

**REPORT OF THE OFFICE OF THE SECRETARY OF  
COMMERCE AND RESOURCES ON FISHERIES MANAGEMENT  
TO  
THE GOVERNOR  
AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**SENATE DOCUMENT NO. 5**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1984**





# COMMONWEALTH of VIRGINIA

Office of the Governor

Richmond 23219

November 28, 1983

Betty J. Diener  
Secretary of Commerce and Resources

## MEMORANDUM

TO: The Honorable Charles S. Robb  
Members of the General Assembly

FROM: Betty J. Diener

A handwritten signature in cursive script that reads 'Betty J. Diener'.

Attached is a report prepared in response to Senate Joint Resolution No. 24 which required a report to the General Assembly on the steps necessary to implement the economic and administrative policy options presented in JLARC's report on the Economic Potential and Management of Virginia's Seafood Industry.

This report is organized in order to present:

- a summary of the steps being taken to implement JLARC's recommendations;
- a recommended fisheries management policy, together with changes that would be required to place the policy in the Code; and
- each agency's complete evaluation of, recommendations regarding, and implementation plans for each JLARC recommendation.

I am also pleased to advise you of the additional resources that will be targeted by Governor Robb in the 1984-86 biennium that will further enable the implementation of several of JLARC's proposals:

- \$1,000,000 in GF will be budgeted for oyster repletion. This new GF funding, together with the remaining special funds, will enable a 50% increase in funding for oyster repletion in 1984-86 over 1982-84.
- \$250,000 in GF will be targeted for the development of a fisheries management unit within VMRC.

Memo - The Honorable Charles S. Robb  
Members of the General Assembly

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- \$200,000 in GF will be targeted as part of the Chesapeake Bay Initiatives which will fund the development and implementation of a fisheries management information system.

Finally, a fisheries management advisory committee has already been formed that will assist VMRC in the development of its fisheries management plans. Plans for oysters and striped bass will be the first plans developed, in close cooperation with other states, during 1984-86.

I am delighted, as I hope the members of JLARC and the General Assembly will be, with the progress that has been achieved toward changes necessary in state management, policies, and practices in order to enhance the overall economic potential of Virginia's fishery and seafood industry.

I would welcome an opportunity to review this report with JLARC and also a further review, perhaps in the fall of 1986, of our progress toward effective fisheries management and toward maximizing the potential of Virginia's seafood industry.

BJD/blp  
Attachment

SENATE JOINT RESOLUTION NO. 24

# 1983 SESSION

LD5999108

## SENATE JOINT RESOLUTION NO. 24

Offered January 19, 1983

*Requesting the Secretary of Commerce and Resources to make a report to the General Assembly on aspects necessary to implement JLARC's report on the Economic Potential and Management of Virginia's Seafood Industry.*

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Patrons—Buchanan, Andrews, and Willey; Delegates: Ball, Manning, Bagley, R. M., Morrison, Murphy, and Morgan

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Referred to the Committee on Rules

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WHEREAS, the Joint Legislative Audit and Review Commission has reported to the 1983 General Assembly on the economic potential and management of Virginia's fishing and seafood industry; and

WHEREAS, JLARC has determined that changes in state management, policies, and practices can reverse downward trends in seafood harvests, increase production and revenue, and enhance the overall economic potential of Virginia's fishing and seafood industry and the livelihood of those dependent upon it; and

WHEREAS, improvement in the current structure and programs of state agencies is necessary to better carry out existing functions and to assume new responsibilities that are critical to the success of any state effort to enhance the long-term development, growth, and efficiency of the seafood industry; and

WHEREAS, improved state management would be facilitated by providing management agencies with specific policy goals and objectives in the Code of Virginia and by basing fisheries management on the best available scientific information and techniques; and

WHEREAS, because so many agencies carry out activities related to the seafood industry, better coordinative mechanisms are needed to ensure that activities are not duplicative or conflicting and are placed within the broader context of natural resource management; and

WHEREAS, now that JLARC has identified and assessed the impact of various policy options which would foster the economic potential and management of specific fishing and seafood industries, it is important that steps for implementation be carefully planned and considered; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Secretary of Commerce and Resources be requested to report to the General Assembly by December 1, 1983, on steps and considerations which the Secretary identifies as necessary to implement, in full or on a pilot basis, the economic and administrative policy options presented in the JLARC report, the Economic Potential and Management of Virginia's Seafood Industry, and the Secretary is also requested to clearly state the administration's point of view on both the adverse and beneficial consequences on each of the various policy options; and, be it

RESOLVED FURTHER, That the Secretary's report contain, for legislative consideration, a statement of specific fisheries policy, as recommended in the JLARC report, which can serve as a guide to resource managers in their decision-making and facilitate a management approach consistent with long-term state goals and objectives

## SUMMARY

STEPS THAT HAVE BEEN TAKEN TO IMPLEMENT  
JLARC'S RECOMMENDATIONS

RECOMMENDATION (1): The General Assembly may request that the Secretary of Commerce and Resources present the Administration's point of view on the JLARC policy options.

In response to Senate Joint Resolution 24, the Secretary of Commerce and Resources has presented the steps necessary to implement the policy options and the Administration's point of view of the beneficial and adverse consequences of each policy option in the following document (see pages 4-66).

RECOMMENDATION (2): After review of the Secretary's response, the General Assembly may wish to implement the Policy options presented in the JLARC report on a trial basis.

The policy options proposed by JLARC have been or are in the process of being implemented at this time. This attachment lists those steps that have been taken to date. Additional steps for implementation of the policy options pertaining to the oyster and hard clam fisheries are included in the following document (see pages 6-13).

RECOMMENDATION (3): Virginia Marine Resources Commission (VMRC) and Virginia Institute of Marine Science (VIMS) should conduct a joint study to determine the cause of reduced clam production.

Implementation Step:

- o This study will be conducted in 1986-1988 as part of the Fishery Management Plan process for the hard clam fishery (page 15).

RECOMMENDATION (4): Econometric models should be used to assess management alternatives and monitoring of results in Virginia fisheries.

Implementation Steps:

- o VMRC, in its review of Sea Grant proposals, will favor proposals submitted to Sea Grant by research institutions that incorporate use of econometric models (page 17).
- o Computerization of VMRC data will provide easy access to data for researchers involved in the modeling process (page 17).
- o The fisheries liaison officer (VMRC) will encourage model development at research institutions (page 17).



RECOMMENDATION (5): VMRC should reorganize its structure to emphasize fisheries management.

Implementation Step:

- o \$250,000 has been included in the 1984-86 target for three positions and support costs for a fisheries management unit. This unit will be a separate unit within VMRC (page 19).

RECOMMENDATION (6): VMRC's commissioner should have authority to appoint the chief engineer and the repletion officer.

Implementation Step:

- o A legislative proposal to repeal sections 28.1-19 and 28.1-20 of the Code has been included in the 1984-86 legislative proposal package to implement this recommendation (page 20).

RECOMMENDATION (7): VMRC should centralize all revenue collection activities.

Implementation Steps:

- o The automated oyster ground leasing and billing system will be operational in 1984 (page 22).
- o Revision of licensing system, elimination of monthly reports, and implementation of an automatic renewal/billing are currently being undertaken (page 23).
- o A system by which oyster taxes and revenues are sent directly from the buyer or processor to the VMRC main office (bypassing the enforcement staff) is presently under consideration (page 23).

RECOMMENDATION (8): VMRC should take a comprehensive approach to a computer support system.

Implementation Steps:

- o \$40,000 has already been provided in 1982-84 for automation of oyster ground leasing and billing processes (page 24).
- o \$100,000 has been included in 1984-86 financial proposal for partial development of the automated Fisheries Management Information System (page 24).
- o \$200,000 has been targeted in 1984-86 through Chesapeake Bay initiatives for completion of the automated Fisheries Management Information System (page 24).

- o The Commissioner has appointed a Management Information Systems Policy Board to work with the Department of Management Analysis and Systems Development (MASD) to develop a comprehensive plan for computerized data storage and analysis (page 24).
- o MASD is in the process of reviewing a plan for the Fisheries Management Information System which will be completed by June 30, 1984 (page 24).

RECOMMENDATION (9): VMRC should develop fishery-specific management plans

Implementation Steps:

- o A Fisheries Management Advisory Committee has been established to oversee development of the Fisheries Management Plans (page 27).
- o VMRC is being restructured to create a Fishery Management Division by July, 1984 (page 27).
- o The statistical unit should be completely automated during 1984-86 biennium (page 27).
- o The 1984 General Assembly will be asked to adopt a Fishery Management Policy which has been developed in response to Senate Joint Resolution 24 (page 27).
- o The Oyster Fishery Management Plan will be developed during the 1984-86 biennium (page 27).
- o The Striped Bass Fishery Management Plan will also be developed in 1984-86 as part of the Chesapeake Bay initiatives (page 31).
- o The relevancy of interstate plans to Virginia's needs is currently being assessed (page 27).

RECOMMENDATION (10): VMRC should improve the quality of data, especially level-of-effort data.

Implementation Steps:

- o The Management Information System Plan is being developed, and the statistical unit is being automated (page 29).
- o VMRC's statistical staff will sponsor various workshops to identify data collecting systems and analysis systems (page 29).

- o Recommendations of the Virginia-Maryland Fisheries Statistics Workshop (held in Fredericksburg, 1982) are in the process of being implemented (page 29).

RECOMMENDATION (11): The General Assembly should amend title 28.1 to provide broad policy guidelines for control by regulation.

Implementation Steps:

- o The 1984 General Assembly will be asked to adopt a fishery management policy which has been developed in response to Senate Joint Resolution 24 (page 31).
- o VMRC has requested to be exempted from time-frame guidelines in the Administration Process Act in the 1984 legislative proposal package (page 31).
- o As the Fishery Management Plans are developed and implemented over the next ten years, VMRC will seek legislation to remove fisheries regulations from the Code of Virginia. Necessary administrative regulations will then be adopted to replace the Code specified regulations.

RECOMMENDATION (12): VMRC should improve fiscal planning to ensure that repletion funds are used correctly.

Implementation Steps:

- o By July 1, 1984, there will be no charges to the special public oyster rock replenishment fund except for costs fully and directly related to oyster repletion efforts (page 33).
- o The Clerk in Engineering is now paid from general funds, and the clerk in the repletion office is paid by repletion funds which ensures that these funds are used correctly (page 33).

RECOMMENDATION (13): VMRC should evaluate the effectiveness of oyster repletion.

Implementation Steps:

- o The Oyster Repletion Department will be included in the Fishery Management Division as of July, 1984 (page 35).
- o The Oyster Fishery Management Plan, which includes the evaluation of repletion effectiveness, is scheduled for development in fiscal year 1984 (page 35).

- o Resources are included in the 1984-86 target for the fisheries management unit. See Recommendation #5 for the amount (page 19).
- o Resources are included in the 1982-84 Budget, and the 1984-86 target for automated information systems. See Recommendation #8 for amount (page 24).

RECOMMENDATION (14): VMRC should reduce the involvement of law enforcement personnel in tax collection and improve the tax collection system.

Implementation Steps:

- o Automation of oyster tax system is currently underway and will preclude the use of law enforcement personnel as tax collectors (page 37).
- o Development of the Oyster Fishery Management Plan is scheduled for 1984 (page 37).

RECOMMENDATION (15): VMRC should consider requiring new applicants for leased grounds to provide their own surveys.

Implementation Steps:

- o VMRC does encourage private surveyors to perform surveys for lease applicants (page 39).
- o The Engineering and Surveying Division has established, as a high priority goal, the reduction of the backlog of lease applications (page 39).

RECOMMENDATION (16): VMRC should ensure that lease application processing complies with the Code of Virginia.

Implementation Steps:

- o Lease applications are accepted in order on an area-by-area basis in order to reduce the time and expense that would be incurred by the survey teams when traveling from one area to another (page 40).
- o Extensions have been granted to applicants while the backlog is being reduced (page 40).
- o Therefore, VMRC is in full compliance with the Code.

RECOMMENDATION (17): General Assembly may wish to raise rent on oyster leases and require more frequent evidence of production.

