

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

June 5, 2020

***Due to COVID-19, this meeting was held virtually via GoToMeeting**

Commissioners Present: Wayne France (VA) – Chairman, Robert Boarman (MD) – Vice Chairman, Dr. Ken Neill (VA) - Secretary, William L. Rice, Sr. (MD), Steven G. Bowman (VA), Phil L. Langley (MD), Kyle Schick (VA) and Lynn Fegley (MD)

Officers Present: Martin L. Gary – Executive Secretary, Michael C. Mayo – Legal Officer, Ellen B. Cosby – Assistant Executive Secretary, Catherine Friend – Administrative Specialist, and Becky Gill - Fiscal Officer

Others Present: Sgt. Tim Kraemer – MD DNR, Capt. Herbert Bell, VMRC, Dr. Tom Miller (CBL), Bill Kilinski, Phil Zalesak, Robert F. Tucker Brown, Jeff Schenemann, Benjamin Jacobson, Walter Fields, and others on the call that were not identified.

Chairman France called the meeting to order at 8:30 a.m. and a roll call vote was taken for attendance of all the Commissioners. Chairman France gave the invocation.

Approval of the Agenda – No additions were noted.

Consideration of Minutes – March 6, 2020

A motion was made by Commissioner Bowman to approve the minutes from March 6, 2020 and seconded by Vice-Chairman Boarman. A roll call vote was taken, and the motion passed unanimously.

COVID-19 Update

Mr. Gary noted that on March 16, 2020, in response to the two states directive for stay at home orders, the PRFC closed its doors to the public and we have remained closed since then. We are currently only allowing staff to go into the building for essential responsibilities and only allow one person to go in at any given time. We are checking mail everyday and conducting business transactions via mail and there is a hotline set up that people can contact directly. The emails are delegated to staff and each staff member provides a daily log on what they did that day. In general, Mr. Gary thinks we are doing as well as we can, given the circumstances. He further said he is incredibly proud of his staff, who have rallied to the moment and productivity has not been an issue. He feels that staff has been actually more productive given the level of accountability with check-ins and check-offs of emails for specific duties.

Going forward, as the two states continue to look at options to reopen, Mr. Gary stated he has significant concerns about the unique character of the PRFC, since we are a small staff of five people. If we all come back at once and one person goes symptomatic, there is the potential for the PRFC to go offline. We are thinking about a phased team approach with a couple of staff in at a time and are looking at a plexiglass shield to put between staff and the customers; as well as looking at spacing and other CDC recommendations.

Chairman France thanked Mr. Gary and his staff for the outstanding job they have done through these trying times and we should be proud of the way we are handling things.

Public Comment

Mr. Gary stated that there are two ways to access this meeting; one is through the GoToMeeting app on a computer, tablet, or smartphone. If this is used, Mr. Gary stated there is a chat box on the screen that an individual can use to type their question or comment. The other way to access the meeting is by calling a direct line on the phone. He is requesting that everyone remain muted until they are recognized to talk.

Bill Kilinski stated that the Cobb Island bridge is currently being torn down and quite a bit of material is sitting on a barge at Cobb Island. It is his understanding that it is being deployed to two reefs on the lower Potomac. He had a conversation with a County Commissioner about getting some of the material at the Rt. 301 Bridge. At a Finfish Advisory Committee meeting, there was a motion made that the PRFC should pursue this, and he is wondering if there is any progress on it.

Vice-Chairman Boarman made a {unintelligible} comment.

Mr. Gary followed up with the Commission is interested in the deployment of the material for the two lower river sites. We have been in contact with the contractor, McLane Contracting in Baltimore, for several months; however, there is an issue with our permits. Although there is an active Army Corps permit, there is a second permit, a Maryland Tidal Wetland permit, that is required and this is processed by the Maryland Department of the Environment (MDE). The two permits were out of sync, so our MDE Tidal Wetlands permit lapsed last year. Paperwork was initiated to get that started again, and we thought we could extend the permit. We found out recently that this now has to go to the Board of Public Works (BPW). An MDE Tidal Wetland permit can only be extended so many times before it has to go back before the BPW. We can not deploy on our reef sites, so we have made arrangements to deploy that material on a nearby site, Point No Point Reef, just outside the mouth of the Potomac. There are three barge loads of approximately 1,000 tons each. It's disappointing, because a conservative estimate for an in-kind contribution would be about \$250,000. Mr. Gary further stated that we are in que to be heard at the BPW, but because of COVID, we have no idea when that will be.

In response to Mr. Kilinski's question about an upper river site, Mr. Gary planned to put it on the FFAC agenda at the last meeting. He did not because of COVID, limitations, and the proposed items for public hearing. He will, however, put it on the next FFAC meeting agenda.

Delinquent Hearings

Benjamin Jacobson – (Present on phone) Mrs. Cosby stated that this is a continuance from the March meeting where he was called for delinquent crab pot reports for the week ending Sept. 21 thru Nov. 30, 2019. This is a first offence, Class II. Staff recommendation in March was one-week suspension on all licenses and one-year probation. Mr. Jacobson did not appear at the March meeting, so all licenses were suspended until he appears before the Commission. By him calling in today, that is noted for appearance. We have not received the delinquent crab pot reports yet. Staff recommendation still applies for one-week suspension and one year probation.

Chairman France asked Mr. Jacobson if he wanted to speak to this delinquency. Mr. Jacobson stated he called the office before he renewed his license and never got a call back. He verbally told staff member that he did not crab during those times. When he renewed his license, he was under the impression that everything was fine. He further stated that he only got the letter that notified him that he missed the March meeting.

