag being firmly affixed to the container. These identification tags may be purchased from the PRFC for \$2.00 per tag. Unused tags can be returned to the PRFC for a refund within 24 months of date of purchase.

Section 7(e) Reporting Requirements

Every participant shall keep an accurate and complete daily account of his or his boat's oyster catches from the Oyster Management Reserve Areas on forms supplied by the Commission. Such daily records of the oyster catches shall be delivered to, or mailed in time to arrive at, the Commission Office no later than Thursday of the following week.

Section 8 Limited Entry

When a cap on the number of Oyster Management Reserve Licenses is recommended by participants and approved by the Commission, then the Program becomes a limited entry plan. At the limited entry stage, Oyster Management Reserve Licenses will be allowed to be surrendered and reassigned (Regulation I, Section 1(e)) by the Commission, for a fee of \$100.00.

Section 9 Commission Responsibilities

The Commission will be responsible for: accepting and tracking the fees paid into the Oyster Management Reserve Program; tracking and notifying eligible participants; providing the group of participants (by April 15 each year) an accounting of the amount of money available for buying oyster seed; checking on current cost and availability of seed from the hatcheries; and providing results of the oyster survey on the Oyster Management Reserve Areas. Commission staff will coordinate the logistics of planting oyster seed with the participants.

Section 10 Participant's Guidelines

The participants invested their money, time, and energy in this Oyster Management Reserve Program with the vision of developing a financially self-sustaining "put and take" public oyster fishery in the Potomac River. The Commission supports this Program and is willing to allow the participants the flexibility to develop their own guidelines for their recommendations for such things as planting sites, sources of seed, dates and times to open the reserves, size or harvest limits. This Program should not constrain the participants from catching and marketing these oysters at the optimal time in the best interest of the participants.

Section 11 Severability Clause

If any word, clause, sentence, paragraph or section of the regulations shall, for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the word, clause, sentence, paragraph or section thereof so found unconstitutional and invalid.

Section 12 Effective Date

These regulations shall take full force and effect thirty (30) days, or more, after their final adoption by the Commission.

Reg. I, Sec. 2(d)(6) – Two Crab Pot Licenses on One Boat

A motion was made by Commissioner Schick, seconded by Commissioner Travelstead and unanimously passed to table this item until the next Commission meeting.

Order 2013-01 – American Shad By-Catch Provision

Mr. Carpenter advised since Reg. III, Sec. 11(c) was passed the Commission can proceed with this Order. This will include the two percent by-catch tolerance for gill nets and pound nets, not to exceed two standard bushels of American or hickory shad per day per licensee.

A motion was made by Commissioner Rice, seconded by Commissioner Schick and unanimously passed to adopt Order 2013-01 as presented.

ORDER #2013-01
(replaces #2012-05)

AMERICAN SHAD BY-CATCH PROVISION

THE POTOMAC RIVER FISHERIES COMMISSION, having considered the protection, promotion, growth and conservation of the American shad resources; and pursuant to its authority under Regulation I, Section 7(a) (2); and Reg. III, Sec. 11(c)(2); **HEREBY DECLARES AND ORDERS:**

- a) That the tolerance specified in Regulation III, Section 11 (c) (2) for gill nets and pound nets shall be 2% by volume of the total catch in possession, not to exceed two (2) standard bushels per day per licensee, of American or hickory shad shall be allowed.

AND IT IS FURTHER DECLARED AND ORDERED: this Order #2013-01 shall become effective January 1, 2013, and remain in effect until further notice.

ASMFC Issues

Mr. Carpenter stated a summary of the 2012 Summer Meeting was included in the packet. The ASMFC meeting was held the week of August 7th in Alexandria, Virginia. He covered two topics earlier in the meeting dealing with American eel and the Striped Bass tagging issue. Concerning Atlantic Menhaden, there were many motions made and items to go through for the Draft Addendum and the outcome was to send it back to staff to rewrite it, because there were substantial changes before an authorized sub-committee would review it. The Draft Addendum will be presented at the ASMFC October meeting and final action will not occur until the December meeting in Baltimore, Maryland. The Addendum addresses reference points for the fishery and the possibility of quotas for both reduction and bait fisheries.