Implementation Steps:

- o Proof-of-use is now required for renewal of leases (page 42).

- o The period of leases has been shortened from 20 years to 10 years (page 42).
- o By 1990, all lease holders will be required to document planting or harvesting efforts in order to renew their leases (page 42).

RECOMMENDATION (18): VMRC should update and reclassify enforcement positions.

Implementation Step:

- o Reclassification of enforcement positions began in 1978 and is now complete. The system now contains two grade levels for each position and allows for upward mobility (page 44).

RECOMMENDATION (19): VMRC should reassess deployment of personnel and equipment to make best use of resources.

Implementation Steps:

- o A Law Enforcement Deployment Plan has been developed and will be implemented in 1984 (page 46).
- o Automation of time and effort activities of law enforcement personnel will be accomplished during the 1984-86 biennium and will allow for a systematic review of deployment plans on a regular basis (page 46).

RECOMMENDATION (20): Marine Products Commission (MPC) should update mailing lists.

Implementation Step:

- o MPC mailing lists are now compared to lists of processors and shippers developed by FDA, monthly VMRC license lists, and Department of Agriculture and Consumer Services (DACS) food establishment inspection lists (page 47).

RECOMMENDATION (21): Marine Products Commission should aggressively pursue new markets and marketing strategies.

Implementation Steps:

- o Smaller firms benefit from feature newspaper articles, consumer tips aired on radio, promotions for retail markets, etc (page 49).
- o New markets have been included in the 1983-84 marketing strategy (page 49).

RECOMMENDATION (22): Marine Products Commission should coordinate programs with VPI & SU, VIMS, and the Department of Agriculture and Consumer Services.

Implementation Steps:

- o The Sea Grant Consortium reviews all grant proposals pertaining to seafood marketing (page 51).
- o MPC coordinates its plans with Sea Grant and VIMS to reduce overlap (page 51).
- o MPC has scheduled a joint planning exercise with Sea Grant and the Virginia Seafood Council to be held in January 1984 (page 52).

RECOMMENDATION (23): VIMS should solicit advice from the seafood industry and other marine agencies as a part of its research planning process.

Implementation Step:

- o The mission of the Marine Science Development Council has been expanded to provide a formal mechanism for marine agency input into VIMS research planning process (page 53).

RECOMMENDATION (24): General Assembly may create an advisory committee from industry to comment on research statewide.

Implementation Step:

- o An Industry Advisory Committee has been established by the Virginia Graduate Marine Science Consortium to review the Sea Grant Program which encompasses Virginia's research institutions (page 54).

RECOMMENDATION (25): Bureau of Shellfish Sanitation should formalize agreements with processing plant owners who are certified but with substandard conditions.

Implementation Step:

- o A departmental policy on certification of the correction of deficiencies and formalization of agreements with seafood plant owners/operators is being drafted by the Department of Health and should be in place in 1984 (page 55).

RECOMMENDATION (26): Bureau of Shellfish Sanitation should apply policies uniformly across area offices.

Implementation Steps:

- o Policies on plant inspections and violations are being drafted, see Recommendation #25.
- o A Plant Inspection Procedures Manual is currently being drafted and should aid in the uniform administration of departmental policies (page 56).
- o An increased number of staff meetings are being held to increase communication between field and office personnel (page 56).

RECOMMENDATION (27): The General Assembly may wish to require notification of pending annual operation of finfish processing plants.

See page 58 for the steps that DACS has proposed to implement this recommendation.

RECOMMENDATION (28): DACS should write more specific sanitary standards for inspection.

See page 59 for the steps that DACS has proposed to implement this recommendation.

RECOMMENDATION (29): DACS should develop guidelines for classifying facilities according to Virginia food laws.

Implementation Step:

- o The DACS has planned to take the necessary steps to ensure that guidelines are imposed in a consistent and systematic manner statewide. See page 60 for additional steps that DACS has proposed to implement this recommendation.

RECOMMENDATION (30): General Assembly may wish to clarify statutory authority for conducting seafood plant inspections.

This recommendation is also included in JLARC's Reorganization Reports, the responses to which are currently under review by the Governor. Steps suggested to implement this recommendation are included on page 61.

RECOMMENDATION (31): The Secretary of Commerce and Resources is requested to draft a statement of specific fisheries policy.

The statement of specific fisheries policy is contained in the first section of the following document (pages 1-3, 62).

RECOMMENDATION (32): Governor and General Assembly may wish to make structural changes to enhance coordination among marine resource agencies and place marine resources within a broader natural resource context.

This recommendation is a major topic in JLARC's Reorganization Reports, the responses to which are currently under review by the Governor.



RESPONSE TO JLARC REGARDING SENATE JOINT RESOLUTION NO. 24  
AND FISHERIES MANAGEMENT IN VIRGINIA

Prepared by  
Betty J. Diener  
Secretary of Commerce and Resources

1 December 1983

## INTRODUCTION

The Commonwealth of Virginia is ranked fourth (4th), nationally, in the volume and ninth (9th) in the dockside value of seafood products landed in its coastal and Chesapeake Bay ports and harbors. In recent years, however, the Commonwealth's competitive position within this industry has declined. The 1982 General Assembly adopted House Joint Resolution No. 59 in response to concerns that the full economic potential of the Commonwealth's seafood industry has not been realized. The resolution charged the Joint Legislative Audit and Review Commission (JLARC) with the task of performing an analysis of the current conditions of Virginia's seafood industries and to make management and policy recommendations for improvements in the management of fishery resources.

The full report of the JLARC, The Economic Potential and Management of Virginia's Seafood Industry, was published in January, 1983. In the 1983 Legislative Session, Senate Joint Resolution No. 24 was adopted, requesting the Secretary of Commerce and Resources to report to the General Assembly on aspects necessary to implement recommendations and policy options in the JLARC's Report. The following document includes responses to specific management recommendations pertaining to VMRC, discussion of policy options for the oyster and clam fisheries, and a proposed statement of fisheries management policy.

The following actions must be taken in order to achieve the Commonwealth's fishery management goals and objectives:

1. The VMRC should institute appropriate changes in organizational structure, administrative procedures, and management policies, as recommended in the JLARC Report. The following document addresses each JLARC Recommendation, discussing Pros, Cons, the VMRC Recommendation, Rationale, and Implementation Steps. Implementation of many of the Recommendations requires appropriation of funds by the General Assembly (e.g., automation of information systems, establishment of a comprehensive fisheries management unit, etc.). There are also recommendations which would require enabling legislation. Implementation of many of the Recommendations has already been accomplished or initiated by the VMRC.
2. The General Assembly must articulate a clear statement of fishery management policy for the Commonwealth. This policy must provide guidance to the management agency (VMRC) in resolution of user conflict, allocation of harvestable resources, conservation of fishery stocks, and related fishery management issues. Coupled with this action is the necessity for a reduction in the extent to which the General Assembly is involved in designating the details of fishery management. Management responsibility and full regulatory authority must be granted to the management agency; policy development

and legislative oversight must remain the responsibility of the General Assembly. The first section of the following document provides a description of proposed fishery management policy and the fishery management plan process. Also, JLARC Recommendations 9, 11, and 13 address these issues.

3. An industry and technical advisory committee should be formed to assist the VMRC in the development of fishery management plans, discussion of JLARC industry policy options, and resolution of issues involving resource allocation and user conflict. In fact, this committee (known as the Fishery Management Advisory Committee) has been established with membership representing diverse interests within the Commonwealth's commercial and recreational fishing industries. An organizational meeting was held on 30 SEPT 83 and a Chairman was elected.

Accomplishment of the three items, above, will set the stage for a new approach to fishery management in the Commonwealth. This approach will include extensive public participation in the regulatory process, a legitimate balance between legislative and executive branch harvest management, and the adoption of technically sound fishery management plans.

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**STATEMENT OF FISHERY MANAGEMENT POLICY**

## Fishery Management Policy

In order to establish a clearly defined policy of fishery management for the Commonwealth of Virginia, VMRC suggests amending Section 28.1-23, Code of Virginia, and adding a new Section 28.1-23.1, as follows:

§ 28.1-23. Authority to *prepare fishery management plans*, make regulations and establish licenses; enforcement; penalty for violation of regulation. --The Commission shall have authority to *prepare fishery management plans and to make such regulations as it deems necessary to implement such plans in order to promote the general welfare of the seafood industry and to conserve and promote the seafood and marine resources of the Commonwealth, including regulations as to the taking of seafood. The regulations shall not conflict with the provisions of statutory law.*

The Commission shall have the power to establish a license commensurate with other licenses in an amount not to exceed \$100 for any device used for the taking or catching of seafood in the waters of the Commonwealth when the device is not otherwise licensed in this title and when the device is used for commercial purposes.

In addition to the enforcement of any regulation by its own inspectors, the Commission may provide for enforcement of any regulation governing surf clams by any law-enforcement officer of any agency of the Commonwealth or its political subdivisions or by any law-enforcement officer of any agency of the federal government providing the agency agrees to undertake such enforcement. Enforcement agreements by other than Commission inspectors shall be stated in the regulation.

Any person who violates any regulation adopted and promulgated by the Commission shall be guilty of a Class 1 misdemeanor. (1962, c. 406; 1968, c. 749; 1983, c. 318.)

§ 28.1-23.1. *Fishery management policy. It shall be the goal of fishery management within the Commonwealth of Virginia to conserve and enhance finfish and shellfish resources, and to preserve and promote both commercial and recreational fisheries, and, thereby, to maximize food production and recreational opportunities. The marine resources of the Commonwealth shall be managed for their maximum benefit and long term use by present and future generations.*

*Fishery management shall be based upon the best scientific information available, shall be responsive to the needs of interested and affected citizens, shall promote efficiency in the utilization of the resources, and shall draw upon all available capabilities in carrying out research, administration, management, and enforcement.*

*Any fishery management plan prepared, and any regulation promulgated to implement any such plan shall be consistent with the following standards for fishery conservation and management:*

- 1. Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery. Optimum yield of a fishery means the amount of fish or shellfish which will provide the greatest overall benefit to the Commonwealth, with particular reference to food production and recreational opportunities;*
- 2. Conservation and management measures shall be based upon the best scientific (biological, economic, and social) information available;*
- 3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination;*
- 4. Conservation and management measures shall not discriminate between user groups. If it becomes necessary to allocate or assign fishing privileges among various user groups, such allocation shall be (a) fair and equitable to all such fishermen; (b) reasonably calculated to promote conservation; and (c) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges;*
- 5. Conservation and management shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measures shall have economic allocation as its sole purpose;*
- 6. Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches;*
- 7. Conservation and management measures shall, where practicable, minimize regulatory burdens which inhibit innovation, expansion, and normal business operations.*

The proposed amendment of Section 28.1-23 will allow for the preparation of fishery management plans. Fishery management plans (FMP) serve merely as the supporting documentation for regulatory action. FMP development is strongly recommended in a) JLARC Report: The Economic Potential and Management of Virginia's Seafood Industry, reference Section V., pages 137-138; b) Choices for the Chesapeake: An Action Agenda, reference Chapter 4, pages 60-69; c) Chesapeake Bay Initiatives, reference the Fishery Management Initiatives; and d) Virginia Marine Resources Commission 1984-86 Financial Proposal.

The proposed Section 28.1-23.1 establishes a specific fishery management policy for Virginia. The first two paragraphs of that section are basically "motherhood" statements which establish the goals of fishery management. These statements alone would not represent a sufficient management policy. True fishery policy is best expressed as standards upon which regulations are based. The last 7-point paragraph of Section 28.1-23.1 are those standards, that is, fishery management policy.

The seven standards are adapted from the National Standards of the Fishery Conservation and Management Act of 1976, upon which federal fishery management is based. They have been modified to make them more applicable to management problems encountered in internal waters, rather than oceanic waters. These standards or fishery policy, are recommended for adoption by the Virginia General Assembly in the JLARC Report, and in the Chesapeake Bay Fishery Management Workshop Recommendations, each referenced above.