Chairman France asked Mrs. Cosby to review the staff recommendation again. Mrs. Cosby stated that if Mr. Jacobson was done crabbing, he should have sent a report marking that he was finished for the season and we have not received that report. His reports are still outstanding for the delinquent period and we still need a written report showing he did finish in September. The staff recommendation is one-week suspension on all licenses and one-year probation.

Vice-Chairman Boarman noted that these reports are vital and to please try to get the in on time.

A motion was made by Commissioner Bowman to accept staff recommendation with the first week eligible for crabbing being suspended and seconded by Commissioner Schick. Vice-Chairman Boarman noted that the suspension would be after we have received the delinquent reports. A roll call vote was taken, and the motion passed unanimously.

Danny Whitmire – Absent. No action required. Remains suspended until he appears before the Commission.

Edward Whitmire – Absent. No action required. Remains suspended until he appears before the Commission.

Walter Woodrow Fields – Mrs. Cosby stated Mr. Fields was called to the March meeting for a violation that he did possess unculled oysters on Jones Shore. He did not appear at that hearing. He prepaid his court fine, thereby admitting his guilt. Mrs. Cosby asked if Sgt. Tim Kraemer had anything to add. Sgt. Kraemer noted that Mr. Fields was cooperative with the issuing officer. Mr.

Fields was found in possession of 9 percent unculled oysters on Jones Shore bar.

Chairman France asked if there is a staff recommendation, since he has already plead guilty. Mrs. Cosby stated that Jones Shore is a special area that has been worked hard, so staff is concerned with the violation. She deferred a staff recommendation to Mr. Gary. Mr. Gary noted that this is the 4th or 5th person brought in since Jones Shore was reopened. In the past circumstances, this appearance before the Commission was to hear why the violation occurred and let them know that this is an important area. The Commission previously has implemented one-year probation.

Chairman France spoke to Mr. Fields saying that the Commission considers violations in this area to be very serious issues. This is the only viable ground that we can find productive at this time.

Commissioner Langley asked if, on these special management areas, there could be a flexibility to double fines in these areas. Mr. Mayo stated that should be a concern to the Commission that they have chosen this particular offense to be a prepayable offense; they simply pay a predesignated fine and do not have to appear in court. He can be brought before the Commission because of the nature of the sensitive area that was offended. Mr. Mayo further stated that the Commission can do several things, including revoking or suspending his license; but another fine could not be assessed.

Vice-Chairman Boarman asked to hear from Mr. Fields, noting that there were so many big oysters, he doesn't see how Mr. Fields could take small oysters.

Mr. Fields stated he tries to cull his oysters the best he can. There were two little oysters in one big box. He was checked at least twice a week when he came to the dock, and there was never an issue. Mr. Fields further stated that he didn't think they were his oysters that were checked, since his were in the back of the boat. He doesn't understand why he has to put his license number on all 16 bushels.

A motion was made by Vice-Chairman Boarman to accept staff recommendation for one-year probation. Vice-Chairman Boarman suggested that the Commission look into the special oyster grounds and make some changes to the fines on these areas. Motion was seconded by Commissioner Bowman. A roll call vote was taken, and the motion passed unanimously.

Winter Crab Dredge Survey Results (Dr. Tom Miller)

Dr. Tom Miller is presenting the 2019/2020 Winter Dredge Survey results. The abundance of female crabs is what sets the management threshold and targets. The estimated number of female crabs for 2020 is 141 million. The winter mortality was low at about 1/3 of 1 percent. Even though the abundance was down from last year, there is no concern with the level of abundance. The 2020 estimate of age 1+ female abundance is 66 percent of the target value, but two times the threshold value. Management continues to effectively meet the objective of avoiding overfishing. The average age 1+ female abundance between 2008-2020 is 156 million,

approximately 83 percent higher than the 1994-2007 average of 85 million.

Turning to the young crabs, Dr. Miller noted that recruitment in 2020 was relatively low at 185 million crabs. The average recruitment from 2009-2020 showed an increase of 23 percent at 246 million, versus 201 million between 1994-2008. However, the increase in recruitment, during this female-based management era, is less than we would have hoped to see given the increase in female abundance.

The males are not explicitly targeted in management as a threshold or target. There is really no difference in the pattern of the males before the female conservation management was put in place versus after it. The abundance of age 1+ males in 2019/2020 was 78.6 million and was similar to the values observed since 1994. The average is almost indistinguishable in period between 2008 and 2020 at 62.1 million, which is comparable to the 60 million average between 1994 and 2007.

The total commercial blue crabs landed in the Chesapeake Bay between 1990 and 2019 was about 61 million pounds. The landings in 2019 were about average for the time series. The average Baywide landings for 2008–2019 was 55 million pounds, lower than the 1994-2007 average of 62 million pounds; the PRFC landings were 3.14 million pounds. The average PRFC landings between 2008 and 2019 was 2.9 million pounds, lower than the 1997-2007 landings average of 4.1 million pounds.

The landings data express the fraction of the estimated abundance of crabs that were caught in the commercial fishery. We do manage for female exploitation and have set up two management reference points. An overfishing reference point is set at 34 percent; over that value, is an indication we are catching a larger fraction of female abundance that is sustainable over the long term. A target exploitation rate of 25.5 percent would be one of high efficiency. In general, exploitation rates were explicitly high between 1998 and 2007. Since 2008, the female exploitation rate has been consistently below the target exploitation rate.