The ASMFC 71st Annual Meeting will be held the week of October 21st in Philadelphia, Pennsylvania. All Commission members are encouraged to attend.

Financial Reports

Fourth Quarter Disbursements and Cash-on-Hand – The report of the fourth quarter disbursements (April through June) for the operation budget was presented by budget item totaling \$188,982. A report of the cash-on-hand was also presented totaling \$714,425.82, as of August 28, 2012. Mr. Carpenter noted on the statement of receipts under recreational fishing, the amount of \$133,610 will change due to the fact that some posting errors were discovered in prior years. Adjustments will be in the order of around \$3,000 to correct the posting errors.

A motion was made by Commissioner O'Connell, seconded by Commissioner Hall and unanimously passed to approve the 4th quarter disbursement reports.

Revised FY 2012-2013 Budget

Mr. Carpenter advised that the final budget that was presented in June for approval did not contain funding for the miscellaneous income and was left blank inadvertently. It should have been \$2,500. A revised budget was presented to reflect that change and the ending budget amount for the 2012-2013 fiscal year is \$850,150. To compensate for that funding, we have

increase other contractual services on the disbursements side from \$17,000 to \$19,500 to balance the budget.

A motion was made by Commissioner Fleming, seconded by Commissioner Bowes and unanimously passed to adopt the amended FY 2012-2013 budget as presented.

POTOMAC RIVER FISHERIES COMMISSION
2012-2013 DISBURSEMENTS BUDGET

	<u>2012-2013</u> <u>BUDGET</u>
<u>PERSONAL SERVICES:</u>	
101-109 Compensation of Commissioners & Salaries	\$282,195
<u>CONTRACTUAL SERVICES</u>	
201 Advertising	9,000
201 Agent Fees	4,000
204 Postage	12,000
205 Telephone	4,800
206 800 Line	800
207 Internet Service	700
208 Electric Current	4,500
209 Freight Expenses	1,000
212 Lease of Equipment	4,500
214 Membership Dues & Subscriptions	300
216 Printing Regulations*	2,500
220 Travel Expenses	17,000
221 Water Expenses	720
224 Photographic Services-Charts	500
230 Computer Support	15,000
235 Sport Lic Registry	1,000
270 Repairs to Equipment	1,500
275 Building Maintenance	4,000
280 Interest Expense	0
281 Bank Charges	500
290 ACFCMA**	96,000
299 Other Contractual Services	<u>19,500</u>
	199,820
<u>MATERIALS & SUPPLIES</u>	
301 Automotive Expenses	3,500
313 Office Supplies	13,500
330 Household Furnishings & Supplies	1,600
332 Licenses, Tags, Report Books	40,000
400 Resale Supplies	<u>2,000</u>
	60,600
<u>CURRENT CHARGES & OBLIGATIONS:</u>	
240 Insurance - surety bonds, fire auto liability, workmen's comp.	<u>7,000</u>
	7,000
<u>PENSION AND OTHER CONTRIBUTIONS:</u>	
510 Retirement	15,897
511 Group Life Insurance	1,263
512 Group Health Insurance	53,647
513 Employer's FICA	16,318
513 Employer's Medicare	3,816

514 Deferred Compensation Match	<u>3,000</u>
	93,941
<u>CAPITAL OUTLAY:</u>	
801 Office & Other Equipment	5,000
801 Furniture & Fixtures	2,500
803 Auto	<u>0</u>
	7,500
<u>DEVELOPMENT & REPLETION EXPENSES:</u>	
331, 333 & 335 Seed Oysters and/or Shell	0
336 Oyster Management Reserve	50,000
337 Oyster Research	0
338 Crab Research	0
339 Artificial Reef Construction/Transportation	<u>0</u>
	50,000
<u>CAPITAL RESERVES</u>	
101 Reserve - future oyster work/hatchery	42,473
102 Reserve - future retiree health insurance	75,000
<u>UNEXPENDED CASH BALANCE: (contingency fund)</u>	<u>31,621</u>
TOTAL	\$850,150
*Partially supported by ACFCMA (Atlantic Coastal Fisheries Cooperative Management Act) funds	
**Fully supported by ACFCMA	