SECRETARY OF COMMERCE AND RESOURCES RESPONSE TO  
RECOMMENDATIONS 1 AND 2

Recommendation (1):

*The General Assembly may wish to adopt a resolution which requests the Secretary of Commerce and Resources to report on the steps and considerations necessary to implement, in full or on a pilot basis, the economic and administrative policy options presented in their study and to clearly state the administration's point of view on both the adverse and beneficial consequences of each of the various policy options.*

Status:

In response to JLARC Recommendation (1), Senate Joint Resolution No. 24 has been adopted and specifically calls for the following:

1. a clear statement by the Secretary of Commerce and Natural Resources of the Executive Branch's view on beneficial and adverse consequences of each economic and administrative policy option outlined in the report of the JLARC (The Economic Potential and Management of Virginia's Seafood Industry, 1983),
2. a description of steps which the Secretary identifies as necessary to implement (either on a full scale or pilot basis) the economic and administrative policy options outlined in the report of the JLARC, and
3. a clear statement of specific fisheries policy for the Commonwealth which can effectively and practically be used as a guide by management officials in resolution of user conflict, allocation, conservation, and related fisheries resource issues.

Implementation Steps:

This report is intended to satisfy the informational needs of the Secretary of Commerce and Resources and the JLARC.

Recommendation (2):

After considering the report of the Secretary of Commerce and Resources, the General Assembly may wish to implement one or more policy options contained in this (JLARC) study on a limited, pilot basis to permit evaluation of the actual impacts on biological, social, and economic conditions.

Status:

It should be noted that many of the policy options put forth in the JLARC report would require the appropriation of funds by the Legislature (e.g., doubling oyster repletion expenditures, aggressive product promotion, establishment of additional "management areas," etc.). Other options may require enabling legislation (e.g., dredging public seed oyster beds and leasing un-utilized Baylor (public) grounds) in addition to increased funding. The implementation of mechanized seed harvesting, for example, would necessitate augmenting management/monitoring efforts and repletion expenditures.

Implementation Steps:

Implementing procedures for the policy options are presented in the following pages.

## POLICY OPTIONS: VIRGINIA OYSTER FISHERY

OPTION 1: *Maintain the status quo and allow production to stabilize at recent levels, with a decline predicted in production from public grounds and little growth in private production*

### Expected benefits:

- production will remain relatively stable
- prevents further increase in state subsidy of industry
- requires no changes in state's role in resource management

### Expected problems/conflicts:

- will result in decline in public ground production
- minimizes economic growth in private sector
- reduces Virginia's competitive position as an oyster producing and processing state
- state criticized for lack of action

OPTION 2: *Aggressively promote Virginia's oyster products in order to increase consumer demand, raise retail prices, and ultimately stimulate increased production*

### Expected benefits:

- moderate impact; could increase production by 401,000 pounds and revenue by \$2.7 million by 1990
- could increase demand by 22% by 1990
- increases retail prices and price received by public and private ground harvesters
- benefits to be shared by harvesters, planters, dealers and processors

### Expected problems/conflicts:

- results from promotion campaign are not assured since consumer actions are beyond state control
- some officials are skeptical that consumer demand can be increased significantly
- would require significant increase in expenditures by Virginia Marine Products Commission (VMPC)

### Implementation Steps

- Increase funding for product promotion by VMPC (would require statutory increase in commercial fishing license fees since VMPC does not receive General Funds)
- Establish programs for product quality control, new product form development, and new shucking technology

OPTION 3: *Double expenditures for repletion of public oyster grounds in order to increase the harvest for watermen using traditional tonging methods*

### Expected benefits:

- moderate impact; increase in production of 500,000 pounds and \$670,000 in revenue by 1990
- benefits hand and patent tongers working on public grounds
- marginally productive or non-productive areas could be developed for growing seed/market oysters

### Expected problems/conflicts:

- increased demand for seed could drive seed prices upward, thus impacting private planters
- replenishment taxes or general fund subsidies would have to be increased substantially; current tax rate not sufficient to support expanded repletion program
- management techniques not yet adequate for monitoring and evaluating the impact of increased seed/shell planting activities

### Implementation Steps:

- provide for dedication of increased General Fund contribution to repletion budget or increase repletion tax rate (at current market production levels a replenishment tax of approximately \$1.40 per bushel would be required to double oyster repletion expenditures)
- dedication of funds to undertake cost/benefit analyses of repletion program; should determine if expenditures in this program are significantly improving production

OPTION 4: *Lower the market price for seed oysters in order to encourage increased private investment in oyster production and reduce public repletion costs*

Expected benefits:

- potentially substantial impact; could increase production by 1.7 - 3.0 million pounds (\$2.3 - 4.0 million) of market oysters by 1990 (approximately one-third increase)
- potential for creating new jobs and tax revenues
- increased return-on-investment for private planters
- increased private ground production

Expected problems/conflicts:

- would require active and responsible seed bed management by VMRC fisheries management unit; fisheries management plan must adequately control dredging to prevent overfishing of valuable seed beds
- departure from traditional hand tonging for seed in James River; potential displacement of approximately 200 seed tongers
- productivity of seed beds may not be adequate to meet the demand, especially at low prices; state management efforts must be expanded to monitor harvest and effort and to effectively evaluate a seed bed repletion program

Implementation Steps:

- establish state-managed seed areas where dredging of seed would be permitted (dredging increases harvest efficiency)
  - and/or -
- increase private seed production by leasing currently unproductive seed beds
- implement monitoring program to measure effectiveness of management scheme and condition of seed beds
- increase funding for repletion of James River seed beds

OPTION 5: *Manage unproductive public grounds by state planting of seed and shell and allow dredging as a harvesting method (similar to existing "management areas")*

Expected benefits:

- potentially substantial impact; could increase annual production by 3.4 million pounds (\$4.7 million) of market oysters by 1990 (approximately one-third increase)

Expected problems/conflicts:

- would require more effective and active management (including extensive monitoring)
- would require, at least, a doubling of current repletion budget
- benefits accrued only by those harvesters located in the vicinity of the new management area
- would make industry more reliant on state subsidy
- since dredging would be implemented as an efficient harvesting technique, oyster tongs may be displaced (may not be a problem due to poor recruitment of young tongs into fishery)
- would significantly increase demand for seed; competition with private sector may increase seed prices; seed supply would have to be carefully monitored

Implementation Steps:

- site selection and legislative designation of a management area (egs., Sections 28.1-128.1 and 28.1-.28.2, Code of Virginia)
- increase repletion budget by as much as \$650,000; could be accomplished by increasing general fund contributions to repletion program, or raising replenishment taxes
- establish an effective and technically-based oyster bed monitoring program at VMRC
- provide for increased seed supply to meet new demand (370,000 bu./year above current harvests by 1990)

OPTION 6: *Lease portions of the public grounds in order to stimulate additional private investment in the cultivation and harvesting of oysters*

Expected benefits:

- would bring into production currently un-utilized and under-utilized Baylor (Public) Grounds; attractive to private planters
- relieves the state of active management in areas converted to private production
- State would be gaining production in areas which it could not otherwise afford to replenish with seed/shell due to costs and marginal return-on-investment
- potentially significant impact; could increase total state production by 3.4 million pounds (\$4.6 million) of market oysters by 1990 (based upon 1,000 acres of leased ground)

Expected problems/conflicts:

- dramatic departure from traditional industry structure; may be viewed as first step to private encroachment on common-property public grounds; extremely controversial
- private lease-holders may begin substituting the newly-available public grounds for currently held ground; total area under production would not necessarily increase
- increased seed demand from private planters may affect total seed supply; effective seed management measures would be necessary

Implementation Steps:

- While General Assembly has authority to legislate the leasing of un-productive Baylor Ground, a State Constitutional Amendment may be necessary since private sector may not desire to lease totally un-productive grounds; State Constitution holds, in trust, all natural oyster beds for the benefit of the public
- should critically re-evaluate Baylor Survey based upon current knowledge of productivity and bottom-types
- establish provisions (legislative or regulatory) to discourage "idle leasing"; may include higher lease fees, shorter lease periods, stringent proof-of-use requisites, and easier means for having improperly used grounds revert to the state (see discussion of JLARC Recommendation 17 in Section II of this report)



POLICY OPTIONS: VIRGINIA HARD CLAM FISHERY

OPTION 1: *Maintain the status quo and allow production levels to experience a moderate decline in the future*

Expected Benefits:

- allows for analysis of whether declines are due to declines in harvesting effort or in natural reductions of stock abundance
- will maintain state's limited involvement in management

Expected Problems/Conflicts:

- may result in continued decline in production
- may increase Virginia's processors' reliance upon imported clams to meet supply needs
- Virginia's position within the national hard clam industry may continue to erode

OPTION 2: *Sustain the harvest from naturally productive hard clam grounds*

Expected Benefits:

- provides for long-term viability of hard clam fishery

Expected Problems/Conflicts:

- difficulty in assessing levels of fishing effort and its associated impact may hamper techniques of determining points of dockside revenue maximization
- limiting harvesting effort may imply "limited entry" to a public fishery; technically sound data enabling managers to set maximum levels of effort or catch quotas do not exist

Implementation Steps:

- institute a joint VMRC-VIMS study to determine the extent to which the decline in clam production is due to stock reductions or the level of harvesting effort
- depending on the results of the study, implement various regulatory alternatives to reduce harvesting pressures. Such alternatives include a minimum size limit, limitation of entry into the fishery, catch quotas, and supplementation with hatchery stock.

OPTION 3: *Cultivate new clam growing areas and allow the use of hydraulic escalator dredges year-round*

Expected Benefits:

- promotes efficiency within the industry by allowing for efficient harvesting techniques
- could increase total annual revenues to the industry by over 200 percent
- would stabilize domestic supply so harvesters and processors would benefit
- would expand the clam processing sector in Virginia

Expected Problems/Conflicts:

- would reduce average income of harvesters using traditional gears
- may result in the elimination of traditional harvesting techniques
- may result in overfishing of natural hard clam stocks unless adequately controlled
- cultivation of additional state clam ground may not prove to be cost effective

Implementation Steps:

- conduct a study of the feasibility of using hatchery-reared hard clams to reestablish population on a large scale
- Legislative repeal of Section 28.1-128.01, Code of Virginia
- establish a management control program to limit the total landings of escalator dredges in order to minimize the impact on the income of traditional harvesters.

OPTION 4: *Cultivate new clam growing areas and allow the use of hydraulic escalator dredges during summer months only*

Benefits, Problems/Conflicts and Implementation steps are similar to Option 3 with the following exceptions:

Benefits:

- reduces impact of increased landings thus minimizing impact on the income of traditional harvesters
- peak harvest would coincide with peak demand thus enabling the industry to take advantage of increased supply with the least impact on prices paid to watermen

OPTION 5: *Cultivate new clam growing areas and allow the use of hydraulic escalator dredges during winter months only*

Benefits, Problems/Conflicts and Implementation steps are similar to Option 3 with the following exceptions:

Benefits:

- would concentrate harvesting effort in the winter months when production in other states is lower
- could provide year-round employment for those clambers willing to shift from traditional gears in the summer to dredging in the winter
- would minimize the direct competitive impact of increased landings on traditional harvesters

**MARINE RESOURCES COMMISSION RESPONSE TO  
RECOMMENDATIONS 3 TO 19**

Recommendation (3):

*Prior to any increase of harvesting effort in current hard clam growing areas, VMRC and VIMS should conduct a joint study to determine whether the downward trend in clam production is actually due to stock reduction or the level of harvesting effort. On the basis of this study, the State may wish to consider methods of restraining entry or catch, or methods for developing a replenishment program.*

Pros:

The results of such a study would be very helpful in improving our knowledge of the status of the Commonwealth's hard clam fishery.

A great deal of work has already been accomplished by scientists at VIMS in the areas of hatchery technology, identification of naturally productive areas, and the use of efficient harvesting devices.

Cons:

The level of detailed knowledge required to make management decisions (egs., limited entry of harvesters to fishery, catch quotas, minimum size limits) may require that such a study be extremely time-consuming and expensive.

Econometric models would require considerable refinement.

Alternatives such as "limited entry" (in terms of numbers of participants in fishery) must be treated very cautiously as no precedent has been established in Virginia with regard to this controversial management technique.