The female abundance and the female exploitation rate are combined into a Control Rule. This control rule gives us a complete picture of the way the fishery is performing, and the population is responding. The take home message is the management is effective and the population is in a sustainable position. In summary, management has maintained the blue crab population in a sustainable condition for 11 of the last 12 years. Prior to 2008, nine of those 18 years, experienced overfishing; and in four of those 18 years they were being overfished.

Dr. Miller is not suggesting there is a need for a drastic change in the fishery, but offers some points of caution. The first area is the number of recruits per spawner. The productivity of the crab population appears to have changed in the past 12 years. We measure productivity as the number of young crabs that the spawners produce (recruits per spawner). The recruits per spawner have declined by 32 percent from an average of 2.67 between 1994 and 2007, before the female conservation was put into place, to 1.79 between 2008 and 2020, after the female

conservation was in place. Dr. Miller is unsure whether this is related to management, environment, or stock related. It is clear that the blue crab population is lower than it was previously. A recruits per spawner of less than two can not be sustained for an extended period of time in a short-lived species, unless there are dominant peaks of recruitment that are much higher than 2.

The second area of concern is that we cannot seem to achieve the target, as seen on the Control Rule. Our management system is based upon an underlying relationship. If we catch more crabs if our female exploitation rate is high around 50 percent, fewer are left in the population than if we allow more female crabs escape capture and reproduce. The thresholds and targets are calculated based on underlying population dynamics where they are consistent internally. We are consistently below the target exploitation rate and have rarely been more than the target abundance of crabs. This would indicate management is too severe. However, that is not the case and the data may be wrong and could require a new analysis; or the target is wrong and a revised stock assessment is warranted.

The third area is that the efficiency of the fishery is less well understood than desirable. Despite the increase in female abundance, because recruitment has not gone up a similar amount, the harvest has not gone up similar amounts. If we increase abundance for the same exploitation rate, harvest should go up. We should begin thinking about if the harvest has failed to increase because effort has declined.

Commissioner Fegley commented about recruitment and she sees great optimism in that we are maintaining a level of harvest and safe fishing levels despite the lower recruitment. She asked Dr. Miller if you took the recruits per spawner average back to 1990, taking into account the lower recruitment levels, would the two averages line up better or would there still be a decline in productivity. Dr. Miller stated it does reduce it a little bit, but not appreciably such as you would say there hasn't been a decline.

Commissioner Bowman asked if there has ever been a study done on the correlation between weather events, storm events, active years vs. less than active years as it relates to the recruits per spawner. Dr. Miller responded that is what they expect to do with CBSAC and a proposal is being considered for funding by the Goal Implementation Team process. The statistical methodology was developed to look just at recruitment and can see effects of variables such as the ones Commissioner Bowman suggested.

Vice-Chairman Boarman asked if, over the years, the female spawners have gotten smaller and if that would have an impact on recruitment. Dr. Millers responded that the number of eggs a female produces is strongly related to her size and might explain a decline in recruits.

Crab Harvest Report

Chairman France asked the Commission if there were any questions or comments on the crab

harvest report. There were no questions or comments.

Crab Advisory Committee Report – May 21, 2020

Mr. Gary noted the motions that were made during the meeting. Frank Swann was elected new chairman of the committee.

A motion was made and seconded to oppose the revocation reciprocity amendment; motion passed 5-1.

A related motion was made and seconded to revoke only the license for the specific fishery violation that corresponds to the license revoked in MD or VA; motion passed unanimously.

A motion was made and seconded for the Commission to remove the minimum age requirement to be issued a PRFC commercial license. This motion was later modified to include commercial license or be an assigned user. Motion passed unanimously.

A motion was made and seconded to require commercial crab pot licensees to pay for their tags/decals at the time of renewal; motion passed unanimously.

Order 2020-08 – River Wide Female Harvest Limits for Management Year 2020-2021

Mr. Gary this Order stays status quo on the bushel limits and the dates need to be modified.

A motion was made by Commissioner Fegley to accept Order 2020-08 as presented and seconded by Commissioner Langley. A roll call vote was taken, and the motion passed unanimously.

ORDER #2020-08
(replaces #2019-09)

RIVER WIDE FEMALE CRAB HARVEST LIMITS
FOR MANAGEMENT YEAR 2020-2021

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 July 1, 2020 through June 30, 2021 in the Potomac River.

AND IT IS FURTHER DECLARED AND ORDERED: this Order #2020-08 shall become effective July 1, 2020 supersedes and repeals Order #2019-09 and will remain in effect through June 30, 2021.

Before moving to Oyster Issues, Chairman France thanked Steve Bowman and VMRC for making James River oyster seed available to the PRFC.

Oyster Harvest Report

Chairman France asked if there were any questions or comments on the oyster harvest report.

Commissioner Bowman thanked all the Commissioners for opening Jones Shore, which is where most of the harvest came from.

No further questions or comments.

Oyster/Clam Advisory Committee Report – May 6, 2020

Mr. Gary noted the motions made during the meeting. There were not enough members in attendance to make a quorum, so any motions were made by consensus.

There was a previous motion, sent to the Commission in March, to split available shell for plantings on Great Neck Bar and Cornfield Harbor. There was not enough shell available. By a supermajority, the committee indicated they wanted to put all available shell on Great Neck Bar; and, when more shell becomes available, they will plant on Cornfield.

