

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

**September 7, 2017**

**Commissioners Present:** Dennis C. Fleming (MD) – Chairman, John M.R. Bull (VA), - Vice-Chairman, Phil L. Langley (MD), G. Wayne France (VA), William L. Rice, Sr. (MD), Ida C. Hall (VA), Dave Blazer (MD) and Dr. Ken Neill (VA).

**Officers Present:** Martin L. Gary – Executive Secretary, Ellen B. Cosby – Assistant Executive Secretary and Michael C. Mayo – Legal Officer.

**Others Present:** Lt. Catherine Medellin; Corporal Jason Kreider and Sgt. David Bailey – MDDNR Law Enforcement; Capt. Herbert Bell and 1<sup>st</sup> Sgt. Ron Cagle – VMRC Law Enforcement; Troy Tuckey and Bob Fisher – VIMS, John Morris – Crab Advisory Committee, Richard Riche – Potomac River Working Watermen Association (PRWWA), Elgin Nininger, Jr., Tucker Brown, Bill Kilinski, John Dean, Melanie Wheeler, James P. Nelson, Sam Dorough, Dave Dustin, Richard Turner, Monica Schenemann, and several others who did not sign the guest register.

**Press:** None

Chairman Fleming called the meeting to order at 8:40 a.m. Commissioner Rice provided the invocation and Vice-chairman Bull led the pledge of allegiance.

Chairman Fleming introduced two new Commissioners. Wayne France, who served on the Oyster/Clam Advisory Committee and noted that he was always impressed with the way Commissioner France operated on the committee. He then, introduced Dr. Neill from VMRC. Both were welcomed to the Commission. Chairman Fleming went on to thank all for being here, and those that take the time to come to the meetings; also thanking those that intended to be here, but couldn't, that helped make the Commission work with the three advisory committees. Special thanks to staff. Chairman Fleming explained that there are some personnel changes that are pending with Cathy Friend taking the place that Becky Butler held for so long.

Chairman Fleming called for volunteers for Commission Secretary which was vacated by Lynn Kellum.

*A motion was made by Vice Chairman Bull, seconded by Commissioner Rice, and unanimously passed to appoint Commissioner Langley as Secretary to the Commission.*

**Consideration of Minutes (March 20, 2017)**

Commissioner Hall had asked previously for more detail to the March 20, 2017 minutes and said that the person who provided the additional detail {Becky Butler} did an excellent job and captured the essence of what went on that day. She noted that there was a minor typo on page 24 of the minutes and handed the page to Becky Butler.

*A motion was made by Commissioner Hall, seconded by Commissioner Langley, and unanimously passed to adopt the minutes from March 20, 2017.*

**Consideration of Minutes (June 1, 2017)**

Commissioner Hall has one correction on page 31 regarding the time of adjournment, noting that she had left at 2:30 p.m. and the meeting was still ongoing. Becky Butler stated we would take a look at this.

*A motion was made by Commissioner Hall, seconded by Vice Chairman Bull, and unanimously passed to adopt the minutes June 1, 2017.*

**Law Enforcement Update**

Lt. Medellin, NRP, thanked the Commission for having them here. She gave an update of a few issues they are seeing including undersized striped bass, red drum, flounder and croaker. They have issued some citations for fishing without a license. NRP has been very busy doing background investigations for future law enforcement officers, and have had a lot of boat accidents and fatalities in the past couple months. Noted that they had touched base with the PRFC last month and that the lines of communication are always open. Commissioner Blazer recognized all the work they do and stated that it is tremendous and important. Commissioner Rice asked if the finfish violations were mostly recreational and Lt. Medellin agreed that they were.

**Violation Hearing**

The Commission has called Mr. James P. Nelson to appear in front of the Commission. He is called before the Commission earlier in the year and did not appear. Mr. Nelson stated he had a mail notice to pick up and when he did, the meeting had already passed. Chairman Fleming stated that Mr. Nelson was found in Jones Shore in an area that was closed and found to be hand scraping in a closed area. He went on to state that the reason he was called before us is that long before we opened Jones Shore there was a lot of debate and a lot of concern that if the Commission did what the industry requested by opening Jones Shore, we would do it in sections. Commission was adamant that everyone knew exactly the area we were working in, and were adamant that when distributing licenses everyone were instructed on the area to be hand scraped. Mr. Nelson was ticketed by NRP, and there is an officer in attendance from NRP.

When asked by Commissioner Fleming why, when there were 35+ boats on one side of the line, Mr. Nelson was on the other side of the line. Mr. Nelson's explanation was two days before others were working down that way and he can't read or write and didn't know the map because it says oyster tong and hand scrape all the way down and thought he was allowed all the way down to Pt. Lookout. Chairman Fleming made a comment that the licenses sold didn't delineate what was the scrape area and what was the tong area. Chairman Fleming asked staff whether people were counseled on what the demarcation lines were? Mr. Gary said that each person was given a map and told demarcation was set by GPS, and that buoys were placed by MDDNR Hydrographic Operations but can move and the knowing where you are supposed to be falls on the licensee.

At this time, Mr. Nelson was asked to take a seat and Corporal Kreider from St. Mary's County NRP came to the podium. Chairman Fleming asked on the day in question, November 11, 2016, what was observed. Corporal Kreider and Sgt. Bailey received a call from another person that there was a commercial oyster boat that was going over the hand tong line on Jones Shore. Three other land based officers set up on shore, observed the boat in question going over the hand tong line and the officer noted that when any other boat would come into the area to work, their boat (Mr. Nelson's), in the illegal section of water, would go into the 'good' section of water. Sgt. Bailey and he approached Mr. Nelson and Melanie who stated they didn't know they weren't allowed to be in that hand tong area only and didn't know what the buoys were for but all the buoys were clear and legible stating hand tong only. Officers took GPS coordinates of buoys and confirmed with hydrographics that buoys were still on station. Took NRP boat to spot where Nelson's boat was and took GPS reading and was still 400 ft over. When asked by Chairman Fleming if, on the day in question, did they observe any other boats over or any boats oystering near shore in the hand tong area, Corporal Kreider said that no other boats observed outside limit. All boats were hand scraping in proper area. Corporal Kreider stated that he observed Mr. Nelson over line 2 days earlier, but didn't write ticket because he (Corporal Kreider) was on land. Chairman Fleming clarified that the phone call Corporal Kreider received was from fellow harvesters and he said yes. Commissioner France asked whether Mr. Nelson consistently stayed over the line or drift back and forth...Corporal Kreider stated Mr. Nelson consistently stayed over the line. Chairman Fleming thanked Corporal Kreider for his time and asked Mr. Nelson to re-approached podium. Chairman Fleming went on to state that Mr. Nelson was sent a letter on June 2, 2017 stating that he was advised by certified letter dated May 12, 2017 that the PRFC held a hearing on June 1, 2017 regarding his violation of Reg. 2, Sec 4(b) Taking or Catching of Oysters in a Closed Area for which he was found guilty in the District Court of St. Mary's County, Maryland. At that hearing on June 1, 2017, the Commission pursuant to Reg. 1, Sec 4, ordered that all your licenses be suspended until he appears before the Commission. Chairman Fleming asked why Mr. Nelson's licenses should not be suspended. Mr. Nelson stated that this is his only livelihood and was confused with the maps and does not have a GPS on his boat. Jones Shore was open with the black lines and thought the whole thing was open. Chairman Fleming stated that to help people without GPS, the Commission went to great expense to put buoys, all of which the other harvesters could identify and stay within the confined area, and why didn't Mr. Nelson stay within them? Mr. Nelson restated he thought he could be down in that area. Commissioner France asked Mr. Nelson to explain why he pled guilty when he went to court in St. Mary's County on February 2, 2017. Mr. Nelson said he pled guilty, had no attorney and did what he had to do. Mr. Nelson currently has a PRFC Crab license and currently is compliant with all catch reports for crab license. Legal Counsel Mr. Mayo noted that there is some protocol for this and to ask staff what they recommend.