It is not clear that immediate analysis of the hard clam fishery is either necessary or warranted; the JLARC report addressed this fishery probably for the following reasons:

- a. the controversial issue of the use of hydraulic escalator dredges was still "fresh" in many minds,
- b. a graduate student of VIMS had recently completed a study relating to the clam fishery, and
- c. it is the feeling of some scientists and industry members that production could be increased.

### VMRC Recommendation:

The VMRC recommends that the study referenced in JLARC Recommendation (3) be conducted as a component of the Fishery Management Plan (FMP) preparation process at such time that a Hard Clam FMP is developed. It is envisioned that development of this FMP would be initiated in the 1986-88 Biennium.

### Rationale:

There is no clear industry consensus that significant problems with the hard clam fishery are imminent.

Legal considerations and decisions involving the use of hydraulic escalator dredges are still pending.

Attention in the coming Biennium (1984-86) should be focused on the oyster industry as this industry is much larger in terms of dockside revenues, stature in national markets, and harvester and processing employment levels.

Data management programs at VMRC will have been established by 1986 in the areas of fisheries resource and industry statistics.

### Implementation Steps:

1. VMRC contacts VIMS and indicates the need for a study of the decline in hard clam production. Further, these data are needed for the preparation of a Hard Clam Fishery Management Plan.
2. VIMS re-allocates, if necessary, programmatic funds to insure that such a study is done, or
3. VIMS drafts proposals to various institutions, e.g. Sea Grant, in order to secure funding for such a study.
4. Upon completion of the study, the Hard Clam FMP is drafted. Methods of restraining catch or entry into the fishery, and methods for developing a replenishment program, if necessary, would be identified in the FMP.

#### Recommendation (4):

*Econometric modeling has been shown to be a useful tool for assessing management alternatives and monitoring results in the oyster and clam fisheries. Building on the techniques used in this study, VMRC should take the lead in refining these techniques, giving them broader applications, and utilizing them to make fisheries management decisions. In expanding these techniques, VMRC should utilize the fisheries and economics expertise at VIMS and VPI&SU.*

#### Pros:

Economic factors are driving forces in the development of management policies for any industry; the seafood industry is no exception. Econometric models have the effect of reducing the uncertainty associated with specific management alternatives.

The development of effective econometric models requires a detailed, accurate, and long-term information base. Utilization of these models provides managers the opportunity to assess the quality of available technical information and, where necessary, to improve data collection methods.

#### Cons:

Econometric models do not necessarily provide answers to specific questions. They can only approximate real-world conditions and are typically laden with (often un-realistic) assumptions.

Econometric models are only one tool which may be used in the evaluation of management alternatives. Other factors which are extremely important include biological assessment, social issues, and political feasibility.

#### VMRC Recommendation:

The VMRC fully recommends the use of econometric models as one tool in developing FMP's and evaluating fishery management alternatives. Further, the VMRC may encourage the use of these models by the following actions:

1. supporting research grant proposals which address means of improving the quality of existing models and the development of new ones (eg., Virginia Sea Grant Program),

2. communicating to scientists/economists the need for specific research from the management perspective, and
3. providing high-quality data in a timely fashion for inclusion in the model(s).

Rationale:

Econometric models, when supplemented with other bases of knowledge, can assist managers in deciding whether impacts from a management strategy would be acceptable by reducing the amount of uncertainty surrounding the decision.

Implementation Steps:

1. VMRC currently reviews Virginia Sea Grant Program proposals. An indication by VMRC that econometric models are needed for fishery management and a favorable response from VMRC toward such Sea Grant proposals will encourage their development.
2. The Fisheries Liaison Officer of VMRC will maintain close contact with VIMS, VPI&SU and other institutions to encourage and support the development of such models.
3. Data typically used in econometric models is available from VMRC. However, these data are not always available in a timely fashion. Computerization of the VMRC Fisheries Statistics Unit will greatly enhance the quality and availability of the data necessary for econometric model development.



Recommendation (5):

*VMRC should take steps to reorganize its organizational structure in order to place proper emphasis of agency resources on fisheries management issues by creating a new fisheries management unit, to include the statistics section, liaison officer, repletion department, and engineering and survey division. The unit should be headed by an individual with strong organizational skills and a background in fisheries management.*

Pros:

Transfers from the Commissioner to a professionally staffed organizational unit the responsibility of dealing with complex fisheries issues

Centralizes responsibility for the interdisciplinary process of fisheries management

Provides for a more comprehensive and information-based approach to fisheries management; affords greater sharing of informational and personnel resources among sections

Eliminates public perception that VMRC has internal barriers to communication and that existing departments with fishery management responsibilities are autonomous

Cons:

Will require additional personnel and associated funding; also, an establishment of revised reporting relationships

VMRC Recommendation:

The VMRC is in full support of the reorganization of its fisheries management function.

The Agency has, in its 1984-86 Financial Proposal, requested that positions and funds be made available to include a Division Head, Assistant Division Head, and Divisional Secretary within the Fisheries Management Unit. The agency is also prepared to undertake the administrative and management measures necessary for executing the reorganization.

Rationale:

Centralization of the responsibility and authority for fisheries management will result in a more coherent and comprehensive approach to fisheries management, including identification of problems, analysis of resource- and industry-related data, and the presentation of reasonable and practical management alternatives to the Commissioner and Associate Members of the VMRC.

Implementation Steps:

1. Reorganizational needs identified in the Agency Financial Proposal for 1984-86. This step has been completed.
2. If funding is received, the agency will be reorganized as indicated above during the 1984-86 Biennium.
3. Division Head and Assistant Division Head will be employed by the Commission to oversee the Fishery Management Unit.

### Recommendation (6)

*The General Assembly may wish to consider repealing Sections 28.1-19 and 28.1-20 of the Code relating to the appointment of the repletion officer and chief engineer so that the Commissioner of MRC would have exclusive authority to appoint Commission employees.*

#### Pros:

Would make repletion officer and chief engineer directly responsible to the Commissioner (not the Associate Commissioners), thus allowing the Commissioner, who acts as the chief agency executive as well as Chair of the Commission, to have full managerial authority when dealing with surveying and repletion issues on a day-to-day basis

#### Cons:

Associate Commissioners would not have ultimate authority over chief engineer and repletion officer

#### VMRC Recommendation:

The VMRC recommends that Sections 28.1-19 and 28.1-20, Code of Virginia, be repealed, giving the Commissioner full authority to appoint the chief engineer and repletion officer.

The agency has, in its 1984-86 Legislative Proposal package, requested that said sections of the Code be repealed.

#### Rationale:

Would make repletion officer and chief engineer directly responsible to the Commissioner (not the Associate Commissioners), thus allowing the Commissioner, who acts as the chief agency executive as well as Chair of the Commission, to have full managerial authority when dealing with surveying and repletion issues on a day-to-day basis

#### Implementation Steps:

1. The normal legislative process will be followed to fully implement this recommendation.
2. Legislative Proposals 1 and 2, submitted by VMRC, pertain to these sections of the Code.

3. The Department of Planning and Budget has recommended approval of these proposals.

Recommendation (7):

*VMRC should centralize all revenue collection activities by establishing a collection and billing unit within the agency's finance and administration division. Creation of a central revenue collection unit would greatly reduce the use of enforcement personnel for administrative and clerical tasks and decrease the number of VMRC staff handling collected money.*

Pros:

Would allow for shift in much time spent by enforcement personnel from clerical tasks to patrol activity; law enforcement personnel currently act as "bill collectors" for commercial fishing license fees, oyster repletion and inspection taxes, and oyster ground rent (the latter system is presently undergoing centralization and automation and is expected to become operational in 1984.)

Fewer agency personnel would be involved in the collection and handling of revenues from sources named above, thus focusing responsibility and accountability on a core group of individuals

Cons:

Would not completely eliminate clerical tasks of enforcement personnel; clerical tasks reduced for field personnel would largely be transmitted to office personnel, so net time saved may not be significant

Revenue collection activities often involve participation by several departments (typically Law Enforcement, Fisheries Management, and Accounting); centralization of revenue collection activities does not necessarily facilitate inter-departmental information/data transfer and solution of day-to-day problems which are currently resolved by non-Accounting staff.

Some licenses require inspectors to make site visits for approval of locations (fixed fishing devices: staked gill nets, pound nets, etc.) and permits must be issued directly by inspectors (daily, weekly, etc.); it is desirable for licenses and permits to be issued by enforcement staff which are familiar with harvesting laws and regulations in their geographic region.

Funding for centralization of only one system (oyster ground leasing) has been received in the current Biennium (1982-84).

VMRC Recommendation:

The VMRC supports the goal of reducing the time which is spent by enforcement personnel performing clerical tasks. In light of this, the VMRC recommends that measures be taken to analyze those revenue collection systems which could benefit from centralization. Such analysis would be performed in the course of developing an agency MIS Plan (see JLARC Recommendation 8). Alternatives to a separate "billing and collection unit" within the Division of Administration and Finance should certainly be explored.

Rationale:

Departmental staff familiar with intricacies of individual revenue collection systems are better equipped to deal with routine and unusual problems.

Each revenue collection activity would stand on its own as an effective system but automated interdepartmental data communication (e.g., distributed processing) would accommodate management information needs.

It is not clear that a savings in number of staff or time currently spent in these activities would necessarily result from creation of a new "billing and collection" unit.

Implementation Steps:

1. Implement an automated oyster ground leasing and billing system. This is currently in progress and scheduled for completion in 1984.
2. Modify VMRC leasing system to eliminate extensive monthly reporting requirements and, possibly, to implement an automated renewal/billing process (which would greatly reduce the number of licenses written by enforcement personnel). A new license form has been designed, and system analysis is currently being performed as a part of the MIS planning effort. Implementation is scheduled for the 1984-86 biennium.
3. Modify the oyster tax collection system so that the reporting forms bypass enforcement staff (i.e., are sent directly from the buyer or processor to the VMRC main office). A system analysis is currently being performed as a part of the MIS planning effort. Implementation is scheduled for the 1984-86 biennium.

Recommendation (8):

*VMRC should take a comprehensive rather than piecemeal approach to the development of computer support systems for the agency. VMRC could continue to work with the Department of Management Analysis and Systems Development in conducting an overall assessment of the agency's ADP needs and in implementing appropriate structural changes and information systems.*

VMRC Remarks and Status of Planning Document:

The VMRC is in full support of the concept of a comprehensive approach to the automation of the agency's information systems.

The VMRC, in its 1982-84 Financial Proposal, requested funds for automation of agency-wide information systems. The funding request was based upon results of an operations and systems analysis performed by John Broughton Associates, Inc. in 1980. As stated earlier, funding for only one system was approved.

The VMRC has, in its 1984-86 Financial Proposal, requested funds for automation of remaining systems. Additionally, funds have been requested through the Governor's Chesapeake Bay Initiatives. Neither funding source, alone, is adequate to complete this task; approval of both funding requests and requests for additional FTE's (2) will be required.

The Commissioner, VMRC, has appointed a Management Information System (MIS) Policy Board, comprised of key agency staff, and has directed this Board to work with the Department of Management Analysis and System Development (MASD) in developing a comprehensive MIS Plan for the agency. Fisheries management information systems have been given top priority and plans for these systems will be completed (including MASD review process) on or before June 30, 1984.

Implementation Steps:

1. Identification of funding needs in the VMRC 1984-86 Financial Proposal. This step has been completed.
2. Appointment of a Management Information System Policy Board by the Commissioner. This step has been completed.
3. Development of an MIS Plan for the agency in coordination with the Department of Management Analysis and Systems Development. This phase is now in progress.
4. Implementation of an approved MIS Plan (Scheduled for July 1, 1984).

Recommendation (9):

*VMRC should develop fishery-specific management plans for fisheries within the Bay and to assess the relevancy of interstate plans to Virginia's needs.*

Pros:

The Fisheries Management Plan (FMP) process is a state-of-the-art management tool and:

1. allows for long-range planning by industry,
2. assists in resolution of user group conflict and emergency situations,
3. educates the public in the fisheries management process and the importance of Virginia's fisheries to all users,
4. could guide the Legislature in their decisions should they become directly involved in the management process, and
5. provides for the long-term conservation of Virginia's finfish and shellfish stocks.