Regarding amending minimum age to obtain a commercial license, by consensus, the committee wants to leave the minimum age at 14 years old.

NRG/Knotts Hollow SMA Update

Mr. Gary recalled that this area was designated by the Commission as a special management area to receive funding for shell enhancement for the substrate, followed by a diploid spat on shell planting. The funding source is from NRG, due to litigation related to NRG's assets in the Chesapeake Bay's Watershed for nutrient exceedances. The awarded funds were a result of the PRFC submitting a proposal and we received \$500,000. We started to enhance the substrate with shell, but due to the freshet, additional work was put on hold. We are technically in year three, but two weeks ago we were caught up in shell enhancement. All of the shell that was supposed to be planted, through year three, is now on Knotts Hollow. An RFP will be sent out to be planted next summer, which will put us back on track for this project.

MDTA/Lower Cedar Point SMA Update

Mr. Gary noted that Lower Cedar Point is a rotational planting bar and is one of our most valuable bars. The MDTA/Lower Cedar Point SMA is a funded project through compensatory mitigation from the construction of the new Rt. 301 Bridge and deconstruction of the old Nice Bridge. The funds were awarded for ecological and cultural impacts to the watermen's community in the amount of \$500,000 over five years. This year, we were able to plant 20 acres of James River seed, with counts of close to 2,000.

OMR Summary Report – June 2, 2020

Mrs. Cosby noted that the OMR participants have been struggling to keep their program afloat. They did not harvest at all in 2019 and did not plant any spat on shell in 2019, due to the freshet and the market repercussions in the latter part of the year. In March of 2020, before COVID hit, they were going to have an in-person meeting, but that wasn't possible. Since then, they have had conference calls and there was some concern about dissolving the program and there were no criteria in the regulation on how to dissolve the program. Checking with legal counsel, Mr. Mayo advised that there should be something in regulation for steps on how to dissolve the program for when and if the participants wanted to this. Mrs. Cosby brought the information back to the participants and informed them that an amendment to the regulation needed to go to public hearing. She was directed to draft language for an amendment to the regulation for the dissolution of the program. With Mr. Mayo's help, the amended language was drafted and mailed to all participants. The draft language was reviewed on a June 2, 2020 conference call, where only 13 of the 37 participants participated. On that call, after some discussion, they voted to recommend to the Commission to not send the amendment to public hearing.

In March 2020, the Commission did a poll vote by phone to allow the OMR participants to have an indefinite extension for their 2020 OMR License renewal, originally due to be renewed by the end of March. This extension needs to be addressed today to set a deadline for the license renewal for this year. About 10 out of the 37 participants have already renewed to date. Mrs. Cosby stated that with the fiscal year ending June 30, 2020, that might be the best deadline for renewal. This was discussed during the OMR call, and the participants want to extend their deadline to August 31, 2020.

The other item addressed on the call was when and where to plant the spat on shell. After some discussion, they decided to plant diploids on Cobb Island Bar, and to contract Shop Cove to plant.

Tucker Brown, Chairman of the OMR Program, expressed his support of extending the OMR renewal deadline.

Vice-Chairman Boarman, an OMR participant, supports the extension due to the waterman's financial issues now due to COVID.

Commissioner Fegley supports Vice-Chairman Boarman's position, but wants to hear from staff

for confirmation that this extension would not cause an issue with budgetary items. Mr. Gary responded noting that when the Commission originally approved an indefinite extension, he would think it was for a short amount of time until the group could get together, not a drawn-out extension. Staff recommendation is to be risk-adverse and implement a June 30, 2020 deadline, not knowing if there are repercussions from extending it into the next fiscal year.

Commissioner Bowman stated he fully understands the ramifications of the hardships COVID is causing; but being a Commissioner at PRFC and the agency head at VMRC, he can fully understand what Mr. Gary stated about the ramifications of an audit. To try to spread the monies between fiscal years, does not ring true with auditors. And could potentially put us in a position that we could get dinged from an audit point. Commissioner Bowman supports a June 30, 2020 deadline.

A motion was made by Commissioner Bowman to accept the OMR license renewal deadline of June 30, 2020 and seconded by Commissioner Fegley. A roll call vote was taken, and the motion passed 6-1 (France opposed), (Boarman abstained).

Summary of the 2020 Spring ASMFC Meeting

Chairman France asked if there were any questions or comments.

Commissioner Bowman stated that the ASMFC voted to find Virginia out of compliance for failure to adopt the appropriate cap for Menhaden. The General Assembly voted in the past week, with the support of the Governor and the Secretary, to transfer control of the Menhaden Fishery to the VMRC. A regulation has been adopted that addresses the management of the Menhaden Fishery. The Department of Commerce notified VMRC that the moratorium, that was to go in place on June 17, 2020, is no longer on the table by virtue of the actions takes by VMRC.

Commissioner Langley noted that in August the South Atlantic Board will be meeting and will receive the updates to the Spot and Croaker Traffic Light Assessments. Both updates will trigger management necessary for both Spot and Croaker in 2021.

Mr. Gary noted that, at the ASMFC meeting in May, there was a discussion and the formation of a workgroup for striped bass, as a presumed precursor to initiation of an amendment to the Interstate Fishery for Striped Bass. The amendment, to be presented at the August meeting, is a longer-term process with broader and sweeping implications. Mr. Gary is serving on the workgroup. There are a number of discreet issues, nine which are explicitly identified, which Mr. Gary will send via email to the Commissioners.

