

MINUTES

Commission Meeting

January 25, 2011

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 2600 Washington Avenue, Newport News, Virginia with the following present:

Steven G. Bowman	Commissioner
Ernest L. Bowden, Jr.)	
J. Carter Fox)	
J. T. Holland)	Associate Members
J. Bryan Plumlee)	
Kyle J. Schick)	
John E. Tankard, III)	
Jack G. Travelstead	Chief, Fisheries Mgmt.
David Grandis	Assistant Attorney General
John M. R. Bull	Director-Public Relations
Katherine V. Leonard	Recording Secretary
Linda Farris	Bs. System Specialist, MIS
Rob O'Reilly	Deputy Chief, Fisheries Mgmt.
Jim Wesson	Head, Conservation/Replenishment
Joe Grist	Head, Plans and Statistics
Sonya Davis	Fisheries Mgmt. Specialist, Sr.
Allison Watts	Fisheries Mgmt. Specialist
Stephanie Iverson	Fisheries Mgmt. Specialist, Sr.
Joe Cimino	Fisheries Mgmt. Specialist, Sr.
Samantha Hoover	Fisheries Mgmt. Specialist
Laurie Williams	Fisheries Mgmt. Specialist
Rick Lauderman	Chief, Law Enforcement
Warner Rhodes	Deputy Chief, Law Enforcement
Steve Bennis	Marine Police Officer
Kevin Croft	Marine Police Officer

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**16196
January 25, 2011**

Tony Watkinson
Chip Neikirk
Ben Stagg
Randy Owen
Jeff Madden
Justin Worrell
Dan Bacon
Hank Badger
Jay Woodward
Ben McGinnis
Mike Johnson

Chief, Habitat Mgmt. Div.
Deputy Chief, Habitat Mgmt.
Environmental Engineer, Sr.
Environmental Engineer, Sr.
Environmental Engineer, Sr.
Environmental Engineer, Sr.
Environmental Engineer, Sr.
Environmental Engineer, Sr.
Environmental Engineer, Sr.
Environmental Engineer, Sr.
Environmental Engineer, Sr.

Virginia Institute of Marine Science (VIMS):

Lyle Varnell

Others present included:

Karla Havens	Dawn Stillman	Russell Jackson	W. Ben Burton
Grant Cooley	Billy Jenkins	Ron Matousher	Elizabeth Sears
Paul Peterson	David O'Brien	Alice Firman	James Fletcher
Ellis W. James	David Smith	W. P. Cumberland	Richard Klein
Jane Wilson	John Soter	John Ridley	Cheryl Davis
Steve Ellis	D. L. Gilman	Michelle Peabody	Fella Daniels
Tommy Leggett	Jackie Shannon	Laura Englund	

and others.

Commissioner Bowman called the meeting to order at approximately 9:35 a.m. He noted that Associate Members Laine and Robins were both absent and that there was a quorum present so the meeting could proceed.

At the request of Commissioner Bowman, Associate Member Tankard gave the invocation and John Bull, Director of Public Relations, led the pledge of allegiance.

Introduction of New Employees:

Ms. Samantha Hoover and Ms. Laurie Williams have accepted positions Fisheries Management Specialist in the Plans and Statistics Department of the Fisheries Management Division and both have B. S. degrees in Marine Biology.

Special Announcement:

Commissioner Bowman announced that Governor McDonnell had reappointed Associate Member Tankard for another term on the Board.

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APPROVAL OF AGENDA: Commissioner Bowman asked if there were any changes from the Board members or staff. There were none. He asked for action by the Board.

Associate Member Tankard moved to approve the agenda. Associate Member Bowden seconded the motion. The motion carried, 7-0. The Chair voted yes.

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MINUTES: Commissioner Bowman requested a motion for approval of the December 21, 2010 Commission meeting minutes, if there were no corrections or changes. There were none.

Associate Member Tankard moved to approve the minutes, as distributed. Associate Member Bowden seconded the motion. The motion carried, 4-0-3. The Chair voted yes. Associate Members Fox, Plumlee, and Schick all abstained as they were absent for the December Commission meeting.

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Commissioner Bowman at this time swore in the VMRC staff and VIMS staff that would be speaking or presenting testimony during the meeting.

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- 2. **PERMITS** (Projects over \$50,000 with no objections and with staff recommendation for approval).

Tony Watkinson, Chief, Habitat Management Division, summarized these items for the Board. He stated that there were twelve items (A-L). His comments are a part of the verbatim record.

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Commissioner Bowman asked for questions of staff.

Associate Member Fox asked how the royalties had been assessed for Item 2G where they were installing the groins. He asked if staff was using the bold outline of the groins or the footage of the area just under the groins. Mr. Watkinson explained that it was assessed for the area under the groins and the fill area. Associate Member Fox said for a pier it usually done for the bold outline. Mr. Watkinson stated that it was not done that way for this type of project. He added this was the same method used in the past for royalty assessments for this type of project.

Commissioner Bowman opened the public hearing. Being there were no public comments, the public hearing was closed. He stated the matter was before the Commission for action.

Associate Member Tankard moved to approve the page two items (A through L). Associate Member Schick seconded the motion. The motion carried, 7-0. The Chair voted yes.

2A. DOMINION TERMINAL ASSOCIATES, #10-1685, requests authorization to maintenance dredge, by hydraulic or mechanical method, a total of 80,000 cubic yards of material on a two-year cycle, to maintain maximum depths of -52.6 feet at mean low water at the marine terminal adjacent to the James River in Newport News. All dredge material will be pumped or barged to the Craney Island Dredge Material Management Area.

Permit Fee.....	\$100.00
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2B. ALLIED FIBER, #10-1337, requests authorization to directionally bore a fiber optic cable 5-feet beneath the bed of 321 feet of the Shenandoah River, 70-feet of Catoctin Creek, 70-feet of Tuscarora Creek, 126 feet of Goose Creek and 75-feet of Beaver Dam Run as part of the Allied Cable Berryville to Ashburn project in Clark and Loudoun Counties. Staff recommends the assessment of a royalty in the amount of \$1,986.00 for the encroachment within 662 linear feet of State-owned subaqueous land at a rate of \$3.00 per linear foot.

Royalty Fees (encroachment 662 lin. ft. @ \$3.00/lin. ft.).....	\$1,986.00
Permit Fee.....	\$ 100.00
Total Fees.....	\$2,086.00

2C. TRANSCONTINENTAL GAS PIPELINE COMPANY, #10-1852, requests authorization to install a new 42-inch natural gas pipeline 5-feet beneath the streambed of 95 linear feet of Bull Run. The pipeline will be installed by the open trench method utilizing a dam and flume system to dewater the work area,

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associated with the Transco Mid-Atlantic Connector Expansion Project in Fairfax and Prince William Counties. Staff recommends the assessment of a royalty in the amount of \$285.00 for the encroachment within 95 linear feet of State-owned subaqueous land at a rate of \$3.00 per linear foot. Recommend inclusion of the standard in-stream conditions.