FMP's will utilize the best available biological, social, and economic information.

FMP's have been successfully developed on the federal (National Marine Fisheries Service) and interstate (Atlantic States Marine Fisheries Commission) levels.

Cons:

Implementation of the FMP process is currently inhibited by the following obstacles:

1. No clear statement of fisheries management policy has been articulated by Virginia's General Assembly.
2. No monies have been dedicated to acquiring the data and expertise necessary in drafting FMP's. It has been esti-



mated that development of a single FMP (after information systems have been automated) would require approximately \$150,000. This does not imply that additional funding (at levels above those requested in the 1984-86 Program Proposal) would be required.

The term "fishery-specific" requires further definition. For example, FMP's could, and perhaps should, be developed on a species level (egs., striped bass, summer flounder, etc.), a gear level (egs., gill net, pound net, etc), and a river-basin level (egs., James River Basin, Rappahannock River Basin, etc.).

#### VMRC Recommendation:

The VMRC recommends that FMP's be developed for commercially- and recreationally-important species. FMP's will be developed by the staff of the Fisheries Management Division of the VMRC. Input from industry and user groups, research institutions, and the Fisheries Management Advisory Committee will be utilized in plan development.

Further, the VMRC recommends that interstate FMP's such as those developed by the Atlantic States Marine Fisheries Commission, be closely linked to Virginia's FMP process. Fisheries Management Division staff would make use of data acquired and analyzed for interstate plans while drafting the Virginia plan for that particular species.

Further, the VMRC recommends that FMP's be developed at the gear-specific and habitat-specific levels after species-specific plans have been drafted and adopted.

#### Rationale:

To provide for the long term conservation of commercially- and recreationally-important species while balancing and mediating diverse and competing interests of resource user groups; to employ state-of-the-art techniques in fisheries management and to have the technical capability of documenting management options and the means for resolving user conflict.

Implementation Steps:

1. Appoint a Fisheries Management Advisory Committee. This has been done.
2. Restructure the VMRC to create a Fishery Management Division. This is planned for July, 1984.
3. Automate the Fisheries Statistics Unit of VMRC. This is planned in the 1984-86 Biennium.
4. Adopt fishery management policy suggested in this report. This should be done in the 1984 Session of the General Assembly.
5. Begin writing Oyster FMP and others as prioritized.
6. Assessment of the relevancy of interstate plans to Virginia needs is now being done and has been done since 1976.

Recommendation (10):

*VMRC should take steps to improve the quality and completeness of its statistical information by methods such as increasing data collection by agency staff; allowing for mail-in of information by seafood buyers; utilizing sampling techniques for data gathering; and providing seafood buyers with standardized reporting forms. VMRC should work cooperatively with VIMS in an effort to provide the State with regular level-of-effort statistics. To the extent possible, VMRC should allocate funds or provide personnel to match federal research monies to upgrade fisheries information. In addition, the General Assembly may wish to make reporting of statistics mandatory.*

Pros:

The goal of conservation and management of fisheries resources stems directly from government responsibilities as stewards for common-property resources. Fisheries statistics provide scientists and managers the base level of information required in determining the effects of fishing on fish and shellfish populations and in the development of fishery management plans and policies.

Improving effort statistics allows managers to distinguish the causes of increases or decreases in harvest volume, ie., determining whether declines in harvest, for example, are due to reduced abundance or reduced levels of fishing effort.

Allocation of state funds to supplement federal research programs would enable Virginia to participate in an annual coastwide marine recreational fishing survey, the chief benefit of which would be the collection of more detailed and more accurate information characterizing the marine recreational fishery in Virginia. This approach has already been used in other states.

Mandatory reporting would enable the VMRC to require production records of harvesters, wholesalers, and/or processors if and when such records were necessary in assessing the condition of a particular fishery.

Cons:

No detriments associated with improving the fisheries resource and industry statistics program can be identified.

### VMRC Recommendation:

The VMRC strongly recommends that the quality and completeness of statistical information be improved in a manner consistent with state-of-the-art technology. The specific suggestions for improving statistical information (stated in JLARC Recommendation (10) are all useful and will be studied in further detail. A group of scientists, statisticians, and industry representatives will be assembled to assist VMRC staff in analyzing current and potential systems of data collection and analysis. Also, the Fisheries Subcommittee of the Bi-State Working Committee will, in 1984, supervise efforts to implement the Recommendations of the 1982 VA-MD Fisheries Statistics Workshop, held in Fredericksburg, VA.

### Rationale:

Upgrading efforts in the area of fisheries resource and industry statistics will allow the VMRC to develop comprehensive and data-based fishery management plans and will provide a baseline upon which to assess the effectiveness of particular management or regulatory actions.

### Implementation Steps:

1. Automation of VMRC fisheries resource and industry statistics functions. Funding needs have been identified in the 1984-86 Financial Proposal; an MIS Plan is being developed.
2. VMRC Statistics staff will sponsor various workshops to identify, more clearly, data collecting methods and analysis systems which may improve the quality and completeness of MRC's statistical base.

Recommendation (11):

The General Assembly may wish to consider amending Title 28.1, Code of Virginia, in order to provide broad policy guidelines for control by regulation of details related to restrictions in gear, season, enforcement methods, or licensure fees. Those provisions that are determined to be inappropriate for regulation should be retained in law. Consideration might also be given to granting VMRC time frames and procedures for promulgating regulations that are similar to those granted the Commission of Game and Inland Fisheries.

Pros:

The Code of Virginia contains too many detailed fisheries laws, few of which are based upon biological factors influencing resource abundance.

A professionally staffed and financially supported administrative agency would have the resources to deal with complicated fisheries issues in a reasonably objective manner and on a day-to-day basis.

The General Assembly meets only annually with abbreviated alternate-year sessions. This timing cycle is not conducive to dynamic management of dynamic conditions.

It is not possible to respond to rapidly changing resource conditions under the lengthy time periods required by the Administrative Process Act to adopt regulations (approximately six months).

Cons:

Requires extensive modifications to Title 28.1, Code of Virginia, and the simultaneous establishment of regulations which would effectively replace the repealed legislation.

The above task would require a great deal of planning (fishery management plans must be in place) and a sophisticated review of existing legislation and mechanism for shifting to regulation.

VMRC Recommendation:

The VMRC recommends that it be given the authority, responsibility, and flexibility to administer the details of fishery management with legislative guidance from policy statements articulated by the General Assembly.

The VMRC further recommends that it be exempted from adopting regulations under time-frame guidelines outlined in the Administrative Process Act (for those areas which are not already exempted).

Rationale:

Response to dynamic conditions within the commercial and recreational fishing industries requires sure and rapid action; restriction of harvesting activities (and relaxation of controls) requires that VMRC have direct responsibility for regulating fishery management details.

Implementation Steps:

1. Adoption of the fishery management policy (outlined at the beginning of this report) by the 1984 General Assembly. Agency legislative proposals Nos. 13 and 14 are currently under review by the Department of Planning and Budget and the Office of the Attorney General.
2. Adoption of VMRC legislative proposal No. 3 which would shorten the time period required for VMRC to adopt regulations and would exempt VMRC from the Administrative Process Act. This proposal has been approved by the Department of Planning and Budget, the Office of Commerce and Resources and the Office of the Governor.
3. Develop species-specific FMP's (see JLARC Recommendation 9). The tentative time schedule for completion of FMP's is as follows:

<u>Biennium</u>	<u>Species</u>
1984-86	oyster, striped bass
1986-88	blue crab, summer flounder, grey trout menhaden
1988-90	hard clams, shad, river herring
1990-92	bluefish, eels, other sciaenids
1992-94	initiation of FMP's based upon gear type and river basin (ecosystem management)

4. The following process will facilitate the transition from legislative to agency administration of fishery management details:
  - a. Complete the FMP for a single species
  - b. Analyze management alternatives
  - c. Draft set of regulation(s) designed to implement the FMP
  - d. Solicit public comment and review
  - e. Undertake study of Code of Virginia to determine which section must be amended or repealed in order that no conflict between regulation and legislation exists
  - f. Present proposed regulation(s) to the VMRC for consideration
  - g. Adopt regulation(s), effective at such time that Code of Virginia can be appropriately modified (e.g., the following legislative session)

Clearly, the process of modifying all sections of the Code of Virginia pertaining to fishery management cannot be undertaken simultaneously. It must proceed on a species-by-species basis and will be initiated for each species upon completion of the FMP. The time-schedule for Code modification directly follows that for FMP development (item 3, above).

Recommendation (12):

*VMRC should improve its fiscal planning, allocation, and accounting processes to ensure that special repletion funds are used for the purposes intended. In addition, the General Assembly may wish to clarify how the fund may be used for "administration" of the program and for repletion purposes.*

Pros:

Would ensure that repletion funds (derived from oyster taxes, permit fees, and royalty payments) were used for "goods and services" directly related to repletion activities

Cons:

None can be identified

VMRC Recommendation:

Although it is clear that certain expenses incurred by the VMRC's Law Enforcement Division, for example, directly assist in the operation of the Repletion Program, it is the recommendation of VMRC that all special fund expenditures not directly tied to repletion (see JLARC Report, p. 85) be reverted to general funds

Rationale:

See "Pros", above

Implementation Steps:

1. Reverse source of funding for one clerical position in the Engineering and Surveying Division and a clerical position in the Repletion Division. This has been accomplished.
2. Eliminate repletion fund or source of funds for:
  - a. salaries and benefits for two enforcement officers scheduled for implementation on July 1, 1984.
  - b. expense accounts for eight enforcement officers; scheduled for implementation on December 1, 1983
  - c. phone services and electricity for Deep Creek Tax Station; scheduled for implementation on December 1, 1983
  - d. maintenance of Tax and Operations Station at small boat harbor; this has been accomplished.



Recommendation (13):

*VMRC should improve evaluation of the effectiveness of the oyster repletion program through such means as regular sampling programs and computerization of data.*

Pros:

The high economic value of Virginia's oyster industry is well documented. The benefits and rates of return on investment for repletion activities are also documented. A routine and well-planned oyster ground sampling program would certainly aid in analysis of the effectiveness of the state's repletion activities.

Automation of oyster fishery information systems would provide quick access to historical harvest and effort records, also of use in repletion planning.

Adoption of such new management techniques would reduce the VMRC's total reliance upon the expertise of the conservation and repletion officer.

Cons:

Funding constraints for the development of a comprehensive fisheries management unit with automated information systems have impeded progress in this area; there would be no detrimental effects of implementing this recommendation.

VMRC Recommendation:

The VMRC fully supports upgrading capabilities in the area of oyster ground management and repletion program management. It believes that formation of a single fisheries management unit and automation of information systems would automatically lead to significant improvements in the repletion program and its methods for assessing its past and potential effectiveness.

It should be noted that the agency's 1984-86 Financial Proposal included funding for the specific items discussed above.

Rationale:

Virginia's oyster industry is one of its oldest and most valuable and its future depends upon technically- and scientifically-based assessments of repletion program effectiveness since productivity of

many of the public oyster grounds is closely tied to the success (or failure) of repletion efforts.

Implementation Steps:

1. Restructuring of VMRC such that the Oyster Repletion Department will be included in the Fishery Management Division. This is scheduled for implementation on July 1, 1984
2. Developing an Oyster Fishery Management Plan will also require a review of the oyster repletion program. The Oyster FMP is the first FMP scheduled for development in the 1984-86 Biennium.

Recommendation (14):

*VMRC should consider instituting several improvements that would reduce the involvement of enforcement personnel and bolster the effectiveness of tax collection efforts. Suggested improvements include having buyers mail reporting forms and payments to VMRC for systematic cross-checking by the central office; random auditing of the buyers' books to verify accuracy of tax payments; and adopting a system used on the Potomac River, where marine enforcement personnel record oyster harvesting activities while on patrols to identify instances where oysters are harvested but no taxes are paid. Implementation of these changes, in addition to VMRC's new system, should increase the tax revenues available for financing the State's oyster repletion program.*

Pros:

Measures aimed at closing tax evasion "loopholes" would result in greater oyster tax revenues for use in repletion activities (although it is unclear as to the overall extent of evasion).