Finfish Advisory Committee Report – May 13, 2020

Chairman France noted that there no motions made.

Mr. Gary noted that there was discussion on the different public hearing issues, but no actual motions made.

Vice-Chairman Boarman asked that when the FFAC convenes again, to put on the agenda regarding an issue with some of the fish trot lines being set on top of each other.

Items for Public Hearing Consideration

Amend Regulation I, Section 4(a) - Notice and Hearing – Mr. Mayo started by noting Sen. Bailey’s Bill 1025, that was introduced into Maryland Legislature. It was an act to begin a taskforce on reciprocity fishing license penalties. This Bill passed and becomes effective on July 1, 2020. It requires a two-year period in which the taskforce can decide on how to proceed on reciprocity in various jurisdictions for repeat offenders. Commissioner Bowman suggested that we could also enact, or consider, a regulation that would address repeat offenders in other jurisdictions.

The proposed regulation amends the language to add “...or (iv) who has had any license to commercially take finfish, crabs, oysters, clams, or other shellfish (herein “seafood”) either restricted, suspended or revoked in the jurisdictions controlled by the Virginia Marine Resources Commission, the Maryland Department of Natural Resources or any other foreign jurisdiction. The period of ineligibility under Section 4(a)(iv) shall continue until such offender provides adequate proof that the offender’s reinstatement to take seafood has been restored by the Maryland Department of Natural Resources and/or by the Virginia Marine Resources Commission or any other foreign jurisdiction who restricted, revoked or suspended the offender’s commercial license; and such offender appears before the Potomac River Fisheries Commission and the Commission has made a determination that a new license may be issued to such person”.

As directed by Commissioner Bowman, this language was drafted to reflect any and all commercial licenses. Mr. Mayo used the language “restricted, revoked, or suspended” to be as broad as possible, to at least address and review the actions of others when they’ve been suspended, revoked, or restricted in another jurisdiction.

Mrs. Cosby stated that the Finfish Advisory Committee had some concerns about being revoked in one fishery and would not be able to get a license in another fishery and asked if there would be an appeal process.

The Blue Crab Advisory Committee voted to ask the Commission to not approve the language and voted to recommend the Commission only revoke the license of the specific fishery of the violation that corresponds to the license revocation.

Chairman France clarified with Mr. Mayo that this language is very broad and if it is sent to the public hearing, it can be tweaked before the meeting. Mr. Mayo concurred.

A motion was made by Commissioner Bowman to send amended Reg. I, Section 4(a) Notice and Hearing to public hearing and seconded by Commissioner Langley. A roll call vote was taken, and the motion passed unanimously.

Amend Regulation I, Section 2(d)(5) - Crab Pot ID Tags/Decals Fee and Replacement

Mrs. Cosby stated this amendment to the regulation will establish an administrative fee for inactive crab pot licenses becoming active. In the past, we have allowed crabbers, during renewal, to decide if they want to be active or inactive. Inactive crabbers only paid the license fee and the CLR, and they did not have to pay to order the crab pot decals/tags at that time. The active crabbers would pay for their crab pot decals/tags and we would order them in batches, which is more cost effective for the PRFC. The cost of the decals/tags has increased slightly; but the small batches has increased more so. When a crabber decides he wants to be active, after renewing, he pays the fee and we order decals in a small batch, which is where the cost has gone up. Staff has recommended that we have an administrative fee to cover this cost if a crabber wants to become active after the renewal period. The amended language also reflects the late renewals (Feb. – Apr.) will pay the administrative fee.

There are two amended regulations to choose from. Option #1 reflects a straight administrative fee for anyone ordering their crab pot decals/tags after the renewal period. The crabber has the option to buy their decals/tags at renewal for no extra fee or after renewal ends with the administrative fee being charged. Option #2 reflects all crabbers must pay for their crab pot decals/tags during the renewal period. If the crab pot license does not get renewed during the renewal period (Dec. – Jan.), then they must pay for the administrative fee to order them later.

The blue crab advisory committee recommended to the Commission that all crabbers pay for their decals/tags during renewal.

A motion was made by Commissioner Bowman to send amended Reg. I, Section 2(d)(5) Crab Pot ID Tags/Decals Fee and Replacement (Option 2), requiring crabbers to become active during the renewal period and any late crab pots renewed after the renewal period will pay the administrative fee, to public hearing and seconded by Vice-Chairman Boarman. A roll call vote was taken, and the motion passed unanimously.

Amend Regulation I, Section 2(g) - Oyster Buyer's Buy Boat License

Mrs. Cosby stated that she has worked with law enforcement on how to update this regulation. There was a lot of interest in the Buy Boat License last year, but we have not issued a Buy Boat License in over 25 years. The regulation has been amended to update language to specify the details and requirements in obtaining a Buy Boat License.

The Oyster/Clam Advisory Committee was in favor of the regulation amendments and suggested

that specific criteria, such as carrying capacity or length, be included. Law enforcement stated that carrying capacity could not be enforceable, but length could be enforced and suggested a minimum of 30' length.

Chairman France asked staff that, if we haven't sold one for so long, what might have triggered the recent inquiries. Mrs. Cosby responded that it may have been the few people from Maryland who were revoked in Maryland and were also revoked from landing any oysters in Maryland. In order to get by the restriction, they wanted to be able to buy oysters on the water and then the buy boat would be able to land in Maryland. Chairman France asked if the reciprocity regulation passed, would that take care of this? Mrs. Cosby stated that if it passed, it may solve the problem as far as anyone trying to get around Maryland's intention of not purchasing oysters from someone who is revoked. She further stated that the Buy Boat License does need to be updated.