Royalty Fees (encroachment 95 lin. ft. @ \$3.00/lin. ft.).....	\$285.00
Permit Fee.....	\$100.00
Total Fees.....	\$385.00

2D. TOWN OF GRETNA, #10-0304, requests authorization to construct a raw water intake structure comprised of a 10-inch diameter pipe and protective steel structure that will extend approximately 15-feet channelward of ordinary high water within Whitehorn Creek in Pittsylvania County. Recommend inclusion of the standard in-stream conditions.

Permit Fee.....	\$100.00
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2E. HALIFAX COUNTY SERVICE AUTHORITY, #10-1904, requests authorization to install an 8-inch water pipeline over the natural stream channel of the Bannister River within the Bannister Reservoir, by bridge attachment method along Route 501, in conjunction with a water main extension by the Town of Halifax in Halifax County.

Permit Fee.....	\$100.00
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2F. TAZEWELL COUNTY PUBLIC SERVICE AUTHORITY, #09-0575, requests authorization to modify their existing permit to include the installation of a 6-inch, concrete-encased, PVC or ductile iron sewer service line under and an approximate 16-foot wide section of Cavitts Creek near the Heston Avenue bridge as part of the Baptist River Valley Sewer Project in Tazewell County. The sewer line will be installed in the dry by the open-cut trench method requiring the Creek to be temporarily diverted using previously authorized cofferdam, diversion or pump-around techniques. Staff recommends approval including our standard in-stream conditions.

No applicable fees – Permit Modification

2G. SUMMER DUCK GROUP, #10-1857, requests authorization to construct 12 low-profile, timber groins, extending a maximum of 70 feet channelward of mean low water, and nourish the area between the groins with 436 cubic yards of sandy material from associated bank grading at 8 lots along the Rappahannock River off Teal Lane in Lancaster County. Recommend approval with a royalty of \$2,786.00

for the encroachment of the groins over 1,260 square feet of State bottom at a rate of \$0.50 per square foot and the beach nourishment over 43,120 square feet at a rate of \$0.05 per square foot.

Royalty Fees (encroachment 1,260 sq. @ \$0.50/sq. ft.).....	\$ 630.00
Royalty Fees (fill 43,120 sq. ft. \$0.05/sq. ft.).....	\$2,156.00
Permit Fee.....	\$ 100.00
Total Fees.....	\$2,886.00

2H. JOHN E. McPHERSON, #10-1907, requests authorization to maintenance dredge, using both hydraulic and mechanical methods on an as-needed basis, 7,000 cubic yards of material from an existing private navigation channel on Fishing Bay and to now deepen the area to minus ten (-10) feet at mean low water from the previously authorized depth of minus nine (-9) feet, and excavate 900 cubic yards of sediment from a sand trap area adjacent to the channel adjacent to his property at 471 Stove Point Road in Middlesex County. The material will be transported to and disposed of in a contained upland disposal area at his property. Recommend approval with a royalty in the amount of \$180.00 for the new dredging of 400 cubic yards of material resulting from the deepening at a rate of \$0.45 per cubic yard.

Royalty Fees (dredging 400 cu. yds. @ \$0.45/cu. yd.).....	\$180.00
Permit Fee.....	\$100.00
Total Fees.....	\$280.00

2I. GAMBIT LLC, #10-1936, requests authorization to construct two (2) 75-foot long by 20-foot base width quarry stone breakwaters located a maximum of 60 feet channelward of mean low water, and nourish with 741 cubic yards of sandy material with appropriate vegetative planting, at property on the Piankatank River at 771 Paces Neck Road in Middlesex County. Recommend approval with a royalty of \$500.00 for the beach nourishment over 10,000 square feet of State bottom at a rate of \$0.05 per square foot.

Royalty Fees (fill 10,000 sq. ft. @ \$0.05/sq. ft.).....	\$500.00
Permit Fee.....	\$100.00
Total Fees.....	\$600.00

2J. AMHERST COUNTY SERVICE AUTHORITY, #08-0619, requests authorization to install a 22-foot wide riprap structure extending a maximum of 22 feet channelward of the south side of Harris Creek, immediately upstream of a proposed dam rehabilitation site, to direct stream flow toward the dam's central weir and to protect an existing pump house at the Henry L. Lanum, Jr. Water Filtration Plant in Amherst County.

Permit Fee.....	\$100.00
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2K. CITY OF HAMPTON AND U.S. ARMY CORPS OF ENGINEERS, #10-1913, requests authorization to conduct a phased beach nourishment project at Buckroe Beach between Point Comfort and Pilot Avenues, initially placing up to 30,000 cubic yards of beach quality sand along a 3,785 linear foot section of public beach to replace sand loss from recent storm events, and subsequently conducting scheduled maintenance nourishment, on an as-needed basis, with up to 50,000 cubic yards of beach quality sand. The sand nourishment material is proposed to be sourced from approved upland borrow sites.

Permit Fee.....	\$100.00
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2L. EARL INDUSTRIES, #10-1996, requests authorization to install a 24-foot by 24-foot concrete mooring platform with four (4) bollards a maximum of 77 feet channelward of the existing Pier 1 at their facility situated along the Elizabeth River in the City of Portsmouth.

Permit Fee.....	\$100.00
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3. CONSENT ITEMS: (After-the-fact permit applications with monetary civil charges and triple permit fees that have been agreed upon by both staff and the applicant and need final approval from the Commission). Commissioner Bowman asked if there were any consent items to which Mr. Watkinson responded none.

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4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL. Assistant Attorney General David Grandis responded no when the Commissioner asked if a closed meeting was necessary.

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5. **JOHN MAGANAS, #10-1808**, requests authorization to install a 112-foot long near shore stone sill and nourish the beach behind the sill with beach quality sand adjacent to his property at 16293 Crystal Beach Road situated along Chesconessex Creek in Accomack County. A Coastal Primary Sand Dune/Beach permit and a Submerged Lands permit are required.

Hank Badger, Environmental Engineer, Sr., gave the presentation with slides. His comments are a part of the verbatim record. Mr. Badger noted the applicant was not present and he added that the agent for the project was present.