POTOMAC RIVER FISHERIES COMMISSION
2012-2013 BUDGET
RECEIPTS

	<u>2012-2013</u> <u>BUDGET</u>
UNEXPENDED CASH BALANCE FORWARD: (AS OF 7/1/12)	60,000
SALE OF LICENSES:	
Fish	74,000
Crab	70,000
Clam	250
Fish - Recreational	135,000
Crab - Recreational	1,000
OYSTER RESERVE:	
CLR – Commercial License Registration	32,000
Oyster Licenses	3,500
OLS – License Surcharge	6,000
Oyster Bushels Inspection Tax	300
APPROPRIATIONS BY STATE:	
Maryland	140,000
Virginia	148,750
SPECIAL GRANTS:	
Atlantic Coastal Fisheries Cooperative Management Act	97,850
DRAWDOWN of Oyster Reserve:	50,000
INTEREST ON SAVINGS (C/D's):	500
RESALE SUPPLIES:	1,500
LICENSE DRAWING:	8,000
SHIPPING & HANDLING (65-58):	2,000
CPID (65-58):	17,000
MISCELLANEOUS: Confiscated Property, Replace Lic./Tag, Etc.	2,500
TOTAL	\$850,150

Delinquent Seafood Catch Report Hearing

Mr. Carpenter presented the Seafood Catch Reports Enforcement Policy prior to the delinquent hearing and advised that the policy should be reviewed to address the revocation of licenses. A number of our licenses are limited entry licenses and if one is revoked and the license holder appears before the Commission to request the license back prior to the expiration, there is an opportunity for the Commission to reinstate that license. If it's after the renewal deadlines, the license is then placed in a random drawing or in the case of a crab pot license, it's simply retired. Mr. Carpenter needed to make the Commission aware of the ramifications of revoking a license.

Frankie Hannah, III – Mr. Hannah was present. Mr. Carpenter advised this is Mr. Hannah's 1st offense (Class I) for failing to file crab pot reports. He did file his reports one week prior to today's hearing. Staff's recommendation is for one year of probation. Mr. Hannah spoke to the Commission and asked for leniency. He also asked what is involved with being on probation. ***A motion was made by Commissioner Rice, seconded by Commissioner Hall and unanimously passed to accept staff's recommendation and place Mr. Hannah on one year of probation.*** Mr. Carpenter stated he would get with Mr. Hannah and explain the terms of the probation.

Charles Christopher Morris – Absent – Mr. Carpenter advised this is Mr. Morris's 1st offense (Class II) for failing to file eel pot and crab pot reports. His reports were not filed one week prior to today's meeting and staff's recommendation is a one week suspension of all licenses and one year of probation. The suspension could be from September 7th to September 15th.

Commissioner O'Connell felt that since the reports have not been filed, the licenses should be suspended until Mr. Morris satisfies the reporting requirements and then follow with a year of probation.

Commissioner Travelstead questioned if these people are summoned to be here for today's meeting. Mr. Carpenter explained the notice of the meeting, which is sent by certified mail, allows for their attendance, written comment, someone to represent them or if they accept staff's recommendation, then they don't have to show up.

Cathy Friend verified that his reports were received on August 29th.

A motion was made by Commissioner Rice, seconded by Commissioner O'Connell and unanimously passed to accept staff's recommendation of a one week suspension (Sept. 9th – Sept. 15th) on all licenses and one year of probation.