Commissioner Fegley asked if the regulation would allow a buy boat to be present on the Potomac River, or can you already have buy boats and nobody has asked for a license? Mrs. Cosby responded that the current buy boat license is \$125 and the current regulation only has brief language and no requirements specified, such as: no harvest gear on board; can't purchase from anyone who doesn't have a license; can't purchase more than the daily limit for a single boat; tickets and records need to be onboard; and submit reports and pay taxes.

Commissioner Fegley further stated she would be in favor of the enhancements and is concerned that the application for a buy boat is to circumvent Maryland's efforts to crack down on people with revoked or suspended licenses.

Vice-Chairman Boarman asked if a decal would be required for the buy boat. Mrs. Cosby stated that would be a good idea.

Commissioner Langley noted that a 30' buy boat might be too small to carry oysters and how many they could actually carry.

A motion was made by Commissioner Schick to send amended Reg. I, Section 2(g) Oyster Buyer's Buy Boat License to public hearing and seconded by Commissioner Fegley. A roll call vote was taken, and the motion passed unanimously. Maker of the motion (Schick) made an amendment to include a minimum 40' buy boat and agreeable by seconder of motion (Fegley)

Amend Regulation I, Section 1(a) - Application/Eligibility for Licenses

Mr. Gary stated that this regulation pertains to the age of a licensee and has crossed out the age of 14 (fourteen) and inserted the age of 9 (nine). Commissioner Rice asked that his request be advanced for public hearing consideration at one of the last quarterly meetings. Mr. Gary stated that in his research, in Maryland, the minimum age for a commercial fishing license is 14; however, if you are the beneficiary of someone who already has a license, you can obtain the license at any age. In Virginia, there is no minimum age for issuance of a commercial license. His concern is whether someone at a younger age could functionally use the license.

Mr. Mayo had some concerns with decreasing the minimum age. There is a distinction between the PRFC issuing a commercial license to someone under 14 years of age and the ability of them to actually work the license. The labor laws in both Maryland and Virginia have a minimum age of 14 to get a work permit, as well as the U.S. Department of Labor. To reduce the minimum age to crab or fish, may interfere with the right to protect children under a certain age from working, not going to school, etc. The Commission should be mindful of who would be responsible for the minor. A minor could acquire and then sell the license. Can a 9-year-old understand the regulations of the PRFC and his/her responsibility to them, and another concern, a minor can't be bound for contracts he/she makes with the PRFC.

Commissioner Bowman noted that legal counsel has provided some good rationale as to why the minimum age should stay at 14 years of age. There is a distinct difference between the maturity of a 9-year-old and a 14-year-old.

Commissioner Fegley stated that she tends to agree with Commissioner Bowman, but is concerned with the cultural significance of these licenses. If a person were to pass, and a nine-year old was the beneficiary, what would happen if this wasn't in place. Could the license be held in escrow or an estate for the child until they are old enough to obtain the license. Mr. Mayo commented that Maryland has the exception that a commercial license can be issued under 14 if they receive it as a beneficiary. The PRFC will not interfere with that, but the child cannot work the license until they are 14 years old.

Chairman France doesn't see an issue with leaving a commercial license to a minor, to be put in escrow until the child is 14 and can work it.

A motion was made by Commissioner Bowman to not send amended Reg. I, Section 1(a) Application/Eligibility for Licenses to public hearing and seconded by Commissioner Neill. A roll call vote was taken, and the motion passed 7-1 (Rice).

New Regulation III, Section 13(g) - Individual Striped Bass Allocation Transfer from a Commercial Hook and Line License to a Gill Net License

Mrs. Cosby noted this is a new regulation that industry has requested to allow a commercial hook and line license with the striped bass tag allocation to transfer to a gill net license. The sister regulation for transferring a gill net to hook and line also has to be adjusted if this goes to public hearing. The FFAC has no comment on this regulation.

Chairman France, when asked by Commissioner Bowman his thoughts, stated that he doesn't think this is the right time for this considering what is going on with rockfish. If you let one fishery transfer quota to another fishery, it may cause problems with everything including issues with people who have never fished gill nets before, issues with ASMFC with how the quotas may be adjusted.

Commissioner Rice stated that he respectively disagrees, with the statement from Chairman France, that it would invite new people in the fishery because you are either fishing or you aren't. He doesn't feel it should create problems with quota. He is in support of advertising this.

Commissioner Bowman's opinion is in line with Commissioner Rice's. The quota is there, you are just transferring from one to the other. He also doesn't see a lot of people doing this.

Commissioner Schick has been a supporter of eliminating these lines of gear all together. He is in support of advancing to the public hearing.

Commissioner Fegley stated she is in support of this going to public hearing. Maryland has been encouraging fishermen to think of themselves as striped bass fishermen, not just gill netters or hook and liners. They advertise and encourage fishermen to use different gear to catch their quota. Their tags no longer have gear written on them.

Chairman France stated that Virginia is under a poundage system and the PRFC is under a tag system. His concern is that the gill net fishery is usually several pounds higher per fish, per tag than the hook and line fishery. If you get a lot of hook and line fish being caught by gill nets, then that could be a concern with the jump in poundage.