Reduction of involvement of enforcement personnel in oyster tax collection activities (specifically, collection of monthly reports from over 200 dealers/processors) would result in greater time spent in actual enforcement activity.

Cons:

It is impossible to design a foolproof tax collection system for an industry that operates largely on a cash basis (in transactions between harvesters and buyers) and in numerous ports and points of product landing covering immense stretches of coastline in largely rural areas.

VMRC Recommendation:

The VMRC recommends that: 1) in the process of developing automated information systems, that particular attention be paid to possible improvements in administrative procedures associated with the oyster tax system (including review of suggestions made in the JLARC report), and, 2) in the development of the oyster fishery management plan, consideration be given to processes by which field surveillance for tax evasion could be upgraded.

(Note: Measures recently instituted for tax form accountability, transportation tracking, and increased communications between enforcement and statistics personnel have already resulted in increased tax collections.)

#### Rationale:

Widespread knowledge of tax evasion practices (especially in certain geographical areas) tends to breed further attempts to evade taxes by those individuals who are honestly and consistently paying their "fair share" to the repletion of public grounds, yet, on a daily basis observe successful evasion activities.

Since oyster harvest statistics are a by-product of oyster tax records, when no tax is paid there is no record of the harvest. This has the potential result of inappropriate allocations of repletion funds to certain bodies of water since repletion activities are typically concentrated in areas of high production.

#### Implementation Steps:

1. Modify Section 28.1-93, Code of Virginia, to eliminate exemption from paying tax on oysters taken from public grounds which have not been replenished with seed or shell. Said section was appropriately amended in 1983 Legislative Session.
2. Automation of the Oyster Tax System (1984-86 Biennium).
3. Development of an Oyster Fishery Management Plan (1984-86 Biennium).

Recommendation (15):

*VMRC should consider requiring new applicants for leased ground to provide their own surveys. The Commission could establish a list of private surveyors willing to conduct these surveys or put the work out for bid. VMRC's own surveyors could then concentrate on reducing the backlog of applications.*

Pros:

Backlog of lease applications could be eliminated over a relatively short time-frame; citizens interested in leasing ground would no longer have unreasonable delays in assignment of their lease

Consistent with Executive Branch policy of stimulating private sector involvement when possible in order to maintain low employment levels in State agencies

A 1982 VMRC opinion poll of 24 private surveyors located throughout Tidewater indicated that:

- 79% of the residents were equipped to do oyster ground surveys
- 88% had experience in this type of work
- 83% would like to survey oyster grounds

Cons:

Deficiencies in VMRC base maps and difficulties in sharing base information make private surveys less reliable.

Private surveyors may have difficulties:

- . . . locating base stations where landmarks no longer exist
- . . . performing base station calculations
- . . . coordinating the survey of several leases within one area in order for the work to be economically feasible

Limited interest in surveying has been shown by private surveyors; only 16 private surveys were accepted in 1982.

### VMRC Remarks and Recommendations:

The VMRC has, in the past, and presently accepts private survey work on oyster ground lease applications; 16 surveys were accepted by VMRC in 1982.

The VMRC requested, in their 1984-86 Program Proposal, funding and positions to staff one survey team and one draftsman. The proposal was modified, in the form of a Secretarial Initiative, to procure funds to contract lease surveying activities with the private sector. Although fully supported by VMRC and the Office of Commerce and Resources, sufficient funds were unfortunately not available.

The VMRC recommends that private surveyors should continue to be encouraged to perform surveys for lease applicants; it also recommends that particular emphasis be placed, by the Engineering and Surveying Division, on reducing the application backlog in an efficient and expedient manner.

### Rationale:

It is the responsibility of the State to ensure that oyster ground leases be assigned in a reasonable time frame and, therefore, that surveys be conducted efficiently by either agency personnel or by private surveyor (either in contract with State or directly with applicant); since VMRC cannot rely on all survey work being handled in private sector it must continue to maintain survey teams and to properly manage the effectiveness of these teams.

### Implementation Steps:

1. VMRC to encourage private surveyors to perform surveys for lease applicants. This is a continuation of present procedure.
2. Establishment of a priority goal by the Engineering and Surveying Division to reduce the backlog of lease applications.

Recommendation (16):

*VMRC should immediately take steps to ensure that procedures for handling the processing of lease applications are in compliance with Code requirements.*

VMRC Remarks:

The VMRC is not in agreement with the JLARC Report where it states that leasing and surveying procedures of VMRC do not comply with the Code of Virginia. Two (2) specific instances are cited:

1. Section 28.1-109 (3), Code of Virginia, states, " ...Applications shall be given priority in the same order in which they are received..." The JLARC Report suggests that agency procedures "may have resulted in unequal treatment under the law."

Response: Applications are taken in order on an area-by-area basis as an efficiency measure (utility of survey team time/effort); four regions are covered by four survey teams; applications with the earliest date are surveyed first in the given area to be worked.

2. Section 28.1-109-(8), Code of Virginia, states, " ...If an assignment be not made within six months ... such application shall ... lapse and become null and void, unless an extension is allowed by the Commission; ..." The JLARC Report suggests that the Commission has never granted an extension, yet the applications remain valid, and that the Engineering Division does not try to comply with the Code requirement.

Response: On 27 May 75, a report was made to the Commission describing the backlog of regular and riparian applications and the wording in Section 28.1-109 (8), Code of Virginia (quoted above). The Commission voted to give priority to regular applications and to leave to the discretion of the Chief Engineer, procedures for the most economical and efficient means of surveying riparian applications. The action of the Commission has been interpreted by agency staff and, informally, by the Attorney General's Office to have granted extension to all applications. Requiring a citizen to submit a new application and \$25 fee every six months would be unreasonable.

VMRC Recommendations and Implementation Steps:

The VMRC suggests that it is acting fully within requirements stipulated in the Code of Virginia with regard to the procedures used in processing lease applications.

The VMRC recommends that a formal opinion on the issue of Code compliance be provided by the Office of the Attorney General.



Recommendation (17):

*The General Assembly may wish to consider raising the rent on oyster leases and requiring more frequent evidence of appropriate use to discourage non-productive holding of private leases.*

Pros:

Raising the rental fees charged by the State could easily be justified due to the economic potential of much of these grounds.

Revenues could be dedicated as Special Funds (as opposed to current dedication as General Funds) and used to enhance and replenish public seed areas, for example, which would benefit both the public and private sectors.

The practice, by many leaseholders, of continued holding of non-productive grounds might be discouraged. Estimates have been made by researchers at the Virginia Institute of Marine Science (VIMS) that between 80-90% of all leases are not in use today (four specific reasons are cited in the JLARC Report).

Many non-productive private grounds have production potential; it is in the best interest of the industry to require that these grounds be worked on a regular basis; proof-of-use requirements now exist and are highly justified.

Cons:

Rental fees are specified in the Code; the Legislature must address the issue of increasing these fees and documenting the potential benefits to the public.

Because leases are held to be contracts with set terms, increased rents would not become effective until terms are completed at the end of twenty- or ten-year periods (effective 1 July 80, all leases were given a ten-year term and proof-of-use requirements were imposed; leaseholders will first be required to document planting or harvesting efforts as a condition of lease renewal in 1990).

VMRC Recommendation:

The VMRC recommends that consideration be given to the idea of increasing rental fees and documenting statements of justification. (The General Assembly may request agency staff assistance in preparation of such an analysis.)

The VMRC is in full support of discouraging the "idle" holding of oyster grounds and should now begin to develop a strategy for identifying inappropriately used leases and a system for verifying that leased oyster grounds are producing at reasonable levels.

Rationale:

Much private oyster ground is potentially productive, yet not currently being put to the uses intended; the leasing of State-owned bottom, a public and common-property resource, should be managed with an aim to increase private oyster production --- an activity which benefits the leaseholder and helps to maintain the Commonwealth's competitive standing in regional and national markets (both as producer and processor).

Implementation Steps:

Development of an Oyster Fishery Management Plan to include:

1. Examination of the above policy option by the Fishery Management Advisory Committee.
2. Development of Requirements to prove productivity of private leases.
3. Examination of oyster ground rental fees.

Recommendation (18):

*VMRC should take steps to update and reclassify enforcement positions in order to provide work incentives for personnel and to recognize different levels of responsibility.*

VMRC Remarks and Recommendations:

The VMRC is in support of the ideas embodied in JLARC Recommendation (18).

Reclassification of enforcement positions began in 1978 and has continued to the present; present classifications are current and valid. There are currently approximately 75 personnel in the enforcement division with six major categories of work responsibility: Chief, Deputy Chief, Area Supervisors, Boat Captains, Mates, and District Inspectors. Additionally, there are "A" and "B" levels of the latter three categories. Proportionate to the number of personnel involved, this represents ample opportunity for upward mobility.

It is important to recognize that position classifications are not meant to take into consideration all of an individual's daily duties and responsibilities; rather, it is a means of grouping job categories which have general similarity.

The VMRC recognizes the fact that there is inter- and intra-District variation in specific duties performed by enforcement staff within one classification; however, it is felt that current classifications are appropriate and justifiable.

Implementation Steps:

None necessary. Present system is justifiable.

Recommendation (19):

*VMRC should reassess current practices for the deployment of law enforcement personnel and equipment to ensure that the best use of resources is made. Development of a deployment plan would enable the agency to conduct a systematic review on a regular basis. Current needs for additional personnel should be met, to the greatest extent possible, by reducing the administrative activities of existing enforcement staff and using them more for patrolling duties.*

Pros:

The benefits of reducing time spent by enforcement staff in administrative duties are clear and have been discussed previously (responses to Recommendation 7 and 14).

Analysis of time and effort spent by enforcement staff in specific activities and in specific areas are useful in deploying enforcement activity to areas where the greatest amount of harvesting and other industry-related activities are occurring.

Documentation of specific deployment strategies and review of actual activities allow for greater sensitivity to needs expressed by members of the seafood industry (harvesting and processing sectors).

Cons:

No detriments to such activities can be identified.

VMRC Recommendation:

The VMRC is in full support of making maximum and efficient use of limited enforcement personnel and equipment; recognizing this need, the Law Enforcement Division is currently in the process of developing a detailed deployment plan with appropriate documentation and justification. After appropriate review, this plan will be implemented in 1984.

Rationale:

With limited resources in terms of personnel, equipment, and fuel, and with reduced abundance of many species of fish and shellfish in Virginia waters, it is imperative that enforcement activities be deployed in a rational and effective manner -- in terms of geography, time/effort expended in specific activities, and costs associated with these activities.

Implementation Steps:

1. Development of a Deployment Plan by the VMRC Law Enforcement Division. Plan development is currently in progress.
2. Automation of time and effort activities of law enforcement personnel to allow for a systematic review on a regular basis. Automation of all information systems within the VMRC is scheduled during the 1984-86 Biennium.

MARINE PRODUCTS COMMISSION RESPONSE TO  
RECOMMENDATIONS 20 TO 22

Recommendation (20):

*The Marine Products Commission should update its mailing lists by periodically cross-checking them against health department and FDA lists to ensure that all seafood processing firms are afforded the opportunity to take advantage of Commission services.*

Pros:

Would enable the VMPC to increase the number of seafood processors and dealers which are contacted and introduced to available services.

Cons:

None can be identified.

Recommendation:

The VMPC is in full agreement. Existing mailing lists have been compared to:

1. Lists of certified shellfish and finfish processors and shippers (developed by U. S. Food and Drug Administration and State Department of Health).
2. Monthly VMRC license lists.
3. Virginia Department of Agriculture and Consumer Services (VDACS) food establishment inspection lists.

Rationale:

To increase the number of seafood businesses which are aware of services provided by the VMPC

Implementation Steps:

Already accomplished.

Recommendation (21):

*The Marine Products Commission should aggressively pursue new markets and marketing strategies. At the same time, the Commission should develop promotions which benefit smaller firms with primarily local markets and which highlight the shellfish products traditionally associated with Virginia. In addition, new programs should be developed and evaluated regularly in cooperation with the industry.*

Pros:

Establishing new markets and marketing strategies may increase consumer demand for Virginia seafood, increase public awareness of finfish and shellfish as desirable foods, and increase commercial sales by Virginia dealers and processors.