Before offering a staff recommendation, Mr. Gary recalled Corporal Kreider to the podium for additional questions. Mr. Gary indicated to the Commission that Mr. Nelson has been cordial and civil in his precedings at the PRFC counter. He asked Corporal Kreider if he could expand on his testimony and if Mr. Nelson was cordial, civil and compliant on the water that day when he approached Mr. Nelson. Corporal Kreider stated that Mr. Nelson and Melanie were quite heated and yelling, very angry and some insults towards Ofc. Bailey. When asked by Mr. Gary if Mr. Nelson was disputing the fact that he was in the wrong area, Corporal Kreider said no, it wasn't a dispute, but that they didn't know what the buoys were for and would call and find out. Mr. Gary

asked if they were treated disrespectfully and Corporal Kreider said yes. Mr. Gary stated that staff sees any violation of protocols down there as egregious and went on to give a little history regarding the Jones Shore discussions and that the debate on using hand scrape gear has been a long and tenuous discussion. Last time hand scrapes were allowed on this particular bar was in 1998. Between then and now there have been numerous discussions that were highly sensitive concerning protection of adequate biomass on that bar. A lot of time and effort to allow for this special management area to allow an experimental rotational project that runs 3 years. Staff considers any violation of the protocols there egregious. Therefore, staff would recommend prohibition on the issuance of an oyster license to Mr. Nelson for the 2017/2018 season; and, in addition, Mr. Nelson can not be a crew member on a boat. Mr. Nelson can not be on a boat in any capacity working with harvesters in the 2017/2018 season. Additionally, he would receive 2 years of probation effective immediately. Probation meaning any slippage of any catch reports would require a return visit before the Commission. All other license suspensions would be lifted.

***A motion was made by Commissioner France, seconded by Commissioner Hall, and unanimously passed to accept staff recommendations. Mr. Nelson will be prohibited from purchasing any PRFC oyster license for this coming oyster season, starting October 1, 2017 thru March 31, 2018; furthermore Mr. Nelson will be prohibited from functioning as a crew member on any harvesting vessel and can not be engaged with any oystering on the river. 2 years probation and all other license suspensions are lifted.***

Chairman Fleming called for any discussion Commissioner Bull agreed this is egregious and disturbing. We've struggled long and hard to open that area to the degree we did. Caution would have dictated not to do that, but violations like this call it into question and it disturbs him and that the men and women of law enforcement do not deserve disrespect. Thinks staff recommendation draws a fine line that the offense and the punishment for the offense is confined to oystering and precludes Mr. Nelson from engaging in oystering in the Potomac River next season.

#### **American Eel YOY Survey – Dr. Troy Tuckey (VIMS)**

Dr. Troy Tuckey of the Virginia Institute of Marine Science (VIMS) provided a brief power point presentation on the monitoring of American eels on the Potomac River. The work he and his students conduct is part of PRFC's mandatory reporting requirements, and is funded through a grant from the National Oceanic and Atmospheric Administration (NOAA). Dr. Tuckey indicated that Clark's Millpond sampling was discontinued due to declining numbers of returning eels. Gardy's Millpond has seen increasing recruitment, and sampling effort has been focused on that location. Since the early 2000s, overall elver abundance has been stable at Gardy's Millpond. Potomac River eels have been dominated by later pigmented eels (stages 4-7), unlike other river systems such as the York (stage 3). Dr. Tuckey also commented that thanks to collaboration with VA DGIF, over 800 eels had been sampled, aged and checked for swim bladder parasites. Lastly, he mentioned the ASMFC stock assessment update was nearly complete. Commissioner Rice asked Dr. Tuckey if he sees the trend of the population getting better? Dr. Tuckey says they see a consistent level, not a decline, but a depressed level at what they've seen historically. Commissioner Langley asked if the pigment in eels is based on water

temperatures. No difference in water temperature this year. Commissioner Fleming asked if there is a decline in eel stocks worldwide even in areas that haven't suffered habitat degradation. Swim bladder parasite that is native to Japanese eel and has moved throughout Europe. Commissioner Fleming asked if there is an illegal glass eel market in either the Chesapeake Bay drainage or the Potomac drainage. Worked with VMRC that monitored traps that were being poached. Operation broken glass that followed them up the coast and busted in Maine and New Jersey. No evidence they were tampered with this year. Commissioner Blazer said he was interested in learning more about the disease and asked that Dr. Tuckey could come back after the September 18<sup>th</sup> date and get more detail. Commissioner Fleming closed the American Eel YOY presentation by thanking Dr. Tuckey for attending and presenting.

### **Cownose Ray presentation - Bob Fisher of VIMS**

Mr. Robert Fisher of the Virginia Institute of Marine Sciences provided a power point presentation to the commission on Cow Nosed Rays (CNR). Mr. Fisher stated that this presentation reflects his own work and isn't representing any other's opinions on issues with the Cownose Ray. Case selective species and it is highly susceptible for over exploitation. Cownose Ray only have a few predators that include near shore shark species, cobia and humans. He spoke at length about the life history of CNR, how the Chesapeake Bay is a major pupping ground for the species, and how all of the rays on or about early July or later are pregnant females. Other facts discussed were characteristics such as the long gestation period of the species, slow to sexual maturity, normally only one pup per pregnant female (rarely two), and the vulnerability to overfishing exhibited by closely related species (Bull Nosed Ray in the southern hemisphere).