Mr. Badger explained that the project site is located in Crystal Beach, a small beachfront community lying one mile northwest of South Chesconessex, near the mouth of Chesconessex Creek. The community was established in the late 1940s or 50s. The Maganas property is situated along a narrow, medium to high-energy beach with a 15-mile fetch to the northwest across Pocomoke Sound. The long-term erosion rate at the project site is approximately 1.2 feet per year. There is a low vegetated dune along the property that extended onto the adjacent parcels.

Mr. Badger further explained that Mr. Maganas proposed to install a 112-foot long by 12-foot wide nearshore stone sill that would straddle the mean low water line, and to place 112 cubic yards of beach quality sand landward of the sill, as beach nourishment along his shoreline. The height of the proposed sill would be 2.5 feet above mean high water. Class 3 stone was proposed to be used as the armor.

Mr. Badger noted that in 2006 Mr. Maganas applied to install a 179-linear feet of riprap revetment along the face of a small vegetated dune. At its September 26, 2006, meeting the Commission denied the application and suggested that Mr. Maganas work with the Virginia Institute of Marine Science (VIMS) to develop a possible offshore breakwater alternative. Mr. Maganas contacted both VIMS and the Department of Conservation and Recreation's Shoreline Erosion Advisory Service (SEAS) for assistance. He added that VIMS, VMRC, and SEAS had been working with Mr. Maganas at the site.

Mr. Badger stated that the County of Accomack had not yet adopted the model Coastal Primary Sand Dune and Beach ordinance. As a result, the Commission was responsible for administering the provisions of the ordinance within that locality.

Mr. Badger said that the Commission's staff held a public hearing in the Accomack County Administration Building, Board of Supervisors Chambers on Wednesday, January 5, 2011, to accept public comments on the project. Mr. Grant Cooley, the applicant's agent, and Mr. Arthur Nielsen, a nearby property owner, were the only ones to attend the hearing.

Mr. Badger explained that Mr. Nielsen expressed his concerns that the sill would impact the adjacent property and recommended that an offshore breakwater system for the entire reach be considered. No other public opposition had been received on the project to date.

Mr. Badger said that in their report dated August 20, 2010, VIMS stated that the preferred approach for this beach was an offshore breakwater system with beach fill that would protect all of the parcels on Crystal Beach Road in a reach-based design. This however, would require cooperation with all the property owners along the entire reach.

Mr. Badger stated that in regards to this specific application, VIMS recommended that if an offshore breakwater system with other property owners was not feasible, then the proposed nearshore sill, which was previously recommended by both VIMS and SEAS to the applicant after the 2006 Commission denial of the stone revetment, was the best alternative. They also stated that there was a potential for downdrift effects at both ends of the sill and recommended moving the sill north about 20 feet away from the property line so any immediate impacts would be on the applicant's shoreline. They finally recommended that the beach area be planted with appropriate wetland and beach vegetation.

Mr. Badger said that in an e-mail dated December 2, 2010, the Department of Game and Inland Fisheries documented the existence of the Northeastern beach tiger beetle in the vicinity and recommended coordination with the Department of Conservation and Recreation (DCR) and the Virginia Department of Agriculture and Consumer Services.

Mr. Badger explained that in their written comments dated December 28, 2010, DCR stated that due to the distance to the natural heritage resources, they did not anticipate that the project would adversely impact the resources (Federal and State Threatened Northeastern beach tiger beetle). SEAS recommended the construction of a stone sill with each armor stone weighing a minimum of 800 pounds. They also recommended filling the area landward of the sill with good-quality sand and enhancing the grass fringe to stabilize the beach.

Mr. Badger noted that neither adjacent property owner had expressed opposition to the project.

Mr. Badger said that the preferred approach, as recommended by VIMS for this beach, was an offshore breakwater system encompassing several breakwaters across multiple parcels with beach fill that protected all of the parcels on Crystal Beach Road in a reach-based design. This however, would require cooperation with all the property owners along the entire reach. At this time there appeared to be no consensus or desire to do so among the property owners.

Mr. Badger stated that staff agreed with VIMS and Mr. Nielsen that there was a potential for downdrift erosion at both ends of the sill. The matter was discussed with Mrs. Patti

Kiger, the adjacent property owner to the south, and staff understood from that discussion that she intended to apply for authorization to extend the sill in front of her property. After consultation with Karen Duhring from VIMS, staff believed the sill would have only minimum immediate impacts to the adjacent property owner’s shoreline provided Mrs. Kiger applied for and receives all permits needed to continue the sill. Staff also believed the proposed beach nourishment should be planted with the appropriate beach grasses, as recommend by SEAS and proposed by the applicant to help stabilize the beach.

Mr. Badger explained that after evaluating the merits of the project and after considering all of the factors contained in §28.2-1403 and §28.2-1205(A) of the Code of Virginia, staff recommended approval of the project, as submitted with an approved beach grasses planting plan.

After a few clarification questions and discussion, Commissioner Bowman asked if the applicant or a representative was present.

Grant Cooley, agent, was present and his comments are a part of the verbatim record. Mr. Cooley explained that they understood that something needed to be done to save the beach property, but that they decided to go ahead with the VIMS/SEAS recommendation as was already done by the adjoining property owner and can be continued.

There being no one else present to comment, Commissioner Bowman asked for action by the Board.

Associate Member Schick moved to accept the staff recommendation. Associate Member Plumlee seconded the motion. The motion carried, 7-0. The Chair voted yes.

Permit Fee.....	\$100.00
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6. REGULATION PERTAINING TO REDEFINING THE ESTABLISHED RESTRICTED AREA - DOMINION POWER/NUCLEAR POWER STATION. Regulation redefinition and correction of both Areas #1 and #2 of previously approved regulation restricting access to both areas to facilitate physical security of the facility located along the James River in Surry County.

Ben Stagg, Environmental Engineer, Sr., gave the presentation. His comments are a part of the verbatim record.

Mr. Stagg explained that pursuant to enabling legislation passed by the General Assembly to allow for the establishment, patrol, and enforcement of state water safety zones and

restricted areas, Title 28.2, Subtitle 1, Chapter 1, §28.2-106.2 of the Virginia Code, the Commission previously approved restricted areas at and adjacent to the Dominion Power/Surry Nuclear Power Station situated along the James River in Surry County and immediately adjacent to the Virginia Department of Game and Inland Fisheries Hog Island Wildlife Management Area. These restricted areas were approved on June 24, 2003.

Mr. Stagg said that the two areas included in the description include an area within the James River immediately adjacent to the water intake canal that is northeast of the facility and the area of the cooling water outfall from the plant that extended into the James River between two rock jetty structures to the west of the facility.