Promotion benefiting smaller firms may increase sales in local markets and give smaller firms the opportunity to take advantage of advertising activities which it would not ordinarily be able to afford (financially).

Program evaluation would allow . . .

- . . . industry feedback as to types of promotional and marketing activities which it sees as beneficial.
- . . . for the elimination of programs judged to be ineffective.

Cons:

Expenses associated with marketing and product promotion can be very costly.

The actual benefits of such expenditures to the industry, as a whole, are difficult to document.

Consumer demand is, at best, difficult to modify or control.

With limited funds it is not feasible to direct promotional activities (of a specific nature) toward small establishments. Promotional programs are more easily designed to provide a broad-based, industry-wide, application.



Recommendation:

It is recommended that the VMPC undertake new marketing strategies and aggressively pursue new markets.

Rationale:

Programs designed to increase consumer demand, product acceptability, and seafood sales are beneficial to the seafood industry and are fully supported and justified by industry members and VMPC officials.

Implementation Steps:

This recommendation has been implemented in the VMPC's 1983-84 marketing strategy.

The VMPC is not in a position to design promotional programs which meet the needs of individual firms and businesses; it develops programs which benefit them collectively.

Activities which currently take place which benefit smaller firms include:

1. Providing travel expenses and products for cooking demonstrations to home economists from VPI&SU and VDACS to appear on television and radio programs in the Tidewater, Richmond, and Lynchburg/Roanoke market areas to promote Virginia seafood.
2. Issuing, on a regular basis, recipe articles and features on seafood to daily and weekly newspapers within Virginia.
3. Sending "consumer tips" on seafood to radio stations within Virginia.
4. Developing a series of promotions for use in retail markets.
5. Printing of consumer recipe brochures.
6. Planning, in conjunction with the Virginia Restaurant Association and individual restaurateurs a food service marketing and promotion strategy.

It is recommended that marketing and promotional programs be periodically reviewed for effectiveness and industry acceptability. The VMPC has, in its Agency Service Agreement, committed to such reviews.

Recommendation (22):

*The Marine Products Commission should work with representatives of VPI&SU, VIMS, and VDACS to establish more formal coordination and planning of the State's seafood promotional activities.*

Pros:

Eliminates the possibility of separate institutions, with related programs pursuing identical or similar paths in the area of product promotion.

Eliminates unnecessary competition by Virginia institutions for limited federal and private grant monies.

Cons:

None can be identified.

Recommendation:

It is recommended that the VMPC carefully coordinate promotional activities with representatives of VPI&SU and VIMS; the VDACS is not actively engaged in seafood product promotion, nor do they desire to be.

Rationale:

Effective promotional activities are costly; therefore, review by researchers involved in the field of seafood marketing is desired.

Implementation Steps:

This recommendation is being implemented through the following activities:

1. The Virginia Sea Grant Consortium reviews all grant proposals pertaining to seafood marketing.
2. VMPC planning activities are coordinated with the Virginia Sea Grant Consortium and Marine Advisory Services (VIMS).

3. In January, 1984, the VMPC will hold a joint planning exercise with the Virginia Sea Grant Consortium and the Virginia Seafood Council.

VIRGINIA INSTITUTE OF MARINE SCIENCE RESPONSE  
TO RECOMMENDATIONS 23 AND 24

Recommendation (23):

VIMS should establish a formal mechanism for soliciting industry and marine agencies advice as part of its research planning process. This could be achieved through the reestablishment of the VIMS Advisory Committee for this specific purpose or by broadening the mission of the "Marine Science Development Council."

Pros:

Advisory groups can provide valuable input to research planning; they aid by focusing research efforts in areas which have direct application to existing and potential problems within the seafood industry.

Cons:

None can be identified.

Recommendation:

It is recommended that an industry advisory group be established to assist the VIMS in developing short-term and long-term research plans.

Implementation:

This recommendation was implemented by broadening the mission of the Marine Science Development Council as suggested by JLARC. A formal mechanism for marine agency input into our research planning process was implemented during the preparation of the VIMS Ten Year Research Plan. Implementation of this plan includes a periodic review of the plan by appropriate state agencies and segments of those industries dependent upon marine resources to ensure concerns of these groups are being addressed.

Note:

The response prepared by VIMS may be found in the Appendix.

Recommendation (24):

The General Assembly may wish to create one advisory committee representative of all major segments of the industry to advise and comment on the research activities of Sea Grant, VPI & SU and VIMS.

Pros:

Would allow one central body to oversee research activities at all marine research institutions.

May reduce replication of research programs among different institutions.

May reduce competition by Virginia institutions for limited grant funds.

Cons:

Such an advisory group would have to be very large to provide the expertise necessary to guide research efforts of such a diverse collection of institutions; the size of this group, in terms of membership, might be too large to be effective.

Each institution has a distinct and different orientation, set of goals/needs, and clientele. One advisory group, for such a complex array of research areas, might not be functional.

Implementation:

The spirit and intent of this recommendation has been met by the establishment of an Industry Advisory Committee by the Virginia Graduate Marine Science Consortium. This committee was established with advice from all member institutions with VIMS and VPI & SU providing specific suggestions regarding the Seafood Industry.

The present advisory committees at VIMS, VPI & SU and the Consortium have been developed with the individual program thrusts and strengths of each institution in mind; as such, these committees can be particularly effective.

The present arrangement provides VIMS with a mechanism to obtain timely, accurate and knowledgeable advice regarding industry needs and concerns for incorporation into our research planning process, thereby achieving the results desired by this recommendation.

Note:

The response prepared by VIMS may be found in the Appendix.

STATE DEPARTMENT OF HEALTH RESPONSE TO  
RECOMMENDATIONS 25 AND 26



Recommendation (25):

The Bureau of Shellfish Sanitation should take steps to formalize agreements with owners in cases where certification is awarded when substandard conditions exist. A required time frame should be established for correcting the deficiencies. If requirements are not met within the stated period, SHD should take action to either temporarily decertify the plant or issue a cease and desist order to stop operations until deficiencies are corrected. In addition, the department should standardize procedures for issuing a provisional or temporary certificate to facilities in violation of standards at the time of certification.

Pros:

May provide for more timely correction of violations.

May provide for more consistent correction of violations (regionally).

Cons:

Some flexibility is needed when interpreting certification requirements.

Recommendation:

It is recommended that the Bureau of Shellfish Sanitation take measures to adopt JLARC Recommendation (25), after careful development of administrative policy.

Rationale:

To provide for more timely and consistent correction of health violations in oyster and crabmeat processing facilities.

Implementation:

Establish departmental policy addressing certification, the correction of deficiencies, and formalization of agreements with plant owner/operator. Such policies are currently being drafted by the State Department of Health and should be place in 1984.

Note:

The response prepared by the Bureau of Shellfish Sanitation may be found in the Appendix.

Recommendation (26):

The Bureau of Shellfish Sanitation should take steps to ensure that departmental policies are uniformly applied across area offices. Formalizing policies such as those dealing with repeat violations and the development of a written manual for plant inspection procedures would result in more uniform program administration.

Pros:

Provides for consistent application of health laws state-wide.

Reduces subjectivity analysis of violations and correction requirements.

Cons:

None can be identified.

Recommendation:

To ensure uniform administration of departmental policies regarding plant inspections and violations.

Implementation:

1. Establish departmental policies as discussed in JLARC Recommendation (25). This is in preparation.
2. Develop a Plan Inspection Procedures Manual. This is currently being drafted.
3. Increase the frequency of staff meetings (field personnel, supervisors, and office staff) for exchange of ideas and greater field-office communication. This has been implemented.

Note:

The response prepared by the Bureau of Shellfish Sanitation may be found in the Appendix.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
RESPONSE TO RECOMMENDATIONS 27 TO 30

Recommendation (27):

To ensure protection of the public health, the General Assembly may wish to amend current statutes to require notification of the pending annual operation of finfish processing facilities . This could be accomplished through either registration of certification program.

Pros:

Certification, prior to operation, would ensure that establishments have the basic facilities and equipment to meet minimum sanitary requirements.

Certification or registration may help locate new finfish processing establishments at any earlier date than current procedures of determining new operations.

Certification or registration identifying year-round versus seasonal operations might be helpful in setting inspector work schedules.

Cancellation or revocation of a certification or registration may be a good regulatory tool, when needed, for bringing about compliance.

Cons:

Certification prior to operation based on facilities and equipment does not necessarily ensure sanitation during operations. Unannounced inspections during operation is a better index to normal operations.

Certification or registration would require industry to file some type of annual form -- an additional regulatory burden of questionable value.

Certification or registration of the finfish processing industry, to the exclusion of the many other types of food processors inspected by VDACS, is an arbitrary act. Other food processing industries (such as the food canning industry) have a greater public health significance but are not required to be certified or registered. Annual registration and preoperational certification is not practical for the approximately 7,000 or more establishments subject to inspection and would not be cost-effective.

Certification or registration of finfish operations would require additional funding and staffing by the Department.

Certification or preoperational registration may not necessarily enhance the economic development of the finfish industry. Nonacceptance of Virginia finfish due to lack of certification or registration is not known to occur. The economic position of the

industry may be enhanced by their voluntary participation in the U. S. Department of Commerce continuous inspection and grading program.

Steps for Implementation:

1. The General Assembly would need to pass enabling legislation with sufficient sanctions to assure a high degree of compliance and to provide for revocation of certification or registration for noncompliance.
2. Regulations would have to be promulgated to establish minimum certification or registration requirements.
3. The industry would have to be educated as to the new requirements of preoperational certification or registration.
4. VDACS would have to develop procedures to administer a certification, registration or licensing program.
5. Staff and dollars would have to be allocated to support the program at the expense of other programs.

VDACS Recommendation:

The General Assembly could require certification or registration if it believes it would improve effectiveness of the regulatory program and enhance the seafood industry. However, there are a number of other food processing plants which, at present, are not required to be registered or certified.

Recommendation (28):

DACS should develop, where applicable, more specific written sanitary standards and a checklist for inspecting finfish processing facilities to serve as a guide for inspectors in evaluating facility conditions and to ensure that the Virginia Food Laws are interpreted in a uniform and consistent manner.

Pros:

Written sanitary standards and an inspection checklist that are specific for the finfish processing industry might serve as a guide to less experienced inspectors. Such standards might aid in explaining requirements to industry personnel.

Cons:

VDACS' inspection program is already standardized with FDA's inspection program. Creation of new or different state standards and inspection checklists would result in an additional regulatory burden on industry; i.e., the two agencies having different requirements.

Resources necessary to develop an inspection checklist specifically for finfish operations could be better utilized in additional generalized inspector training.

Inspectors who rely on checklists for inspectional guidance instead of investigation skills may miss the unique or unusual condition that could have public health significance.

Steps for Implementation:

1. VDACS would adopt regulations to establish written sanitary standards specifically for the finfish processing industry.
2. VDACS Board would need to adopt regulations.
3. The industry would have to be advised of these standards.
4. A checklist for inspecting finfish processors would be developed and printed.
5. Inspectors would be trained on the use of the standards and checklist.

VDACS Recommendation:

Retain the current inspectional approach which is parallel to and uniform with the U. S. Food and Drug Administration program. The current program protects the public health and does not ask industry to adhere to differing federal and state requirements.

Recommendation (29):

DACS should develop guidelines for use by regional supervisors in classifying facilities for official action in order to ensure that Virginia Food Laws are equally and fairly enforced statewide and should inspect facilities in accordance with the agency's six-month goal.

Pros:

Written guidelines might improve the uniformity of inspectional classification.

Inspection of finfish processing facilities on a six-month cycle might increase the industry's overall level of sanitation.

Cons:

The level of nonuniformity in the two regional supervisors' inspection classifications is not great enough to justify the resources needed to develop written guidelines.

A six-month inspection cycle for finfish facilities can be achieved of or by increasing the state's resource commitment to food inspection activities.

Steps for Implementation:

1. VDACS would develop written guidelines for classifying inspections based upon current section procedures.
2. Regional supervisors would be apprised of these guidelines and incorporate them into their routine duties.
3. Finfish facilities could be inspected on a six-month cycle by allocating additional resources to the VDACS Food Inspection Program.