Commissioner Bull asked if the magnetic solution is a viable defense mechanism for the clam aquaculture in VA and Mr. Fisher said no. Commissioner Bull also asked for Mr. Fisher's opinion on the bow fishery. Mr. Fisher restated that this is his opinion and not reflecting anyone else's but doesn't think a gear type should be held hostage on the take of Cownose Ray. Does not particularly like any type of derbies where it's a wasteful event, meaning the animal is not utilized. Bow fishing as a recreational event is very popular and provides some income to different communities but does not think gear type should be regulation. Would suggest that anything going forward that information is gathered. If permitting tournaments, or any type of bow fishing activities, be subjected to recording what they took. Commissioner Blazer stated that Maryland legislature is prohibiting tournaments until end of 2018, and also creating a fisheries management plan which will allow them to have regulatory authority for this species. Asked if in his surveys or investigations if the use of alternative substrates, as opposed to spat on shell, was looked at. Answer is no. Commissioner France asked if he has seen any impact on other species when the magnet was used. Answer was no. Commissioner France also asked if the rays like to go to the same spot every year to spawn. Through the acoustic tagging study, saw that the rays that were tagged and released at Gloucester Point, came back 2 successive years, migrating down to Florida and even took the same paths. Came back as mature females to the same idea. Commissioner France suggested that the east coast ray population come back into the Chesapeake Bay because it is their home where they breed. Commissioner Hall asked, that since there is no way to estimate the population, if they looking at ways to figure out how to estimate the population. Answer is yes and have proposed elemental finger printing. Mr. Gary asked,

given the life history given in the presentation, do we really know the implications to the broader ecosystem in Chesapeake Bay if it is reduced? Answer is yes. Mr. Gary further asked that the Commission, working with our advisory committees, consider, at some point, an exploratory effort to allow the Commission to acquire additional data from the harvesting with no pre determined motive on what that data would be used for in management implications. Commissioner Fleming suggested to next present to the advisory committee and move forward. Since Maryland has put a moratorium on tournaments, what happens when someone wants to have a tournament in the Potomac River. No answer since there is nothing that addresses that. There could be positive and negative interactions with the public. Commissioner Fleming closed the Cownose Ray presentation by thanking Mr. Fisher for attending and presenting.

**Order 2017-10: 2017/2018 Gill Net Season & Restrictions & Commercial Striped Bass Catch and Size Limits**

Mrs. Cosby noted that the order is updated with dates and asked for questions. Commissioner Rice reflects one change being the 2<sup>nd</sup> Monday is the traditional opening of fishery falls on the 13<sup>th</sup> instead of the 14<sup>th</sup>.

**O R D E R #2017-10  
(replaces #2016-16)**

**2017-2018 GILL NET SEASON AND RESTRICTIONS  
& COMMERCIAL STRIPED BASS CATCH AND SIZE LIMIT**

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**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 13, 2017 through March 25, 2018.
- 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 13<sup>th</sup> through February 28<sup>th</sup> – all stands, and;
  - ii) from March 1<sup>st</sup> through March 15<sup>th</sup> – 4 stands, and;
  - iii) from March 16<sup>th</sup> through March 25<sup>th</sup> – 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 355,810 pounds (44,280 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 13, 2017 through February 14, 2018	18" Min.
February 15, 2018 through March 25, 2018	18" Min. / 36" Max.

**AND IT IS FURTHER DECLARED AND ORDERED:** this Order #2017-10 shall become effective November 1, 2017, shall supersede and repeal Order #2016-16 and remain in effect for the 2017-2018 season or until such time the Commission has taken further action.

*A motion was made by Commissioner Rice, seconded by Commissioner Blazer, and unanimously passed (7) to approve as written. Vice Chairman Bull was absent for the motion and the vote.*

**Status of Potomac River Atlantic Menhaden Harvest**

Mrs. Cosby updated the status as of August 23, 2017. 70% of catch was reached back in May 2017, earlier than normal. Didn't end up doing the phone call in for PN; simply closed the fishery when 90% was reached on August 2, 2017. All fisheries closed on August 4, 2017 and went to commercial by-catch of 6000 lbs for commercial stationary gear multi-species gear including Fyke Nets, Pound Nets and Gill Nets, and the mobile gear was closed down to Haul Seine, Fish Pots or Bait Pots. The quota this year was 2,709,809 lbs. John Dean, St. Mary's county, attended a meeting in Maryland on menhaden. A lot of new stuff coming up on menhaden. There is a meeting on September 18, 2017 in MD talking about changing quota system. Right now, the pound netters would like it to stay status quo because of by catch allowance and can make it on that. Northern states right now do not have a quota. The Northern States herring fisheries is depleted and now getting into menhaden fishery and not sure where they will get their quotas. Do not want to lose by-catch quota to northern states. Commissioner Bull stated that the discussions at the ASMFC is based around health and robustness of stock. The question at hand is not a reduction in quota but whether to increase quota coastwide. If increased, should additional quota be allocated towards states that need bait for their fisheries. Doesn't anticipate that we end up in a spot in the bay where we would be allocated less quota. Doesn't mean that it won't potentially impact the by-catch quota. Chairman Fleming stated that there will be a public hearing here at Commission. Commissioner Blazer interjected that the other caveat with Amendment 3, not only the allocations and quotas, but also how they would be managed and divvied up. One proposal is the soft cap idea for certain gear types that would allow some flexibility and also concerned about northern states needing quota. Soft cap was a regional soft cap. Further clarified that the proposal to Amendment 3 takes a certain % of allocation for small gears and when reached, wouldn't close down, but continue to monitor. Mr. Nininger talked quite a bit about changing hook and line to gill net and where we are on allowing that. Mrs. Cosby said the issue was taken to Finfish advisory committee which didn't want to proceed with that type of license transfer.

### **Online Recreational Sales Update**

Mr. Gary stated that he has reached out to multiple vendors (six) and one has expressed interested in working with us. Small company named Kalkami out of TX. Issue with other vendors has been low volume of license sales we have. Kalkami has asked him to reach out to DC to pair ours to theirs on one platform. No terms or details for cost have been provided at this point. District is looking at about a \$2 fee. Might have formal details in next couple of weeks and provide to Commissioners. **Commissioner Fleming wants a pie graph to see where our licenses are sold and by which vendors.**

### **Crab Harvest Report**

Mr. Gary started with the crab harvest report which shows June and July were pretty good before dropping off. The comment he is getting most frequently is that the winter dredge survey accurately stated what would happen this year. The fourth lowest year class in 27 year time frame is reflected in landings. Commissioner Rice feels that our peeler number is very minute indicating that peelers in August are shedding to be mature female crabs.

### **Crab Advisory Committee Report**

Mr. Gary stated the committee talked about a management response for bushel limit reductions and deferred to this meeting. PRFC did take action at June meeting in terms of the season, which is November 30, 2017. Status quo at the moment. BCAC discussions and the same staff recommendations on adjusting female bushel limits were approved by the BCAC committee.

### **Discussion of Female Crab Harvest Reductions for Management Year 2017-2018**

Mr. Gary said this is the same information provided to Commission and BCAC that looks at the performance of the fisheries in 2016 at the different bushel limits. Female Harvest reductions for 2017/2018 would be 500 pot license reduced to 20 bushels, 400 pot licenses reduced to 16 bushels and 300 pot licenses reduced to 12 bushels. Looking at the number of occurrences and the impact is minimal. No hard percentage reduction adopted by jurisdictions.

### **Order 2017-09 “Revised” – River Wide Female Crab Harvest Limits for Management Year 2017-2018**

Commissioner Blazer asked if he could make a motion Commissioner Fleming asked legal counsel for their advice on combining the two Orders into one motion, but also asked to clarify why there are two Orders with the same order numbers. Mrs. Cosby explained why there are two orders with same order number.