Mr. Stagg stated that last year, it was discovered that there were some anomalies with the previously approved description of the restricted areas. After consulting with the U. S. Army Corps of Engineers and U. S. Coast Guard, as required by the Code of Virginia, staff made the necessary corrections and clarifications to the regulation and now sought approval of the full Commission. There was no change in the size of the previously established area as this was only a housekeeping issue.

Mr. Stagg explained that as noted during the hearing in 2003 and pursuant to provisions contained within §28.2-106.2 of the Virginia Code, action on regulations promulgated under this section were exempt from the Administrative Process Act and therefore did not require a public hearing. There was however, a requirement that the Commission publicize the establishment and location of such zones and restricted areas.

Mr. Stagg noted that the area overlapped with a lease, but the leaseholder was aware of it from before when it was first established.

Mr. Stagg stated that staff recommended approval of the revised regulation with an effective date of February 1, 2011, and recommended that the regulation be placed with the other regulations listed on the VMRC web site.

Associate Member Fox asked if it was to be marked or if it was just correcting the latitudes and longitudes. Commissioner Bowman said that it was marked with danger signs and this had been established for a long time so everyone was aware of it and is enforced by MRC Law Enforcement.

Mr. Stagg explained that there were signs on the shoreline and that there were motion and sound detectors within sight of the security area. He added that the area was only accessible by way of the beach or boat.

Associate Member Fox asked how close it was to the outfall. Mr. Stagg stated it went to the jetties, which was a hot fishing spot in the past, but not allowed now.

Commissioner Bowman stated that even though this was not a public hearing, he asked for any comments pro or con on this matter. There were none. He asked for action by the Board.

Associate Member Holland moved to accept the staff recommendation. Associate Member Schick seconded the motion. The motion carried, 7-0. The Chair voted yes.

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Because the Habitat Management items were completed early, Commissioner Bowman asked staff what fisheries items could be heard now. Mr. Travelstead stated the first fishery items involving public hearings were advertised for after 12 noon, but there were a number of items at the end of the agenda, not involving a public hearing, which the Board could hear before adjourning for lunch.

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14. REQUEST FOR PUBLIC HEARING: To establish the 2011 recreational summer flounder management measures, minimum size limit, possession limit and season, as part of Chapter 4VAC20-620-10 et. seq., "Pertaining to Summer Flounder".

Rob O'Reilly, Deputy Chief, Fisheries Management, gave the presentation. His comments are a part of the verbatim record. Mr. O'Reilly explained that this was a request for a public hearing. He said he had all the information available now, but could wait on it until the public hearing. He said he would provide a brief update.

Mr. O'Reilly explained that there was a Summer Flounder Ad hoc Committee, which had existed for 7 years. He said that at the Ad-hoc meeting on January 4, 2011 there was very poor attendance. He said the ad hoc committee was made up of members of the Charter Boat Industry and private boat fishermen. He said a draft plan was due to the ASMFC by January 7, 2011 and he had forwarded via e-mail to the members providing them with the five options. He noted that he had forwarded, via e-mail, to all the members providing them with the five options. He explained that the results were: 2-members for an 18-inch minimum size limit, 4-fish, and no closed season; 2-members for a 17 1/2-inch, no closed season; one-member for 17 1/2-inch minimum size limit, 4-fish limit, and no closed season; and one-member for 17 1/2-inch minimum size limit, 3-fish limit, and no closed season. He said one member suggested the 17-inch option, which a majority did not support, but they agreed that it be given to the ASMFC. He stated that the option was 17-inch minimum size with a four- or three-fish limit and no closed season.

VMRC proposed the following management options be given to the ASMFC for their approval on January 19, 2011, for the 2011 recreational summer flounder fishery:

- A) 18 inches minimum size limit; 4-fish; no closed season
- B) 17 ½ inches minimum size limit; 4-fish; no closed season
- C) 17 ½ inches minimum size limit; 3-fish; no closed season
- D) 17 inches minimum size limit; 4-fish; no closed season
- E) 17 inches minimum size limit; 3-fish; no closed season

Mr. O'Reilly stated that the ASMFC technical committee approved all the States' plans, and the management board would review those recommendations in early February.

Mr. O'Reilly explained that at the FMAC meeting on January 24, 2011 staff had reviewed all the options and there was a brief discussion on the 17-inch by one committee member. He said the committee voted for the 17 ½ inch and 4-fish and staff felt that could work.

Mr. O'Reilly said staff was requesting the advertisement of a public hearing to consider the five-options. He said that in 2012 there will be a payback system starting for the recreational fishery which was new and there had not been any penalties in the past. He explained that if there was an overage of as much as 20,000 pounds then the 2012 quota would be less 20,000 pounds or 30% lower.

Commissioner Bowman asked for questions. Associate Member Tankard said that the 17-inch and 4-fish option was just too much to even consider and that it should not be advertised. Mr. O'Reilly explained that the ASMFC Technical committee said that of the options in Virginia's proposal, the two with the most risk of overages were the 17-inch and 4-fish and 17-inch and 3-fish. Associate Member Tankard asked about the mortality rate of the throwbacks. Mr. O'Reilly explained that it was now thought to be 10 percent but originally 20 percent. He noted the 1999 VIMS study came up with 10 percent, but the studies did not parallel the behavior of all fishermen. He said in 2010, 94 percent of summer flounders caught were discarded. He stated the decrease in the size limit would help the discards.

Associate Member Fox asked if the FMAC wanted to include the 17-inch options. Mr. O'Reilly said they supported option B, 17 ½-inch with 4-fish. He said the committee did not support the 17-inch. Associate Member Fox asked if the staff did not advertise the 17-inch options would the FMAC members be happy? Mr. O'Reilly responded yes.

Commissioner Bowman stated the matter was before the Commission.

Associate Member Fox moved to advertise for public hearing options A through C excluding the 17-inch options. Associate Member Tankard seconded the motion. The motion carried, 7-0. The Chair voted yes.

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15. REQUEST FOR EMERGENCY REGULATION: To establish the 2011 commercial black sea bass quota, as part of Chapter 4VAC20-950-10 et. seq., "Pertaining to Black Sea Bass".

Joe Grist, Head, Plans and Statistics, gave the presentation. His comments are a part of the verbatim record. Mr. Grist explained that this was a request for emergency action and a public hearing in February.

Mr. Grist stated that staff had received a memorandum, dated December 28, 2010, announcing the 2011 commercial black sea bass quota as 1,711,080 pounds. He added that Virginia received 20 percent of the commercial quota (342,216 pounds).