Commissioner Fegley noted that is a very good point stated by Chairman France. She further stated that if you are doing this during license renewal, you may have the ability to adjust that somewhat. Maryland adjusts their tag numbers based on poundage's they see coming in on the surveys each year.

Commissioner Bowman stated that the system which Virginia is under, may change.

Mr. Mayo stated that there is very good discourse on both positions on this and would lend itself to go to a public hearing and discuss it then, along with hearing public comment.

Mr. Gary noted that, with respect to the attributes of flexibility and utilization of unused quota, this would allow us to better use the quota. The side of concern is that the hook and line fishery, driven by its latency, is a buffer so we don't go over the quota. Since the moratorium was lifted in 1990, the quota was gone over only once in that time. Some would say we would be better served having some quota. The administrative complexities would magnify with this.

A motion was made by Vice-Chairman Boarman to send new Regulation III, Section 13(g) Individual Striped Bass Allocation Transfer from a Commercial Hook and Line License to a Gill Net License to public hearing and seconded by Commissioner Schick. A roll call vote was taken, and the motion passed unanimously.

Amend Regulation III, Section 13(d) - Individual Striped Bass Allocation Transfer from Gill Net to Commercial Hook and Line

Mrs. Cosby stated that this regulation deals with the transfer of gill net to commercial hook and line. When this regulation started allowing the transfer, it was considered as a share. The hook and line would have an additional share of tags from the gill net that was transferred. When they renewed their license, they renewed the license as a hook and line, but the gill net was renewed as a hook and line share at the gill net license fee. Now the Commission allows an individual to hold multiple hook and line licenses and they pay the hook and line license fee. For consistency with the sister regulation, this regulation deletes that gill net fee, and they will be charged the hook and line license fee, and the hook and line license will no longer be considered a share.

A motion was made by Commissioner Bowman to send Amended Regulation III, Section 13(d) - Individual Striped Bass Allocation Transfer from Gill Net to Commercial Hook and Line to public hearing and seconded by Commissioner Fegley. A roll call vote was taken, and the motion passed unanimously.

Amend Regulation III, Section 11(b) – Method of Measurement

Mrs. Cosby stated that, currently, the measurement of fish is from the snout to the end of the caudal fin in a natural state. To be consistent with Maryland and Virginia, the amended language would change the measurement of fish to the total length from the forward projection of the snout, with the mouth closed, to the tip of the longer lobe of the tail (caudal fin), excluding the tail filament of a black sea bass, and measured with the tail compressed along the midline, using a straight-line measure, not measured over the curve of the body. There was some support from the FFAC.

A motion was made by Commissioner Schick to send Amended Regulation III, Section 11(b) – Method of Measurement to public hearing and seconded by Commissioner Rice. A roll call vote was taken, and the motion passed unanimously.

Amend Regulation III, Section 10(b) -Striped Bass Tagging

Mrs. Cosby stated that the minor edit in the regulation is changing the “may be” charged the processing fee language to “shall be” charged, so that everyone is treated the same for striped bass audits. The FFAC had no comment on this.

A motion was made by Commissioner Schick to send Regulation III, Section 10(b) -Striped Bass Tagging to public hearing and seconded by Commissioner Fegley. A roll call vote was taken, and the motion passed unanimously.

New Regulation VII – OMR Program Dissolution

Mrs. Cosby noted that this new language to the OMR program is for dissolution of the program. The participants on the last call, voted to recommend the Commission to not advertise this

language. Staff thinks it would be good to advertise to get it into regulation. If and when, the participants decide to dissolve the program, the language would already be there.

Mr. Mayo noted that he agrees with staff that we should have dissolution language in regulation for future use.

A motion was made by Commissioner Bowman to send New Regulation VII – OMR Program Dissolution to public hearing and seconded by Commissioner Schick. A roll call vote was taken, and the motion passed 7-0-1 (Boarman).

Amend Regulation I, Sections 2(l)(1) – Fish Trot Line, 2(m)(1) – License Required, and 2(m)(2) –License Fees

Mrs. Cosby stated that this was recommended by the FFAC to allow multiple boats to be used on fish trot line, fish pots, bait pots, and eel pots. The reason they can not use multiple boats is because the license is issued to a specific boat. To allow them to use multiple boats, the license would need to be changed from a vessel to a natural person, allowing them to use any boat they wanted.

A motion was made by Commissioner Rice to send Amended Regulation I, Sections 2(l)(1) – Fish Trot Line, 2(m)(1) – License Required, and 2(m)(2) –License Fees to public hearing and seconded by Commissioner Fegley. A roll call vote was taken, and the motion passed unanimously.

Amend Regulation III, Section 9(a) – Gear Specific Fishing Seasons

Mrs. Cosby stated that this is a request from the FFAC to allow pound nets to be set and fished year-round, from January 1st through December 31st. Staff has potential concerns, including the striped bass by-catch and isn't sure if the ASMFC has to approve the season change. Also, American Shad and River Herring by-catch may increase January 1st. Staff is agreeable with extending the season from December 15th to December 31st but is opposed to changing the start date from February 15th to January 1st.

Mr. Gary noted that this is a flexibility request, and there wasn't a lot of passion behind this. Although he believes it is a sincere request, but he doesn't see the benefit to advancing this to a public hearing.

A motion was made by Commissioner Fegley not to send Amended Regulation III, Section 9(a) – Gear Specific Fishing Seasons to public hearing and seconded by Commissioner Bowman. A roll call vote was taken, and the motion passed unanimously.