*A motion was made by Commissioner Blazer, seconded by Vice Chairman Bull, and unanimously passed to adopt Order 2017-09 “Revised” as presented on pages 4-8 and 4-9 of the Commissioner’s meeting booklet, that maintains the female bushel limits thru October 31, 2017 and the second order that modifies the bushel limits on November 1, 2017 for the season.*



Vice Chairman Bull suggested that the Commission hear from the audience on this before moving on. Richard Riche, St. Mary's – Wants to know if, that if our numbers come up, would they give back numbers next season. Bill Kilinski, President Charles County Watermen's Assoc. - Females below them in the fall and doesn't really impact them. So acceptable as is. John Dean, St. Mary's said the situation in Maryland has to do with sponge crabs and crab picking houses as of July 15, 2017, they can't import any more sponge crabs. Trying to push so they can import throughout whole season. Continuously limiting ourselves in Maryland and are we doing the right things here. When a crab is sponged up, she is at the end of the line. Could the scientists figure out a 2 or 3 week window when they actually spawn and then have a small closure. Commissioner Bull explained that the spawning period is spread out, not one confined set of two weeks. The management decision that's been made in Virginia is to create a crab sanctuary for sponge crabs. More science is needed to fine tune it. In reference to whether we are on the right path, Commissioner Bull stated that, based on the data provided, total harvest has improved pretty substantially over the past three years which indicates to him that we are on the right path. Monica Schenemann – Potomac River Working Watermen's Association out of Lewisetta. Her concern is the harvest limit when they personally don't tend to harvest females because there isn't a market for them. As Richard said, would they consider increasing the limits? Commissioner Blazer stated that they did expand the season last year and the winter dredge survey caused it to scale back, which is a really good predictor and has been working very well for past several years. Commissioner Hall supports the motion as proposed although it is confusing. Commissioner Fleming finished up by stating that it would be nice to get back to average bushels before talking about loosening up the limits. *Motion passes unanimously.*

**ORDER # 2017-09 "Revised"**  
(replaces #2017-09)

**RIVER WIDE FEMALE CRAB HARVEST LIMITS  
FOR MANAGEMENT YEAR 2017-2018**

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**THE POTOMAC RIVER FISHERIES COMMISSION**, having found it necessary for the preservation of the crab population, having considered the protection, promotion, growth and conservation of the crab resources, and pursuant to its authority under Regulation I, Section 7(a) and Regulation VII, Section 7.

**HEREBY DECLARES AND ORDERS:** it shall be unlawful for any commercial crab pot licensee to take or catch, or attempt to take or catch more than fourteen (14) bushels for 300 pot licenses; nineteen (19) bushels for 400 pot licenses and twenty-four (24) bushels for 500 pot licenses of female crabs per day from June 10, 2017 through October 31, 2017 in the Potomac River.

**AND IT IS FURTHER DECLARED AND ORDERED:** this Order #2017-09 "Revised" shall become effective September 17, 2017, supersedes and repeals Order 2017-09 and will remain in effect through October 31, 2017.

**O R D E R # 2017-09 “Revised #2”**  
**(replaces #2017-09 “Revised”)**

**RIVER WIDE FEMALE CRAB HARVEST LIMITS**  
**FOR MANAGEMENT YEAR 2017-2018**

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**THE POTOMAC RIVER FISHERIES COMMISSION**, having found it necessary for the preservation of the crab population, having considered the protection, promotion, growth and conservation of the crab resources, and pursuant to its authority under Regulation I, Section 7(a) and Regulation VII, Section 7.

**HEREBY DECLARES AND ORDERS:** it shall be unlawful for any commercial crab pot licensee to take or catch, or attempt to take or catch more than twelve (12) bushels for 300 pot licenses; sixteen (16) bushels for 400 pot licenses and twenty (20) bushels for 500 pot licenses of female crabs per day from November 1, 2017 through June 30, 2018 in the Potomac River.

**AND IT IS FURTHER DECLARED AND ORDERED:** this Order #2017-09 “Revised #2” shall become effective November 1, 2017, supersedes and repeals Order 2017-09 “Revised” and remain in effect through June 30, 2018.

**Order 2017-15 Limited Entry Crab Pot Fishery**

Mrs. Cosby explained that the Order sets the cap at 400 crab pot license for the river. We were over 500 licenses at one point so the Commission set this cap and have been steadily working down towards it. We currently have 417 crab pot licenses. Each year, through attrition, several are not renewed. She further explained that the idea of having a crab pot license in random drawing, we would need to amend the language in Order 2005-08 to include the bolded language in the Proposed Amendment of Order 2017-15. There will not be a hook & line or gill net drawing this year. Commissioner Blazer wanted to know if this was a request from Commission. Mr. Gary indicated that it isn't a request. It is an effort that's tied into our revenue issues. This idea wouldn't impact striped bass tags tied to hook & line. In Mr. Gary's research, the 400 cap isn't a magic number tied to anything. Adding an additional crab pot license to fleet will add additional revenue. Commissioner Fleming wanted to know how many are actually fished. Staff says that probably  $\frac{3}{4}$  of licenses are actually crabbed. Commissioner Rice stated that he needs time to digest. He says that back before we had a limit on number of licenses, there was a natural flow of people in business and turn over every year. Sold between 220 and 250 crab pot licenses and all active because you didn't buy one unless you were going to use it. No limit on number of pots set. Once a limit is established it becomes a commodity. Commissioner Blazer mirrored Commissioner Rice's comment that it will take a while to digest and see the impacts. Needs more than the introduction today. Although he understands goals and objectives, he recommends we defer to a future meeting.

*A motion was made by Commissioner Blazer, seconded by Commissioner Langley, to defer any action on Order 2017-15 to the December meeting.*

Commissioner Rice asked that if we don't adopt order as it is before us, the order that is in place remains in effect. Mrs. Cosby responded that it does. John Dean's concern are the people who

are buying licenses in an LLC and the citizenship of the worker and feels the Commission needs to address the residency/citizenship of each worker. Commissioner Fleming expanded that discussion has come up before about the intent of these licenses for small operators versus corporations and we might want to research that again and what the background was on this.

*Motion unanimously passes to table.*

**Recess: 11:35 a.m.**

**Reconvene: 11:43 a.m.**

### **Oyster Maps**

Mrs. Cosby reviewed the rotational oyster maps (provided) with the Commissioners. Closed bars in the rotational program are Pascahanna, Cedar Point, Bluff Point, Gum Bar and Green Hill Old Farms. Cobb Point Bar is closed as one of the Oyster Management Reserve areas, as well as Ragged Point. Heron Island is one of the sanctuary areas.