Mr. Grist explained that the commercial fishery in Virginia is a limited entry fishery. He said no individual is allowed to possess, harvest or sell black sea bass in Virginia without a directed or a bycatch fishery permit. He said the quota is divided between the two fisheries. He noted that the directed fishery would be given an quota of 302,216 pounds and the bycatch fishery would be given a quota 40,000 pounds in 2011. He said bycatch permittees may land up to 200 pounds per day and may land more than 200 pounds provided it is not more than 10 percent by weight of the combined mackerel, squid, scup, and flounder on board the vessel.

Mr. Grist said that because the quota announcement was so late staff did not have an opportunity to bring this before the Commission in a timely manner for amending the regulation. He said many permittees start fishing in early January, so the 2011 quota needed to be set by emergency regulation so the permittees have the information so they do not exceed their individual quotas.

Mr. Grist noted the changes were on pages 3 and 4 in Section 47, subdivisions A and B of the draft emergency regulation 4VAC 20-950-10, et seq., and the year date criteria for reallocation of the bycatch fishery quota is amended on page 5 in Section 48, subdivision F.

Mr. Grist said that staff had met with industry on January 11th to listen to their concerns. He explained that the industry members present requested two changes to the 2011 allocation:

1) Limit bycatch landings to 1,000 pounds, even if it is less than 10% of the other species on board (Atlantic mackerel, scup, squid, or flounder). If the aforementioned other species are not on board, then the bycatch limit would remain at 200 pounds.

2) Repeal language that allows transfer of any remaining bycatch quota over 10,000 pounds to the directed fishery after May 1.

Mr. Grist said that staff recommended adopting emergency regulation 4VAC 20-950-10, et seq. to set the 2011 black sea bass directed and bycatch fishery quotas. He said staff also recommended advertising for a February 2011 public hearing, industry recommendations to cap black sea bass bycatch landings at 1,000 pounds per trip and to repeal the language that allows transfer of any remaining bycatch quota over 10,000 pounds to the directed fishery.

Commissioner Bowman asked for questions of staff. There were none. He asked for action by the Board.

Commissioner Bowman asked for a motion to adopt the emergency regulation to establish the quota. **Associate Member Tankard moved to adopt the emergency regulation. Associate Member Plumlee seconded the motion. The motion carried, 7-0. The Chair voted yes.**

Commissioner Bowman asked for a motion to advertise for a February public hearing for the emergency regulation. **Associate Member Tankard moved to advertise for the public hearing. Associate Member Plumlee seconded the motion. The motion carried, 7-0. The Chair voted yes.**

Commissioner Bowman asked for a motion to advertise for a public hearing for the industry recommendations for the bycatch fishery. **Associate Member Plumlee moved to advertise for a public hearing. Associate Member Tankard seconded the motion. The motion carried, 7-0. The Chair voted yes.**

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16. REQUEST FOR EXPENDITURE: From the Virginia Saltwater Recreational Fishery Development Fund, in order to cover expenses for the VMRC Fisherman Identification Program (FIP).

Sonya Davis, Fisheries Management Specialist, Sr., gave the presentation.

Ms. Davis explained that staff was requesting funds to pay the bills for administration of the FIP registration system. She explained that there had been an increase in the resident

license effective January 1, 2011 to help pay for the toll free call in and access through the website was developed at no cost by the MIS personnel here at VMRC. There was some limited advertising early so not many calls had been received. She explained that 190 toll free calls had averaged approximately four minutes which was less than a \$1,000 in January. She stated that once the word got out the calls would increase along with the summer fishery starting. She said staff was requesting recreational funds to help fund the FIP call in registration system.

Associate Member Fox asked if the call in line was costing VMRC. Ms. Davis stated it was free to the public, but cost to administer it. The toll free number was available 24/7. Associate Member Fox asked if the boat license cost were increased. Ms. Davis responded yes, the boat license fee did increase and the owner did not need to register, but anyone else on the boat must register. She said land owners must register since no license is required when they fish from their shoreline.

Associate Member Schick explained that he had received two posters and asked where they had come from. Ms. Davis said that Mr. Bull had provided those with a \$100,000 grant he had received for advertising.

John Bull, Director of Public Relations, said he had the posters done and sent them out and would continue with outreach efforts over the next few months. His comments are a part of the verbatim record.

Associate Member Fox said that his boat license was for a year from the date it was issued and he asked if he could fish. Commissioner Bowman responded yes. He went on to explain that others in the boat would need to register with FIP to allow for the collection of data. Associate Member Schick added unless they are also personally licensed.

Ms. Davis said she was expecting a lot of calls, but was encouraging the use of website instead of the toll-free phone line.

Commissioner Bowman asked for action by the Board.

Associate Member Holland moved to accept the staff recommendation. Associate Member Tankard seconded the motion. The motion carried, 7-0. The Chair voted yes.

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- 17. **AMERICAN SHAD:** Request for public hearing to consider amendments to regulation 4VAC20-530-10 et seq., to establish a commercial bycatch fishery for 2011.

Rob O'Reilly, Deputy Chief of Fisheries Management, gave the presentation. His comments are a part of the verbatim record.

Mr. O'Reilly explained that this was a request to advertise for a public hearing. He said this was the 6th year that a by-catch allowance of American Shad had been allowed by the ASMFC. He stated that this was a small fishery and this may be the last time that this will be allowed. He said the ASMFC had amended the fishery management plan requiring detailed monitoring and proof of sustainability. He stated that he was not sure what this meant for the bycatch fishery.

Commissioner Bowman asked for action by the Board.

Associate Member Tankard moved to advertise the public hearing for February. Associate Member Plumlee seconded the motion. The motion carried, 7-0. The Chair voted yes.

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The Commission broke for lunch at 10:54 a.m. and returned at approximately 12:05 p.m.

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7. PUBLIC COMMENT:

Ellis W. James, Norfolk resident, informed the Commission of a recent news article where it was discovered that the changing weather patterns was linked to the downturn in the Striped Bass stocks. He said the VMRC staff needed to be aware of this information. His comments are a part of the verbatim record.

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- 8. **PUBLIC HEARING:** To consider amending Chapter 4VAC 20-720-10, et seq., "Pertaining to Restrictions on Oyster Harvest", to lower the daily catch limit in Rotation Area 4 of the Rappahannock River from 10 bushels to six bushels per registered commercial fisherman licensee.

Jim Wesson, Head, Conservation and Replenishment, gave the presentation. His comments are a part of the verbatim record.

Dr. Wesson explained that the Commission in November was given a status report on the standing stocks of oysters. He said that Rappahannock River Rotation Area 4 was due to re-open in February. He explained that by the end of the season, November 30, the catch was down to six bushels per commercial registered fisherman licensee. He said that SMAC had recommended holding a public hearing to lower the limit to 6 bushels so as to stretch the catch for the entire month of February.