Paul McKay Springer, III – Absent – Mr. Carpenter advised this is Mr. Springer's 1st offense (Class II) for failing to file his crab pot reports. His reports were not filed one week prior to today's meeting and staff's recommendation is a one week suspension on all licenses and one year of probation. The suspension could be from September 7th to September 15th for the crab pot license and the first week of gill net season for his gill net license(s). ***A motion was made by Commissioner Schick, seconded by Commissioner O'Connell to suspend Mr. Springer's licenses until all catch reports are filed and up to date. If the reports are in prior to the dates listed for the suspensions, then it will be applied. If the reports come in after the suspension dates listed, then staff can choose the weeks they are to be applied and a one year of probation.***

Cathy Friend stated the Mr. Springer had not picked up his registered letter calling him to the hearing today.

An amended motion was made by Commissioner Schick seconded by Commissioner O'Connell to suspend Mr. Springer's licenses until his reports are up to date, effective 10 days after today. After the reports are received, there would be a one week suspension added on, chosen by staff, followed by a one year probation. The motion passed unanimously.

Commissioner Schick thought it may be a good idea to have law enforcement deliver these notices since some of them haven't picked up their notice to appear to this hearing. Lt. Shawn Garren from the MdDNR Marine Police stated they would be happy to accommodate the Commission.

Lee Mathew Tippet – Absent – Mr. Carpenter stated this is Mr. Tippet's 1st offense (Class I) for failing to file his hook and line reports. His reports were filed one week prior to today's meeting and staff's recommendation is one year of probation. Mr. Tippet called the Commission yesterday to explain he is out of town dealing with a family illness, and asked for the Commission's consideration. ***A motion was made by Commissioner Rice, seconded by Commissioner Hall and unanimously passed to accept staff's recommendation of placing Mr. Tippet on a one year probation.***

John Ridgley Cameron, Jr. – Absent – Mr. Carpenter stated this is Mr. Cameron's 3rd offense (Class IV) for failing to file his crab pot reports. Mr. Cameron also has a hook and line license but is not delinquent on those reports. Mr. Cameron's reports were not filed one week prior to today's hearing and staff's recommendation is revocation of all licenses. Cathy Friend stated Mr. Cameron had not picked up his registered letter calling him to today's hearing. Mr. Carpenter suggested modifying the revocation to a suspension until his reports are up to date and recall his striped bass tags until such time. Mr. Carpenter felt the notice of today's hearing should also be delivered by law enforcement. ***A motion was made by Commissioner O'Connell, seconded by Commissioner Travelstead and unanimously passed to provide Mr. Cameron one additional month to submit all of his harvest reports and if he does, it will follow a one year suspension. If reports are not filed by that one month date, the licenses are revoked.***

Robert A. Shymansky – Absent – Mr. Carpenter stated this is Mr. Shymansky's 2nd offense (Class III) for failing to file his hook and line reports. His reports were filed one week prior to today's hearing and staff recommendation is a one month suspension from September 7th to October 8th on all licenses and one year of probation. Mr. Shymansky submitted a letter stating his apology for failing to file the reports and asked the Commission to help him out. ***A motion was made by Commissioner Rice, seconded by Commissioner Schick and unanimously passed to suspend Mr. Shymansky's hook and line license for one month from September 7th to October 8th and one year of probation.*** Mr. Carpenter advised that his striped bass tags will be recalled during the suspension time. The Commission agreed.

Glen Michael Parks – Mr. Parks was present. Mr. Carpenter stated that this is Mr. Park's 3rd offense (Class IV) for failing to file his hook and line reports. Mr. Parks's reports were not filed one week prior to today's meeting and staff recommendation is revocation of all licenses. Mr.

Parks addressed the Commission and explained that he had two heart attacks and is dealing with an ailing father and has not had time to take care of his reports. He apologized for this and asked for leniency from the Commission. ***A motion was made by Commissioner O'Connell, seconded by Commissioner Rice and unanimously passed to suspend Mr. Parks' license for one month and one year of probation.***

Mr. Carpenter advised Mr. Parks that he will need to return his striped bass tags to the Commission as part of his suspension. Commissioner Rice felt that if Mr. Parks decided that he wanted his striped bass tags back after his suspension was complete, he should have the right to get them back. The Commission agreed and set his suspension for September 7th through October 7th.