Mrs. Cosby had Tucker Brown, Chairman of the Oyster Advisory Committee, give a summary of the August 22, 2017 OCAC meeting. Rocky Rice made a motion for Order 2017-11 to adjust times for all gears from sunrise to 3:00 p.m. for the entire season and was seconded by Paul Springer. Motion was passed 6 – 0. Rocky Rice made a motion to approve Order 2017-13 as written and seconded by Billy Howeth. Motion passed 6 – 0. Some discussion on Jones Shore. Mr. Brown clarified the Jones Shore map areas. Rocky Rice made a motion that the Jones Shore time limit be consistent with time limits in the rest of the river and to approve the rest of the Order as written. Seconded by Paul Springer. Motion passed 6 – 0. Consideration of the third OMR bar Sheepshead and new draft Order 2017-14 was discussed. Chairman Brown tabled the discussion and would take it up at a later date. Rotational harvest program and special management areas were discussed in depth. Rocky Rice made a motion to ask staff to come up with rewording on the rotational Section 2 to give some flexibility to the plan. Paul Springer seconded the motion. Motion passed 6 – 0. Paul Springer made a motion to open Cedar Point from November 1, 2017 to December 31, 2017 with a daily call-in. Paul Springer amended his motion to open Lower Cedar Point from November 1, 2017 to December 31, 2017 with a daily call-in of harvest from Cedar Point Monday – Friday sunrise to 3:00 p.m. Billy Howeth seconded the motion. Motion passed 6 – 0. The Harry Nice Bridge construction was discussed quite a bit involving Lower Cedar Point and Pascahanna and would like the survey boat to check Pascahanna. If oysters are big enough, would like to consider opening Pascahanna early. Some discussion on oyster strategy planning panel update, delinquent notice for harvest reports and vacancies on the OCAC. Craig Kelly nominated John F. Tucker Brown to serve as Chairman again and was seconded by Bill Howeth. Tucker Brown accepted. Roger Hill nominated Rocky Rice to serve as Vice Chairman and was seconded by Paul Springer. Rocky Rice accepted. There was discussion on Popes Creek and Horseshoe. Seed was planted on the upper end by Shop Cove so if opened up again, it is out of the way. Waiting on survey to determine if they want to open up the area this year, even if for a short time. To keep the OMR program running, going to ask for a planter's fee from the OMR participants but need to consider how much more needs to be put into this program. Want to get the fee up to \$1350, starting with \$550. Mrs. Cosby reviewed the OCAC vacancies and stated that Craig Kelley agreed to serve another term and there are still 2 vacancies for Virginia watermen. We have received a nomination form for Michael Lightfoot.

Chairman of the Commission can appoint them at his convenience. There are 2 vacancies on the BCAC and we received two nomination forms from Glen Harding and Dustin Westman. Chairman Fleming would like to defer approval to a later time so he has a chance to go through the nominations. Chairman Rice wants to know how we let the public know about vacancies. Mr. Gary stated that they mostly work through committees and groups. Commissioner Rice suggested we reach out to various waterman associations via email to announce vacancies, such as St. Mary's County Watermen's Association, Potomac River Working Watermen's Association, Charles County and MWA.

Chairman Fleming turned gavel over to Vice Chairman Bull as he stepped out for a minute. {3:10:50}

Vice Chairman Bull proceeded with the **Oyster Management Reserve Program Meeting Report.**

Mrs. Cosby stated that there are 43 participants plus 10 crew members. About 12 participants showed up for the OMR meeting on August 28, 2017. Mrs. Cosby reviewed the financial spreadsheet drawing their attention to page 3, which shows Shop Cove was hired for \$100,000 and also shows the planting and dates, amount of larvae, number of tanks used, number of spat count. According to Shop Cove, 1 tank is approximately 180 bushels and total larvae set 79 million on approximately 3,330 bushels of shell which produced 28.02 million spat on shell. Shop Cove had good counts, much more than Piney Point was able to produce as far as set rate. Amount left in budget is about \$18,000 with renewal coming up which would put money into their account. Talked about possibility of increasing license fees to generate more money for the program, but since there were only 12 at the meeting, decided leave license fees status quo but recommend to Commission to establish an adjustable planting surcharge fee. Motion passed unanimously. Money lacking in program after renewal fees paid, would leave funds short. With adjustable planting surcharge fee, that would be set by Order, paid by each participant would make up additional revenue. Calculated it would be about \$1300 per participant to catch up to the \$100,000. Proposed a surcharge fee up to \$750 and participants can recommend to the Commission what they can be set that year. Order can be brought before the Commission in December, after a public hearing. Monica Schenemann stated concerns that part of the OMR money comes from CLR. If OMR is set to be sustainable then why is this money being used to fund the OMR program. Money from CLR was supposed to be used for a four year period of time and then supposed to be self sustainable; however Mrs. Cosby said there was no cap. Mr. Gary recalled that the basis for using the CLR fee was because they were putting oysters in the water which provided ecological services. He is not sure about whether there was a time frame on this money. The full CLR, in the first year, went to OMR and then in subsequent years, half of the CLR fee went to OMR and the rest going to the rotational program. Mr. Gary went on to remind the Commission that we have reached out to a natural resource economist with the University of Maryland and the participants endorsed this. They have been given a thorough briefing and have asked for additional information. Before the December Commission meeting, Mr. Gary hopes to get a full analysis on what needs to happen with this program to get it to self sufficiency. Mrs. Cosby provided some background on the Blue Ribbon panel, which was formed in 2011/2012 and developed the OMR and rotational programs, came up with the idea of the CLR fee, which was set to go to the OMR program the first year to get it off the ground and

going. There was some public opposition later of it all going to OMR and Commission made the decision to split the fee and half would go to OMR and half to the rotational program. There was no discussion on a sunset clause. Commissioner Rice recalls receiving a lot of phone calls on this and all pretty much on same wave length of Monica. The solution would be if someone in OMR program wants to participate in public fishery, then they would have to pay additional CLR for public fishery. Elgin Nininger is concerned about money going to OMR when they have about 52 members and feels they should pay a little bit more to get the program going and wants to know if it is an ongoing thing to put half into the OMR program. Mrs. Cosby directed everyone to the Rotational Natural Harvest Plan, Section 5, Financial Strategy, which lays out the strategy plan for the Commission. Plan, states that the oyster license surcharge fee and license fee revenue will go into the plan, in addition half of commercial license registration funds will go to natural rotation and the other half will go to the OMR program; as well as, an oyster inspection tax and other natural harvest will be directed to this program. If Commission decides they want to change the commercial license registration allocation, they would need to change plan. In response to Monica Schenemann's comment that most watermen didn't realize how the funds were allocated, Commissioner Fleming stated that the Commission is transparent and that there was much discussion on this initially and it has always been out there to the public. Richard Riche wants the Commission to consider having 100% of the CLR go to the rotational program. Commissioner Rice stated that in 2013 the plan was good at that time, but the biggest mistake was not putting a clause about adjustments to the plan and thinks there's work to be done with the plan.

Vice Chairman Bull turned gavel back over to Chairman Fleming.

### **Order 2017-14 Oyster Management Reserve Area Designated**

Presented a Draft New Order to Designate Sheepshead Bar as an OMR bar for consideration of the Commission. The OMR participants are in favor of it; but the Oyster/Clam Committee tabled this designation Order. Bill Kiliniski feels that this needs to be discussed now because of the planting next Spring. He is further concerned that the advisory committee tabled order and Commission is choosing to also table and send back to committee. The intent on Sheepshead was to plant diploids. Several audience members expressed their concerns of designating Sheepshead as an OMR bar. Commissioner Fleming responded that this was just a draft Order for consideration but since the committee did not take action on it, the Commission is hesitant to take action on it at this time; with Vice Chairman Bull weighing in that drafts are produced to start discussions. Commissioner Rice clarified that people support OMR just not subsidizing OMR program when they aren't a participant.