Commissioner Bowman asked for public comments. There were none. He stated the matter was before the Commission.

Associate Member Fox moved to accept the staff recommendation. Associate Member Tankard seconded the motion. The motion carried, 7-0. The Chair voted yes.

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9. **PUBLIC HEARING:** To consider amending Chapter 4VAC 20-720-10, et seq., “Pertaining to Restrictions on Oyster Harvest”, regarding extending the Public Oyster Harvest Season for 2010-2011 in the James River Hand Scrape Area and Thomas Rock Hand Scrape Area in the James River, from February 1, 2011 through February 15, 2011, and a **REQUEST FOR AN EMERGENCY AMENDMENT:** To lower the vessel-specific commercial **fisherman registration** licensee bushel limit, from 10 to **six** bushels, in those same hand scrape areas, for the month of February 2011.

Jim Wesson, Head, Conservation and Replenishment, gave the presentation. His comments are a part of the verbatim record.

Dr. Wesson explained that at the December meeting petitions were brought to the Commission to request that the James River-Thomas Rock Hand Scrape Areas season be extended for 3 months in the Lower James River. He said this was the area below the Hand Tong Area. He explained that those areas had been opened October 1 for three months instead of the staggered seasons as done in the past and recommended by staff. The areas were opened October 1, as requested by watermen.

Dr. Wesson said that based on the fall oyster stock assessment, Drumming Ground in the Rappahannock River showed 6/meter of market oysters and the James River hand scrape areas were showing 1.7/meter of market oysters. He said it was suggested at the December meeting that the season be extended for two weeks to recover the weather days lost and staff agreed to resurvey the stocks in early January 2011. He said that staff did see a number of areas where the oysters were gone, but some areas still had a few. The stocks were down from 1.7/meter of market oysters to 1.4/meter of market oysters. He said he was comfortable with the 14 days but it made more sense to open the entire month with a lower catch limit. He added that it would equalize the two areas opening

(Rappahannock/James) in February so not all of the watermen would try to work in just one area.

Commissioner Bowman asked for questions of staff. He said he appreciated staff and VIMS providing this information, but asked if there would be any harm to the catch next year. Dr. Wesson responded yes. He said the spawning stocks were in the hand tong area where there was a high density and low harvest impacts. He stated the spawning stocks were safe, but this would still take away from the next year's catch.

Associate Member Fox explained that the SMAC had endorsed the seasons with staff explaining that the areas would close December 31, except for Rotation Area 4. He said they accepted that because of the higher market prices in October of \$40/bushel. He explained further that there were fewer oysters left and this would take from next year. He suggested that a two month season next fall was possible.

Associate Member Tankard asked about the hand scrapes and the hand scrape area. Dr. Wesson explained that for the density in these areas you need the hand scrape. He explained that on the Seaside it was done by hand and hand tongs were used in the upper James River. He stated that hand scrapes were first used in the Potomac River with no pulling mechanism. He said hand scrapes were a smaller dredge. He stated the hand scrapes were 22 inches which was different from the oyster dredge for which a 36-inch to 48-inch bar was allowed. In Virginia, both hand scrapes and dredges can be pulled with a mechanical winder.

Associate Member Tankard asked if dredging the bottom was affecting the small spawn and the spawning cycle. Dr. Wesson said it was possible that it had declined in the fall to almost half, but the number of smalls had increased.

Associate Member Schick asked if what was expected to be caught, was caught. Dr. Wesson said the watermen did do well.

Associate Member Plumlee asked if the recommendation for the daily catch reduction of six bushels was tied to the longer season. Dr. Wesson said if it was made the same as the Rappahannock River then the watermen could work the two areas and not all flock to just one.

Associate Member Fox asked about the quality of the oysters that were caught. Dr. Wesson stated that in the hand tong area they were not great at least meat-wise. He said when the dredge survey was done in the fall it did not look good. He said there was high salinity so they are not as good, but did have a good shape. He said also that oysters in the hand tong area were not good for the box market and the price the watermen were paid now was lower. Associate Member Fox asked if the demand was lower. Dr. Wesson said it was since it was after the holiday.

Commissioner Bowman opened the public hearing.

Alice Firman was present and her comments are a part of the verbatim record.

Ms. Firman said she came from a family of waterman and they want the month. She said most of the James watermen are over 50 years of age, but they need to work. She said her uncle is 89 and still working with hand tongs, but he needs to be able to hand scrape. She said that they agree with the six bushel limit, but want the ten. She said with the month they want the six bushels. She said that this was an older group working with the hand tong and they need it to be made easier. She said the watermen who hand tong were dying off as the workforce was aging.

David Smith, waterman, was present and his comments are a part of the verbatim record. Mr. Smith said that he was a patent tonger and if the Commission extended the James River season, then they should extend the Deep Rock Patent Tong area to be fair to all.

Commissioner Bowman asked for staff comments. Dr. Wesson said that the density in the James was lower than that at Deep Rock. Commissioner Bowman asked about the biology of the area. Dr. Wesson said it was just about the same the Rappahannock and the spawning came from the Piankatank River.

Mr. Smith said when he spoke to someone in the office and was advised that all was set up the same, he had wanted to open Deep Rock November 2nd as he fished until then. He said when he heard the James River could be reopened he felt it was only fair to open their area for them. He said he did not start harvesting oysters until five weeks later after the fall season started.

Associate Member Fox suggested he should have come to the meeting at that time because the board did listen to the watermen. Mr. Smith stated he did not like to attend meetings.

Associate Member Plumlee said there were a couple of requests and asked if an emergency regulation could be done. Commissioner Bowman said yes and read from Code Section 28.2-210. Associate Member Plumlee asked how this could be made to apply to both. Commissioner Bowman stated that no sampling had been done for the Deep Rock area and the Board had asked the staff if the area was the same, if it were, then an emergency regulation could be done. He said the Board should try to avoid emergency regulations to make sure they did not make a law on the fly.

Associate Member Plumlee said it was a request for two weeks and now the Commission was being asked to reduce the bushel without allowing for comments.

Associate Member Tankard said it was all due to sympathizing with the testimony and Code said that it can not be done and to do it changes the course set. He said if the industry asked now, we can only do it as an emergency regulation.