Amend Regulation I, Section 2(s)(2) – Removal of Stakes

Mrs. Cosby noted that this regulation would go along in conjunction with the previous regulation, Reg. III, Section 9(a). Since that regulation is not being advanced to a public hearing, no action is needed on this one.

Concluding the items for public hearing consideration, Commissioner Rice stated that he doesn't think the Commission would do the public justice if the public hearing was held virtually. A public hearing should be done in person.

Commissioner Bowman concurred with Commissioner Rice's statement

Third Quarter Disbursements and Cash-On Hand

Chairman France noted that the Commissioners got the third quarter numbers by email. Ending third quarter, total disbursements is \$162,268.00 and total current fiscal year to date is \$482,369.00, 59 percent of the budget. There are some expenses that have not shown up yet and will show in the next quarter for the oyster plantings.

A motion was made by Commissioner Schick to approve the financial reports as presented and seconded by Commissioner Rice. A roll call vote was taken, and the motion passed unanimously.

Budget Committee Report (Commissioners Schick and Fegley)

Mr. Gary updated the Commission on recent revenues vs. expenditures via power point slides. Although there has been a slight drop over the past few years, it is in the same general range as it has been the last decade or so. The sport license sales are a significant part of our operating budget and have been steadily declining. We are disadvantaged by not having the electronic ability to buy licenses. Selling licenses electronically is more complex and doesn't come free. The agents are critical, but some do not want to pay the price point up front and wait for a reimbursement once they sell the licenses, in addition to the administrative complexities. Mr. Gary urges caution that the two states supporting us are likely to experience repercussions from COVID-19.

Mr. Gary went on to discuss the state appropriations and based on a CPI index, the agency should be getting \$421,000 per state, but appropriations have remained steady over the past years. Ironically, we were getting more in appropriations in 1981 than we are now. The appropriations are the baseline on which we work our budgets.

Commissioner Bowman requested Mr. Gary to send him a report of what he has presented today, and he will forward that to the appropriate people in the Commonwealth of Virginia. Commissioner Fegley requested the same for Maryland.

Commissioner Schick reported that on May 19, 2020, the budget committee, composed of

Commissioner Fegley and himself, met with staff to review the staff proposed budget for fiscal year 2020-2021. The proposal included an analysis of projected revenue and expenses for that time period. It also included four programs that included pass-through funding, which is earmarked for specific expenditures. The four programs including funding from NOAA, MDTA, NRG Energy, and the OMR program. The PRFC budget must account for them, since they receive and disburse funds. The proposal also included option for staff compensation, costs associated with retirement benefits, and healthcare for incumbent employees. The budget committee approved funding matrix found in column M, pages 1- 4. The budget committee proposed this option to the full Commission for adoption for the 2020-2021 fiscal year.

Commissioner Fegley added she acknowledged staff for making sure things were well balanced. There was a conversation about step-increases and that was in the proposed budget. There was a lot of debate, but ultimately she did support it in the proposed budget.

A motion was made by Commissioner Rice to approve the budget committee report and adopt the budget for 2020-2021 as presented and seconded by Vice Chairman Boarman. A roll call vote was taken, and the motion passed unanimously.

New Business

Mr. Gary started by stating that fixed fishing gear can encounter things it's not supposed to, specifically a federally protected bird, the Double Crested Cormorant. There was an incident with a pound net recently near the Piney Point area. There were a significant number of dead Double Crested Cormorants and one osprey. This particular net had a top dressing. Enforcement went out to check the net to make sure it was set properly, which it was. The pound net fishermen took the top dressing off on his own to hopefully rectify the problem; but, a couple days later, nine more Cormorants were found dead in the net. The PRFC has reached out, through Maryland DNR police, to the district wildlife biologist at DNR, as well as to the Dr. Driscal at Oxford Cooperation Lab. At this time, we are unsure of why these birds are being killed in this particular pound net. Right now, if there are reports of any more birds that are freshly dead, the Oxford Laboratory have agreed to take them and perform a necropsy.

Commissioner Bowman stated that he doesn't understand why these are a federally protected bird and, that in essence, they are a nuisance bird. He suggested that someone in this entity write to the federal government and ask why they are a protected species.

Policy Manual Updates

Mr. Gary stated that this simple edit to two places in the policy manual. The change is to increase the probationary period for new hires from six months to one year. This gives us more opportunity for mentorship and to make sure the choice is mutual between the PRFC and the employee.

A motion was made by Commissioner Bowman to approve the updates to the Policy Manual as

presented and seconded by Commissioner Rice. A roll call vote was taken, and the motion passed unanimously.

Date of the Next Meeting

Mr. Gary noted that, by default, we are scheduled for the first Friday in September, which is also the start of Labor Day weekend. The next weekend, September 11th, or 9/11, is the remembrance of a devastating historic event. If the Commission is comfortable, Mr. Gary suggests deferring the meeting to September 18, 2020. By consensus of the Commission and staff, September 18, 2020 is the date of the next meeting.

Before adjourning, Vice Chairman Boarman stated he has gotten word that 10 large barges will be coming up from Florida to start the bridge project in the next few weeks. It will impact the crabbers around the bridge. The crab pots need to be cleared at least a quarter (.25) mile on the south side of the bridge and an eighth (1/8) mile on the north side of the bridge.

Mr. Gary followed stating that a hotline is supposed to be set up by MDT that can be called for this information.

Adjourn

The meeting adjourned at 1:24 p.m.

Respectfully submitted,

Wayne France, Chairman

Ken Neill, Secretary