***No action needed. Sent back to OCAC for their recommendation before the Commission will take action.***

### **Rotational Natural Oyster Harvest Program Plan**

Rotational Natural Oyster Harvest Plan was created by Blue Ribbon Panel and technical advisors helped fine tune this plan. Mrs. Cosby said that the plan may need to be sent to the OSPP {Oyster Strategic Planning Panel} to have the plan reviewed and/or edited in any way. The

OSPP is planning long term strategies for the Potomac River in oysters. Commissioner Blazer (co-chair) and Commissioner Langley are currently on this panel. One of the actions needed today is to nominate two more commissioners due to vacancies by Lynn Kellum and A.J. Erskine. When asked, Mr. Gary stated that when the OSPP is repopulated with the two vacancies, he will facilitate the scheduling of the next OSPP, possibly the end of September/early October. Chairman Fleming asked if the OSPP look to do a financial analysis of the OMR program. Mr. Gary responded that we have already reached out to the natural resources economists, but not yet discussed with the OSPP. Chairman Fleming stated that the claims of solvency or insolvency need to be verified or negated. Plan is to send to the OSPP, followed by the Oyster/Clam Committee, then brought before the Commission again.

**Order 2013-09 “Revised” – Rotational Natural Oyster Harvest Program Established – Cedar Point Bar and Addition**

Mrs. Cosby stated that the Order expired on December 30, 2016 and the Commission needs to consider if they want Lower Cedar Point to remain closed, open part or open all of the bar and action needs taken before October 1, 2017. She further explained that Cedar Point is one of our first rotational bars and was planted with Great Wicomico wild seed. According to the rotational harvest program plan, Cedar Point was scheduled to be opened October 2017; however, the Commission chose to open a 10 acre section early in December 2016. If the Commission wants advice from the OSPP, then they would need to leave bar closed until that point. Mrs. Cosby clarified that at this point, the bar is closed.

Commissioner Rice asked legal counsel that if the Commission adopts the open season for hand tonging that includes Lower Cedar Point to be open, does it supersede the expired order.

Commissioner Blazer asked if Cedar Point would stay in the rotational program if it was opened up. Recommendation from Oyster/Clam Advisory Committee to open cedar point from Nov 1, 2017 thru December 31, 2017 with a daily call in.

***A motion was made by Commissioner Rice, to open the 2017/2018 oyster hand tong season on Oct 1, 2017 thru March 31, 2018, M – F, sunrise to 3:00 p.m. Further, Lower Cedar Point will open on November 1, 2017 thru December 31, 2017, M – F, sunrise to 3:00 p.m. Hand tong only. Hand scrape would be same as written but change to 3:00 p.m.***

After some discussion regarding whether a daily call in would be required for hand scrape, ***Commissioner Rice amended his motion to include a daily call in. Seconded by Commissioner Blazer.***

Mrs. Cosby asked for clarification of the call in for both hand tong and dredge and the whole river. Bill Kiliniski opposes the call in stating it’s burdensome and a sign of mistrust. Richard Riche and Tucker Brown both agree with the call in. Commissioner Langley clarified that harvesters would still need to file weekly paper reports. Commissioner France feels that the call in should be just for Cedar Point. Commissioner Rice stated that if they don’t work, they do not have to call in. **With a vote of 7 to 1 (France) the motion passes.**

**Oyster Strategic Planning Panel Report Update**

Mr. Gary reminded the Commissioner’s that the OSSP needs 2 new Virginia Commissioners on panel. Chairman Fleming did not get any volunteers and asked if they can defer for a few days. Commissioner France said he would take whatever position is needed.

**2017-11 Oyster Season Dates, Days and Time Limits**

{ See above motion by Commissioner Rice and seconded by Commissioner Blazer }

**ORDER #2017-11  
(replaces #2016-13)**

**2017-2018 OYSTER SEASON DATES, DAYS, AND TIME LIMITS**

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**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 2017-2018 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, 2017 thru Mar. 31, 2018	Monday thru Friday	Sunrise to 3:00 p.m.
Hand Scraping	Nov. 1, 2017 thru Mar. 31, 2018	Monday thru Friday	Sunrise to 3:00 p.m.

**BE IT FURTHER DECLARED AND ORDERED:** That Lower Cedar Point Bar (150 acres) and Addition (574 acres) will be OPEN to Hand TONGING only starting November 1st through December 31, 2017, Monday through Friday, from sunrise to 3:00 p.m. Lower Cedar Point and Addition are located in the Potomac River on the Maryland side from Lower Cedar Point downstream to Cuckold Creek (includes Waverly)

**BE IT FURTHER DECLARED AND ORDERED:** A daily call-in (by 4:00 p.m.) of oyster harvest in the Potomac River is required by both hand tong and hand scrape licensees. A call-in is not required if you did not oyster that day. Written reports are also required to be submitted weekly to the PRFC office.

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

**AND, IT IS FURTHER DECLARED AND ORDERED:** That this Order #2017-11 shall become effective September 30, 2017 and remain in effect through March 31, 2018.

**2017-12 Jones Shore Bar Oyster Season Areas, Dates, Days and Time Limits**

Mrs. Cosby said the maps are updated with the new boundary lines and coordinates. The order needs modified to state that Area 1 & 3 open to hand tonging and Area 2 open to hand scraping.

**ORDER #2017-12**

**2017-2018 JONES SHORE BAR OYSTER SEASON  
AREAS, DATES, DAYS, AND TIME LIMITS**

**THE POTOMAC RIVER FISHERIES COMMISSION**, having considered the protection, promotion, growth and conservation of the oyster resources on the Jones Shore Bar and pursuant to its authority under Regulation II, Section 2(b) and Regulation I, Section 7(a)(1), **HEREBY DECLARES AND ORDERS:** The 2017-2018 oyster season, areas, dates, days open and time limits shall be as follows:

<u>Gear</u>	<u>Season</u>	<u>Days</u>	<u>Hours</u>
Hand Tonging	Oct. 1, 2017 thru March 31, 2018	Monday thru Friday	Sunrise to 3:00 p.m.

**Areas 1 & 3 open to Hand Tonging** - That portion of the Potomac River commonly known as Jones Shore (Areas 1 & 3) and enclosed within the following described boundaries: Beginning at the south side of the pier at Camp Brown (38°04.669' N, 76°22.237' W) St. Mary's County, MD; thence southwesterly to a point (38°03.738' N, 76°23.228' W), which is the intersection of an established fish trap area as delineated on NOAA chart #122233; thence northwesterly along the fish trap area line to a point (38°03.892' N, 76°23.530' W); thence northwesterly along the fish trap area line to a point (38°04.323' N, 76°24.132' W); thence northwesterly along the fish trap area line to a point (38°04.816' N, 76°25.192' W); thence northeasterly to a point (38°05.599' N, 76°24.143' W); thence easterly to a point (38°05.594' N, 76°23.374' W) along the shoreline south of Calvert Bay, MD; thence southeasterly to Gray Point, MD at the mouth of Rowley Bay (38°05.536' N, 76°23.245' W); thence southwesterly along the shore following the jurisdictional boundary of the Commission to the point of beginning.