Commissioner Bowman stated that it had been agreed in December to undertake the sampling in the James River to assess stock to see if it can sustain further harvest. Dr. Mann and Dr. Wesson did the assessment. He said the watermen just came in with no expectations. He added the emergency regulation is the only way to address the request and he leans towards the assessment as a reasonable compromise. He said that the Chesapeake Bay Foundation was opposed to it. He announced the matter was before the Commission based on the information provided, being satisfied with the science, and agreeing that this will take away from next year.

Associate Member Fox asked if the 30 days started today or on another date. Commissioner Bowman stated 30 days from today.

Jack Travelstead, Chief, Fisheries Management, said that traditionally it was 30 days from the date established, which is February 1 and it would expire in 30 days with no further action.

Associate Member Bowden said the watermen had asked for 90 days. He reminded the Commission that he had suggested the 15 days since the weather needed to be figured into the matter. He said this had been the worst weather this year that he had seen for a while.

Associate Member Tankard said there was a need to connect to a plan for a successful business. He added some things cannot be planned on, such as weather. He said that 1.7 to 1.4 was not much different and some loss was naturally caused. He said it was a compromise with the six bushels to go back to work. He said some would have gone back to the Rappahannock River which is also the spawning area. He said in the Rappahannock River there was some jeopardy to the spawning grounds and the six bushels will mean less impact when there are not enough legal size. He said the situation was severe on some individuals. He said he represents his group and others represent their group and he did not think it would hurt to include Deep Rock. He said he agreed at the beginning it was a very good trade off.

Dr. Wesson said from the disease report the oysters in the lower James River will possibly die this summer as the disease was at a historic high.

Associate Member Bowden stated that some are lost no matter what. He said that area upriver is golden and he would not agree to allow it in the James River hand tong area.

Associate Member Plumlee said it was clear on the use of the emergency regulation procedure as there was a need for an appropriate process and to not make changes too fast. He added he was concerned with Deep Rock in the Lower bay as the effort had not been looked at.

Commissioner Bowman asked for discussion or action.

Associate Member Bowden moved to open the James River Hand Scrape Areas for the month of February with the six bushel catch limit. Associate Member Schick seconded the motion. The motion carried, 6-1. The Chair voted yes. Associate Member Tankard voted no.

Commissioner Bowman asked for another motion for the Deep Rock Patent Tong Area.

Associate Member Bowden asked about the activity at Deep Rock. Dr. Wesson said that there was historically a maximum of 3 boats working the area. He said when it was changed to patent tong one or two boats work there and maybe even 4 boats. Associate Member Bowden asked if Deep Rock was off from Gwynn's Island. Dr. Wesson responded yes and they usually did make a late start in the season as they were involved in other fisheries. He said that Deep Rock was comparable to the Rappahannock River with 4/meter. He said dredging in the area had been tried, but it only hurt the area and it is just now coming back. He said they had done the initial survey in this area in late November. He said it should be reopened for the same time and same bushel limit. He said that in the last month of the season there had been low activity, so it should not have changed.

Associate Member Fox asked if it was one boat the whole time. Dr. Wesson said yes, the area was more impacted by weather.

Associate Member Bowden moved to open Deep Rock from February 1 through February 28 with a six bushel catch limit per commercial registered fisherman licensee. Associate Member Fox seconded the motion. Commissioner Bowman said he was concerned with the emergency regulation. He said it was not like the James River it only came up yesterday and he was concern about there being no public input. He said he would not approve the motion. The motion carried, 4-3. The Chair voted no. Associate Members Tankard and Plumlee both voted no.

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10. **PUBLIC HEARING:** To make permanent emergency amendments to Chapter 4VAC 20-1230-10, et seq., "Pertaining to Restrictions on Shellfish", to clarify that identification of the original harvest area of any shellfish, through the use of tags, pertains to any time during the year.

Jim Wesson, Head, Conservation and Replenishment, gave the presentation. His comments are a part of the verbatim record.

Dr. Wesson said this was a public hearing. He said that this action was to clarify that the use of tags by the watermen was for the entire year.

Commissioner Bowman opened the public hearing. There were no public comments.

Associate Member Fox moved to accept the staff recommendation. Associate Member Tankard seconded the motion. The motion carried, 7-0.

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11. **PUBLIC HEARING:** Establishment of shellfish aquaculture opportunity zones, as part of Chapter 4VAC20-1130-10 et. seq., for the placement of temporary protective enclosures, as required by §28.2-603B of the Code of Virginia.

Jack Travelstead, Chief, Fisheries Management gave the presentation. His comments are a part of the verbatim record.

Mr. Travelstead explained that it had been advertised that 1,100 acres was to be set aside for Aquaculture Opportunity Zones. He added that the advertisement was for 16 sites and the rules. He said that staff received negative comments from the industry. He said that opposition had arisen in the General Assembly and Senator Norment had put in a bill to repeal the existing bill. He said staff had received 28 letters in support from individuals, such as Bay Watch Oyster Seed, Jack Russell, and Delegate Albert Pollard, patron of the original bill for the aquaculture zones. He said those in opposition included Virginia Seafood Council, Shooting Point Seafood, Ballard Fish and Oyster, Wards Oyster, Rappahannock River Oyster, J & W Seafood, etc. He said there were twelve comments opposed to the creation. Area 3 and 4 were just offshore of the Ware River Yacht Club in areas used by sailing clubs, etc. He said the legislative committee had passed the new bill and the Senate had with a 38-0 vote. He added the house was next. He said he does not see the project going forward until the General Assembly does what it is going to do with the current legislation.

Mr. Travelstead said that staff recommends that the Commission wait. He said a lot of work had been done, but the staff was recommending the matter be tabled until after the General Assembly concludes.

Commissioner Bowman stated the General Assembly gives VMRC its powers and he agreed with staff as it was not responsible to move forward on the proposed regulation.

Associate Member Plumlee asked about the Senate comments. Mr. Travelstead said that it was coming from the Eastern Shore representatives mostly, but comments were State-wide. He said they had said that the leasing program was adequate as there were \$600-\$1,200 survey costs initially. He said some have said if they cannot afford the initial costs, how would they be able to afford all the cage culture equipment. He said there was concern that participants would not maintain them and public concern would arise. He said that the existing industry would be the one to suffer. He said those that are in the industry now, play by the rules to now change the rules was not fair.

Commissioner Bowman explained that he felt the delegate was well intended, but not always the best to be done upon closer examination when the concerns and problems show up.

Commissioner Bowman opened the public hearing.

Steve Warden, waterman, said that there was a need to continue to lower entry for others as new businesses would mean more jobs.

Commissioner Bowman said that the Commission would hold off until they hear from the General Assembly about their actions.

Commissioner Bowman asked for a motion.

Associate Member Fox moved that the matter be tabled. Associate Member Holland seconded the motion. The motion carried, 7-0.