Authority to Seek Legislation to Increase Fines on the Pre-Payable Fine Schedule

Commissioner O'Connell stated he spoke earlier about this and would like the Commission to direct staff to begin looking at draft legislation that would increase the penalties in the Potomac River as well as provide flexibility for establishing a higher oyster bushel inspection tax.

Mrs. Cosby stated the Oyster/Clam Advisory Committee asked if the Commission would also consider seeking legislation to obtain a percentage from the discharge permits that are issued for the Potomac River. This would be to help fund the oyster program.

Commissioner O'Connell stated he would feel better if more information was presented so he could better understand the possibility of that.

Commissioner Fleming asked what discharge permits are and what they mean. Mrs. Cosby explained that these permits are issued to companies who discharge waste water into the Potomac River. A fee is paid to receive that type of permit and the committee would like the Commission to receive a percentage of that money, currently going to both states, to help fund oyster restoration. Commissioner Fleming agreed with Commissioner O'Connell and felt more information is warranted, but it sounds like a great idea.

Commissioner Travelstead stated there has been a study conducted by VMRC and it is being recommended that Virginia do away with its oyster tax system. He's curious, if that goes forward, how that may jeopardize the oyster tax here in the Potomac River. Mrs. Cosby stated if the Commission pursued legislation to separate PRFC's oyster tax from the oyster tax imposed by Maryland and Virginia, then it would not affect the PRFC if Virginia did away with their oyster tax system.

Mr. Carpenter provided some history to the creation of the oyster tax and how it has evolved over the years. The way the system is set up today really limits the Commission on what it can collect. The PRFC needs to be separated from the states on this and it would require legislative authority from both states.

Commissioner O'Connell stated that the Commission is moving forward to meet economic stability and this idea has come from the industry as a means to generate income to pay for the

rehabilitation of the public oyster beds. He thinks the time is now to have this tool in our tool box to help sustain economic sustainability. He would like to see the industry involved in the fee discussions.

Commissioner Schick asked if the Commission requires bushels of oysters to be tagged. Mr. Carpenter explained the Commission passed a Regulation today that would require a \$2 oyster tag to be placed on oysters harvested from the OMRP, but not from public oyster bars. We would implement a tag, but the oyster tax provides input from the buyers because it's required to be paid by them.

A motion was made by Commissioner Schick, seconded by Commissioner Fleming and unanimously passed to direct staff to pursue information for legislation in both states pursuant to increasing fines, penalties and the oyster tax.

Commissioner Schick also added that he would like to see if staff could figure out a way to collect a percentage on illegal catch or whichever is highest.

Commissioner O'Connell felt it would be a good idea to consult with Maryland and Virginia agencies concerning the penalties to see how they are structured in both jurisdictions.

Mr. Carpenter advised that more information will be presented at the November Commission meeting before we seek legislation.

Date and Place of Next Meeting

The next Commission meeting is scheduled for Friday, November 30, 2012 at 9:00 a.m.

Mr. Bob Holden asked the Commission if they would consider having the crab pot license include the ability to trot line. He feels they should be one license instead of two. He also asked that the Commission consider a senior license holder having the ability to take someone with them when they crab. He questioned why crab reports have to be turned in weekly instead of monthly. It's so much more costly having to report weekly. He would also like to see other ways of filing the reports. He would like to see the Finfish and Oyster/Clam Advisory Committee combined into one group and would like some of those meetings to be held in Leonardtown, Maryland. It becomes costly to continue traveling to Virginia for all the meetings.

Executive Session – 12:32 p.m.

A motion was made by Commissioner Schick, seconded by Commissioner Travelstead and unanimously passed to break for Executive Session where only legal matters will be discussed.

Reconvene – 1:10 p.m.

Chairman Palmer took a roll call vote to show that only legal matters were discussed during the executive session. All Commissioners agreed.

Adjourn

The meeting adjourned at 1:11 p.m.

Respectfully submitted,

Joseph C. Palmer, Jr., Chairman

Ida C. Hall, Secretary