<u>Gear</u>	<u>Season</u>	<u>Days</u>	<u>Hours</u>
Hand Scraping	Nov. 1, 2017 thru Feb. 28, 2018	Monday, Wednesday, Friday	Sunrise to 3:00 p.m.
	Mar.1 thru Mar. 31, 2018	Monday thru Friday	Sunrise to 3:00 p.m.

**Area 2 open to Hand Scraping and Hand Tonging** - That portion of the Potomac River commonly known as Jones Shore (Area 2) and enclosed within the following described boundaries: Beginning at a point on shore above Hall Pond, MD (38°03.490' N, 76°21.566' W); thence southwesterly to a point (38°03.134' N, 76°22.044' W), which is the intersection of an established fish trap area as delineated on NOAA chart #122233; thence northwesterly along the fish trap area line to a point (38°03.738' N, 76°23.228' W); thence northeasterly to a point (38°04.669' N, 76°22.237' W) at the south side of the pier at Camp Brown St. Mary's County, MD; thence southwesterly along the shore following the jurisdictional boundary of the Commission to the point of beginning. (See attached map)

**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.



**BE IT FURTHER DECLARED AND ORDERED:** A daily call-in (by 4:00 p.m.) of oyster harvest in the Potomac River is required by both hand tong and hand scrape licenses. A call-in is not required if you did not oyster that day. Written reports are also required to be submitted weekly to the PRFC office.

**AND, IT IS FURTHER DECLARED AND ORDERED:** That this Order #2017-12 shall become effective September 30, 2017 and remain in effect through March 31, 2018.

*A motion was made by Commissioner Blazer, seconded by Commissioner Rice and unanimously passed to adopt Order 2017-12 as modified for the correct areas and openings for hand tonging and hand scraping and delete sunrise to 1:00 p.m. to show consistency with other orders and make it sunrise to 3:00 p.m.*

**Order 2017-13 Riverwide Daily Bushel Limits**

Mrs. Cosby stated that this Order is just to update dates of the Order.

**O R D E R #2017-13**

**Riverwide Daily Oyster Bushel Limits**

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**THE POTOMAC RIVER FISHERIES COMMISSION**, having found it necessary for the preservation of the oyster population, having considered the protection, promotion, growth and conservation of the oyster resources, and pursuant to its authority under Regulation I, Section 7(a).

**HEREBY DECLARES AND ORDERS:** for the 2017-2018 commercial oyster season, from October 1, 2017 through March 31, 2018, there will be a riverwide daily bushel limit of eight (8) bushels per licensee, sixteen (16) bushels per vessel regardless of the number of licensees on board. This Order applies to licensees holding hand scrape and/or hand tong licenses.

**AND IT IS FURTHER DECLARED AND ORDERED:** this Order #2017-13 shall become effective October 1, 2017, and remain in effect through March 31, 2018.

*A motion was made by Commissioner Rice, seconded by Commissioner Blazer and unanimously passed adopt as written with amendment.*

**Executive Session – 1:27 p.m.**

Chairman Fleming amended the agenda to go into Executive Session to discuss legal and personnel matters.

**Reconvene: 3:05 p.m.**

**A roll call vote was taken to confirm that only legal and personnel matters were discussed in Executive Session. All Commissioners agreed. Commissioner Hall left after the roll call vote was taken and recorded.**

**Items for Public Hearing Consideration**

Amend Regulation 1 Sec 1(a) – Application/Eligibility for License – Mrs. Cosby states that this is a house keeping issue so that the wording of the regulation matches the wording of the compact to citizens of Virginia or Maryland being issued commercial licenses.

Amend Regulation 1 Sec 1(d)(1) – Obtaining a Limited Entry Fishery License – Mrs. Cosby stated that if the Commission is interested in offering a crab pot license for a random drawing, staff feels that the \$25 entry fee was really low, and amended the language to allow the flexibility of setting drawing fee up to \$100.

Sammie Dorough concerned that the Commission would auction off a crab pot license when there are already restrictions on current crabbers.

Amend Regulation I Sec 2(d)(6) – Two Crab Pot Licenses on One Boat – Mrs. Cosby stated there was some confusion with a crabber about what actively crabbed means. Staff added specific language of “and have reported harvest” to clarify the wording in this regulation.

Chairman Fleming explained to the audience that these are just for consideration to determine if the Commission wants these items to go to public hearing and that the time to comment on them would be at the public hearing, not today.

Adopt Regulation 1 Sec 2(d)(7) – Assigned User of Crab Pot License - Mrs. Cosby stated that this is a new regulation to clarify the assigned user on a business issued crab pot license and establish a fee when changing a user after renewal.

Amend Regulation 1 Sec 2(l)(2) – Hook and Line – Mrs. Cosby stated that this is house keeping by striking unused language in the regulation.

Amend Regulation 1 Sec 2(s)(2) – Removal of Stakes – Mrs. Cosby stated that this has to do with pound nets to include new language that allows stakes to be left out between the winter seasons. Commissioner Blazer asked if we have talked to law enforcement or the Finfish Advisory Committee on pound net stake removal. Mrs. Cosby says that the Finfish Advisory Committee has approved this and that staff will check with law enforcement. Commissioner Fleming would like to make sure law enforcement comes to the public hearing for this issue.

Amend Regulation VI Sec 5(b) – License Fees - Mrs. Cosby stated that this amendment would eliminate the Non MD/VA Resident licenses and change MD/VA Resident to Individual licenses with no residency restriction.

Adopt Regulation VIII Sec 4(e) – OMR License Planting Surcharge – Mrs. Cosby states that this regulation would establish a planting surcharge fee in the OMR program, not to exceed \$750 per person per year.

The advertisement for public hearing would be in November 2017.

***A motion was made by Vice Chairman Bull, seconded by Commissioner Blazer and unanimously passed to advertise all for public hearing as listed.***

### **ASMFC Issues**

Mr. Gary would like to propose framework to provide him with guidance for voting at the special November meeting in Baltimore for the Atlantic Menhaden Board. Draft PID {Public Information Document} is out for public comment. The PRFC public meeting will be Tuesday, September 19, 2017 and then followed by two meetings that Virginia is hosting in Reedville and Newport News. Since there won't be another meeting at the PRFC before the November 14, 2017 meeting, Mr. Gary would like to coalesce as much of the feedback he gets at the public hearing and broadcast out to the Commissioners via email. Then would like feedback from the Commissioners in terms of voting guidance. Commissioners agreed that they would be ok with that.

Mr. Gary mentioned the summer flounder issue and the New Jersey appeal to commerce. Also said that we went over the coast wide cap on American Eels in 2016 and preliminarily may go over in 2017. With Cobia, there are not many in the lower Potomac and there are no regulations in Maryland and the Potomac River. Mr. Gary will continue to talk with Commissioner Blazer and Lynn Fagley to establish regulatory consistency. States that there will be some regulation on Cobia.