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- 12. PUBLIC HEARING:** Establishment of the 2011 quota, for the Chesapeake Area Recreational and Commercial striped bass fisheries, as part of Chapter 4VAC20-252-10 et. seq., "Pertaining to the Taking of Striped Bass".

Allison Watts, Fisheries Management Specialist, gave the presentation with slides. Her comments are a part of the verbatim record.

Ms. Watts explained that the 2011 Baywide quota has been established as 8,825,508 pounds. She said that Virginia's quota is divided evenly between the recreational and commercial fisheries. She reminded the Board that each of the fisheries' 2010 quota was 1,538,022 pounds and the proposed 2011 quota for each fishery was 1,430,361 pounds.

Ms. Watts noted that with the exception of strong 2003 year classes, juvenile abundance index values in both Virginia and Maryland were average or below average for those year classes (2003-2007) that will be primarily exploited in 2011. Below average juvenile abundance index values translate into fewer fish recruiting into the exploitable stock biomass in the future, and in four of those five years, Maryland's juvenile abundance values have been below average.

Ms. Watts said that the projected exploitable stock biomass (ESB) in 2011, estimated with the Harvest Control Model, is 7% lower than in 2010. The lower than average Maryland juvenile abundance index values most heavily contributed to a lower annual striped bass quota in 2011 as compared to 2010. The 2010 ESB and quota also decreased in 2010 (6.3) from 2009. In 2011, the Bay-wide quota has been established as 8,825,508

pounds, which is a decrease of 7% from the 2010 quota and is also the lowest quota to-date.

Ms. Watts stated that the staff was recommending the adoption of the amendments to Chapter 4VAC 20-252-10, et seq., "Pertaining to the Taking of Striped Bass", to establish the Virginia recreational and commercial striped bass quotas as 1,430,361 pounds each. A February 1 effective date was recommended.

Commissioner Bowman asked for questions of staff.

Associate Member Fox asked if it was fair to Virginia to use the MD-DNR model to determine the quotas for each State. Ms. Watts explained that the 1996 agreement was based on 1994 data and this issue was currently being discussed.

Jack Travelstead, Chief, Fisheries Management, explained that the Commission had addressed getting an increased quota for Virginia, but had not received any response even in regards to the unused quota. He stated that staff would continue to force this issue.

Commissioner Bowman opened the public hearing and there were no public comments. The public hearing was closed. He said the matter was before the Commission for discussion or action.

Associate Member Schick moved to accept the staff recommendation. Associate Member Plumlee seconded the motion. The motion carried, 7-0. The Chair voted yes.

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13. PUBLIC HEARING: Commission consideration of industry proposals to modify the opening date, landing time period and landing limits, for the directed offshore (federal waters) summer flounder fishery, as specified in Chapter 4VAC20-620-10 et. seq., "Pertaining to Summer Flounder".

Joe Grist, Head, Plans and Statistics, gave the presentation. His comments are a part of the verbatim record.

Mr. Grist explained that this was an annual request by the industry. The offshore directed commercial fishery for summer flounder is currently open twice each year. During both directed fishery seasons, vessels may land up to 7,500 pounds for commercial purposes, no more than twice within each 12-day period. The winter directed fishery season begins on the last Monday in February (February 28 in 2011), and when combined with all summer flounder bycatch landings since the start of the calendar year, continues until total landings approach 85 percent of the allocated quota. When this 85 percent quota trigger is reached, the winter directed fishery ceases and the bycatch-only fishery resumes

until the start of the fall directed fishery season (the last Monday in November). At this time there is another 12-day period with the 7,500 pound limit and the same occurs with this second season until the quota is used.

Mr. Grist said he had received comments from dealers to change the 2011 commercial directed fishery caught offshore. He said that Chesapeake Bay Packing had requested the winter directed fishery open on February 24, 2011 with a vessel limit of 17,500 pounds every 14 days and L. D. Amory, Old Point Packing, Chincoteague Fisheries, and Peabody's have requested that the winter directed fishery open on the first Monday in March with the 7,500 pound vessel limit each 12-day period.

Mr. Grist stated that in addition to this request, staff has identified an issue of reporting redundancy with Section 45 of Regulation 620. In this section there is a requirement for vessels harvesting summer flounder outside of Virginia waters to report bycatch and discards on forms for each trip landing in Virginia. This information is already provided by the federal landing reports and observer programs, and is both an unnecessary burden and duplicative to require the same report to the Commonwealth. Staff recommended that Section 45 be repealed.

Commissioner Bowman opened the public hearing.

Michele Peabody, dealer, was present and her comments are a part of the verbatim record. Ms. Peabody said that all of the dealers except for Chincoteague Fisheries were at the meeting. She said because of rising fuel prices they were changing their request to a start date of March 7th with a 10,000 pounds vessel limit each 15-day period. She said this would help them with the increasing fuel cost.

Fella Daniels, Old Point Packing, was present and his comments are a part of the verbatim record. Mr. Daniels explained that they were requesting that the start date be changed to March 7 with 10,000 pounds vessel limit each 15-day period.

Meade Amory, L. D. Amory, was present and his comments are a part of the verbatim record. Mr. Amory said that they were requesting that the start date be changed to March 7 with 10,000 pounds vessel limit each 15-day period. He further explained that the recommendation by Chesapeake Packing would put too many fish on the market, which would impact the price, so there should be no more than a 10,000 pound vessel limit and the start date of March 7 would only cause a one-week overlap with the North Carolina summer flounder fishery.

As there were no other public comments, the public hearing was closed.

Mr. Grist explained that staff recommended approval of the amendment for the opening date of the first Monday in March, which is the 7th, a 10,000-pound vessel limit with a 15-day period and to repeal Section 45. Associate Member Plumlee said he did not hear

all of staff's final recommendation and asked if this included the 10,000-pound vessel limit, 15-day period and start date of March 7. Mr. Grist responded yes. Associate Member Plumlee also asked if there was no action being taken regarding the bycatch fishery. Mr. Grist said yes, staff only mentioned that there was a bycatch fishery.

Associate Member Bowden moved to accept the revised staff recommendation. Commissioner Bowman explained this was for the starting date of March 7th and the 10,000-pound vessel limit with a 15-day period, plus the repeal of Section 45. Associate Member Tankard seconded the motion. The motion carried, 7-0. The Chair voted yes.

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There was no further business and the meeting was adjourned at approximately 1:05 p. m. The next regular meeting will be held Tuesday, February 22, 2011.

Steven G. Bowman, Commissioner

Katherine Leonard, Recording Secretary