### **Financial Reports**

Mr. Gary pointed the Commissioner's attention to "Disbursements" and the accumulative through fourth quarter 2016/2017 disbursements, \$670,000 disbursed, which is 83% of the approved budget and down from the previous budget. Only surprises we have were the HVAC units. Under Revenues, dramatic increases in opening oyster areas. Mr. Gary stated that recreational licenses finished at \$124,157. The three major revenue streams for the PRFC include the state appropriations, which remain static; commercial license fees and recreational licenses sales. We came in above our projected revenue budget.

***A motion was made by Commissioner Rice, seconded by Commissioner France, and unanimously passed to accept financial report as reported.***

**NEW BUSINESS**

**Seafood Catch Report Policy and Notice of Hearing Letter**

Mrs. Cosby stated that the seafood catch enforcement policy was revised in response to Commission's request to switch from two notices (first and second notice) to one notice. People would be given 14 days to get their reports in once they receive the notice. If not received, then they would be sent a letter to appear at a delinquent hearing.

**NOTICE OF DELINQUENT SEAFOOD CATCH REPORT(S)**

Date

Name

Address

Dear Mr./Ms.

As of the date of this letter, the PRFC has not received your seafood harvest report(s) for the gear(s) listed below for the week ending [date]. Your harvest reports are due **weekly** whether you fish or not. Regulation II, Sec. 5(a) states "...Such daily records of the catches and dealings shall be delivered to, or mailed in time to arrive at, the Commission Office no later than Thursday of the following week." **Please ensure the delinquent report(s) are delivered to our office no later than fourteen (14) days from the date of this Notice.**

Type of License: [Fish/Crab/Oyster]

License/Tag No: [Barcode #/Tag #]

This will be the **only Notice** you will receive from our office regarding this delinquent report. **If you do not respond to this Notice within fourteen (14) days from the date of this notice, you will be notified by certified mail requiring you to appear at a hearing during a meeting of the Potomac River Fisheries Commission.** If a violation is found to exist, the Commission can suspend or revoke your license(s) and/or refuse to issue you any new license(s), pursuant to Regulation 1, Section 4.

If you feel you have received this notice in error, or have already submitted your report(s), please feel free to contact our office to ensure that your harvest report(s) have been received.

Sincerely,

PRFC

Office: 804.224.7148

Toll free: 800.266.3904

*A motion was made by Vice Chairman Bull, seconded by Commissioner Neill, and unanimously passed (7) to adopt the letter presented. Commissioner Hall was absent for the motion and the vote.*

Staff clarified with the Commissioners that the Notice of Delinquent Reports is sent by USPS and the Notice of Hearing will be sent by certified mail.

### **Policy Manual Update**

Mr. Gary noted that the changes to the policy manual are in blue and reminded the Commissioner's that we have already reached out to an actuary to get bids regarding the retiree health insurance fund. Adjustments were also made to the holidays to be consistent with Maryland and Virginia and added new language that the Executive Secretary must get his/her leave approved by the Chairman of the Commission.

*A motion was made by Commissioner Rice, seconded by Vice Chairman Bull, and unanimously passed to approve policy changes as written.*

### **Date and Place of Next Meeting**

Commissioner Fleming asked if 8:30 a.m. is a good starting time. No opposition stated by the Commissioners. Mr. Gary pointed out that all of the upcoming Commission meetings take place on Friday due to Commissioner Neill having a conflict with having meetings on Thursdays due to his private practice. Commissioner Neill appreciated the effort. Commissioner Blazer had a request that the June 8, 2018 or June 15, 2018 and September 7, 2018 meetings be as short as possible because he has a long drive, even if they have to start at 8:00 a.m. Commissioner's were given two dates for the June 2018 meeting, June 8<sup>th</sup> or June 15<sup>th</sup>. Commissioner Bull suggested they set the date for June 15, 2018.

### **New Business**

John Morris said he applied for 2 on one boat crab permit and felt he met the criteria for the permit based on the wording in the regulation "...both licenses must have actively crabbed in the Potomac River for at least 30 days". Although the number of days reported harvest were short by 3 days in 2015, based on language in the Regulation. He stated he had pots in the water for 90 days. Mrs. Cosby explains that this regulation was adopted on January 1, 2013. The staff has been interpreting that actively crabbing is reporting harvest and that's how we determine qualification. Mr. Morris feels that having pots in the water for 90 days should qualify him for the permit even though he only actually harvested for 27 days in 2015. Mr. Mayo clarified it's been a policy since it's been enacted. Commissioner Rice added when Mr. Morris pointed out the wording in the book, Commissioner Rice agrees that those pots are actively fishing when they are in the water and it doesn't say in the book reporting. Mrs. Cosby further stated that we have no other way to see pots in the water and have to go by the reports. Commissioner Rice agrees with Mrs. Cosby but feels the regulation could be interpreted differently. He says it all depends on what legal counsel says actively fishing means. Mr. Mayo says you have to take into account how the policy was applied through the years. Commissioner Rice said that there is no doubt that

the precedent was set through the reporting. Commissioner Fleming asked staff how many times this issue come up before us. Mrs. Cosby stated each year we have about 10 each year that have applied and been approved and there have been some that have applied and were denied because they didn't meet the criteria, but no record of those are kept. Vice Chairman Bull says the crux is what does actively crabbing mean. As he understands it, Mr. Morris thinks that with pots in water means they were actively crabbing. Staff interprets that actively crabbing means actively pulling the pots and reporting harvest. He further stated that, although he understands where Mr. Morris is coming from, he doesn't think they can change this after having denied others in the same situation and can't support what Mr. Morris is asking for under these circumstances. Chairman Fleming also understands Mr. Morris' point but says the pending public hearing will address the clarification of 'actively crabbing'. Mr. Gary also thinks that Mr. Morris has a good point, but as the Commissioners said, we have turned people away. And before this was a regulation, it was an Order dating back to 2006 and questions why is it only being challenged now. Mr. Gary said he can't support it from a staff perspective. Commissioner Rice says this Order came about, to save on fuel, for 2 people to work on one boat and the Order was renewed for a number of years before it became a regulation. Chairman Fleming reiterated the original intent when the regulation was written up was one crabber per boat and the logic behind that was to keep it a sole proprietorship and not having one person dominate the fishery. Mr. Morris feels that he is paying a penalty because staff didn't enforce the law as written. Chairman Fleming suggested Mr. Morris come to the public hearing and plead his case at that time and state his concerns. Chairman Fleming empathizes with Mr. Morris, but feels that if since we have denied others, he doesn't feel they can grant him an exception at this time.

Sammie Dorough has concerns about the assigned user regulation. He wants to be the designated user for his own business license and wants to be able to get a 2 on one crab pot permit using his company. Reg. 1 Sec 2(d)(6)(e) – Two Crab Pot Licenses on One Boat states that both licensees have to be natural persons. Mr. Mayo clarified that within that regulation, the word “person” describes an entity, such as a corporation, LLC or partnership. Also used “natural person” within that regulation when needed which describes a person/human being. Chairman Fleming concluded by suggesting Mr. Dorough come to the public hearing and present his case at that time.

**Adjourn**

The meeting adjourned at 4:03 p.m.

Respectfully submitted,

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Dennis C. Fleming, Chairman

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Phil L. Langley, Secretary