VDACS Recommendation:

Develop written guidelines for classifying inspections following consolidation of the Food, Dairy, Apple and Egg Regulatory Programs into a new division. At that time, the benefits derived from such an undertaking would be greater, since you would be standardizing a large program area.

Complete the consolidation of Food, Dairy, Apple and Egg into the new Division of Dairy and Foods and attempt to meet the six-month inspection cycle by reallocating existing resources within that division.

Recommendation (30):

The General Assembly may wish to clarify the statutory authority for conducting seafood plant inspections. Centralization of this function into one of the agencies is an option the Assembly may wish to consider.

Pros:

Since VDACS has responsibility for finfish inspection at a limited number of establishments where the State Health Department also has shellfish responsibility, centralizing all seafood activities into one agency would be desirable from the standpoint of eliminating such dual visits.

Cons:

Only 31 wholesale processing firms (according to JLARC) are visited by both VDACS and SHD inspectors. Such a small number of firms may not warrant action by the General Assembly.

Many of the approximately 100 retail seafood markets also carry grocery items and have the potential for problems outside the area of expertise of the SHD shellfish sanitarians and should, therefore, remain a responsibility of VDACS. Dual visits do not currently occur.

Steps for Implementation:

1. The General Assembly could assign all seafood inspection activity to one agency.
2. In lieu of General Assembly action, VDACS and SHD could enter into a Memorandum of Understanding to eliminate dual visits with the concept of one inspector-one establishment.

VDACS Recommendation:

If the General Assembly wishes to centralize seafood regulation, VDACS could blend the program into our newly formed division of Dairy and Foods. VDACS already directs most statewide food regulatory programs. Centralizing all seafood inspection programs within VDACS could lead to greater program efficiencies since trained food inspectors are already stationed throughout the Commonwealth.

Note:

Other comments made by the Bureau of Shellfish Sanitation are contained in their response in the Appendix.



SECRETARY OF COMMERCE AND RESOURCES RESPONSE TO  
RECOMMENDATIONS 31 AND 32

Recommendation (31):

*The Secretary of Commerce and Resources should be requested to draft for consideration by the 1984 General Assembly a statement of a specific fisheries policy ... which can serve as a guide to resource managers in their decision-making and facilitate a management approach consistent with long-term State goals and objectives.*

VMRC Remarks:

Senate Joint Resolution No. 24 was adopted in 1983, and in response to the JLARC Recommendation (31), requests the Secretary of Commerce and Resources to articulate a clear statement of specific fisheries policy for the Commonwealth which can effectively and practically be used as a guide by management officials in resolution of user conflict, allocation, conservation, and related fishery resource issues.

The staff of VMRC has completed a document, entitled The Fishery Management Plan Process, which includes a description of suggested fishery management policy. The following language is extracted from the document and summarizes the key policy points:

To assure the preservation, protection, and enhancement of the marine environment for the use and enjoyment of present and future generations and to provide a guide to resource managers in their decision-making the following policy is recommended:

*It shall be the goal of fisheries management within the Commonwealth of Virginia to conserve and enhance finfish and shellfish resources, and to preserve and promote both commercial and recreational fisheries, and, thereby, to maximize food production and recreational opportunities. The marine resources of the Commonwealth shall be managed for their maximum benefit and long term use by present and future generations.*

*Fishery management shall be based upon the best scientific information available, shall be responsive to the needs of interested and affected citizens, shall promote efficiency in the utilization of the resources, and shall draw upon all available capabilities in carrying out research, administration, management, and enforcement.*

*Any fishery management plan prepared, and any regulation promulgated to implement any such plan shall be consistent with the following standards for fishery conservation and management:*

1. *Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery. Optimum yield of a fishery means the amount of fish or shellfish which will provide the greatest overall benefit to the Commonwealth, with particular reference to food production and recreational opportunities;*
2. *Conservation and management measures shall be based upon the best scientific (biological, economic, and social) information available;*
3. *To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination;*
4. *Conservation and management measures shall not discriminate between user groups. If it becomes necessary to allocate or assign fishing privileges among various user groups, such allocation shall be (a) fair and equitable to all such fishermen; (b) reasonably calculated to promote conservation; and (c) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges;*
5. *Conservation and management shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose;*
6. *Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches;*
7. *Conservation and management measures shall, where practicable, minimize regulatory burdens which inhibit innovation, expansion, and normal business operations.*

The policy stated above will have the effect of maximizing our knowledge of specific fisheries, including biological, social, and economic factors affecting them, and will provide the basis for a consistent approach to balancing conservation principles with industry goals and objectives.

For a complete discussion of this policy statement see Section IV of this document.

Implementation Steps:

Review and adoption by the General Assembly of the suggested amendment to Section 28.1-23 and Section 28.1-23.1, entitled, "Fishery Management Policy."

1. The goals and objectives of fisheries management in the first two paragraphs of 28.1-23.1.
2. The management approach is outlined in the seven point paragraph of 28.1-23.1.

Recommendation (32):

*The Governor and General Assembly may wish to consider structural changes to enhance coordination among marine resource agencies and to place marine resources within a broader natural resource concept*

VMRC Remarks:

The JLARC Report suggests three (3) options for improving fisheries management functions within a broad context:

1. *Improve management deficiencies within current organizational framework of VMRC*

Response: This option refers to implementing many of the JLARC Recommendations discussed in this document. The VMRC supports many of the suggested remedial measures, including a new focus on fisheries management with the development of fishery management plans, improving fisheries resource and industry statistics, and development of agency-wide automated information systems.

2. *Strengthen coordinative mechanisms within current state-wide organizational framework*

Response: This option includes the suggestion of two (2) possible mechanisms: development of a fisheries management coordinating committee and designating an assistant secretary for natural resources within the Office of Commerce and Resources. Either option would be acceptable, however, it is unlikely that an assistant secretary is needed merely for coordinative oversight. The committee concept is feasible, especially when one considers that the VMRC has recently named a group of industry officials to serve on the Fisheries Management Advisory Committee. It is possible that the ex-officio membership of this Committee could be expanded to include representatives of appropriate affiliated State agencies (e.g., VDACS, VMPC, SHD, SWCB, etc.).

3. *Create a single Department of Natural Resources*

Response: On 24 Sept 83, the JLARC revealed a preliminary staff proposal for a restructuring of the Executive Branch of Virginia State Government. Included among the proposals was the creation of a Secretariat for Natural and Cultural

Resources (and combination of a Commerce and Transportation Secretariat). Natural resource agencies would be placed in a Department of Environmental Regulation. Response of the VMRC to this proposal has been prepared by VMRC and delivered to the Secretary of Commerce and Resources.

Implementation Steps:

This recommendation is the subject of a recent JLARC Report - a Preliminary Staff Study and Proposal for a Major Restructuring of Virginia's Executive Branch. Implementation steps may be identified therein.

## APPENDIX



CHARTERED 1693  
COLLEGE OF WILLIAM AND MARY  
VIRGINIA INSTITUTE OF MARINE SCIENCE  
SCHOOL OF MARINE SCIENCE



Gloucester Point, Virginia 23062

November 17, 1983

Phone (804) 642-2111

The Honorable Betty J. Diener  
Secretary of Commerce and Resources  
607 Ninth Street Office Building  
Richmond, Virginia 23219

Dear Secretary Diener:

The following comments relative to Recommendations 23 and 24 (page 134) of the JLARC report "The Economic Potential and Management of Virginia's Seafood Industry" have been developed in response to the telephone request received today from your office.

Recommendation 23:

This recommendation was implemented by broadening the mission of the Marine Science Development Council as suggested by JLARC. A formal mechanism for marine agency input into our research planning process was implemented during the preparation of the VIMS Ten Year Research Plan. Implementation of this plan includes a periodic review of the plan by appropriate State agencies and segments of those industries dependent upon marine resources to ensure concerns of these groups are being addressed.

Recommendation 24:

It is no longer necessary to implement this recommendation. At the time of the JLARC study there was no industry advisory committee reviewing the entire Sea Grant program although both VPI&SU and VIMS had such committees.

The spirit and intent of this recommendation has been met by the establishment of an Industry Advisory Committee by the Virginia Graduate Marine Science Consortium. This committee was established with advice from all member institutions with VIMS and VPI&SU providing specific suggestions regarding the Seafood Industry.

The present advisory committees at VIMS, VPI&SU and the Consortium have been developed with the individual program thrusts and strengths of each institution in mind; as such, these committees can be particularly effective.



The Honorable Betty J. Diener

November 17, 1983

Recommendation 24, continued

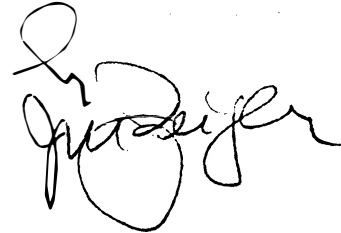
We believe an additional committee would be redundant. In addition, in order to provide the breadth of program review encompassed by the present arrangement, a single committee would be so large as to be almost unwieldy.

The present arrangement provides me, as Director of VIMS, with a mechanism to obtain timely, accurate and knowledgeable advice regarding industry needs and concerns for incorporation into our research planning process, thereby achieving the results desired by this recommendation.

For your information, I have attached background information on this matter which I believe supports my contention that an additional committee appointed by the General Assembly is unnecessary.

Sincerely,

*F. O. Perkins*  
Frank O. Perkins  
Dean/Director



FP:jmr

Attachments

cc: Thomas A. Graves, Jr., President, College of William and Mary  
John T. Casteen, III, Secretary of Education

LIST OF ATTACHMENTS

1. Membership of Virginia Sea Grant Program Industry Advisory Panel
2. Membership of VIMS Marine Science Development Council
3. VIMS Designated Representatives to Marine Related Organizations in Virginia
4. VIMS-Sea Grant Sponsored Annual Industry Meetings
5. Membership in VPI&SU Industry Advisory Panel

ATTACHMENT 1

Membership of Virginia Sea Grant Program Industry Advisory Panel

In late 1982, the membership of the Industry/User Panel was finalized. While this Panel's operational procedures are continuing to evolve, its primary duties will include assisting with the review of project proposals as well as the identification of areas in which Virginia Sea Grant should become involved through research, education or advisory services. In selecting members for the Panel, considerable effort was made to include most of the diverse clientele groups with which the Program interacts in the form of persons who are viewed as representative spokesmen for those groups. Membership of the Panel includes:

Marine Trades

Fred Ajootian  
Ocran Boat Shop  
White Stone, Virginia

Dan Bascot  
York River Yacht Haven  
Gloucester Point, Virginia

Travers Mayhew  
Davis Boat Works  
Newport News, Virginia

Recreational Fishermen

Carl Herring, Jr.  
Virginia Beach, Virginia

Charter Boat/Head Boating Fishing

Captain Charlie Ward  
Virginia Beach, Virginia

Seafood Processing/Marketing

Weston Conley  
RCV Seafood Corporation  
Morratico, Virginia

S. Lake Cowart, Sr.  
Lottsburg, Virginia

Attachment 1, continued

Vernon Drewer  
H. V. Drewer & Son, Inc.  
Saxis, Virginia

Arthur Fass  
Maritime Trading Company  
Newport News, Virginia

George Harrison  
Harrison Seafood, Inc.  
Hampton, Virginia

Liston Shackelford  
S and S Marine  
Hampton, Virginia

O. A. Spady  
Battery Park Fish and Oyster Company  
Battery Park, Virginia

Urban Waterfront/Port Development

Spencer Coleman  
Virginia National Bank  
Norfolk, Virginia

Financial Community

Robert E. Smith  
Bank of Virginia  
Newport News, Virginia

Seafood Harvesting/Watermen

Fred M. Biddlecomb  
Virginia Waterman's Association  
Reedville, Virginia

ATTACHMENT 2

Membership of VIMS Marine Science Development Council

Mr. George W. Roper, II, Chairman of the Council  
Senior Vice President  
Norfolk Shipbuilding and Drydock Corporation  
Norfolk, Virginia

Dr. Wallace W. Atwood, Jr.  
Former Director, Office of International Relations,  
National Academy of Sciences  
White Stone, Virginia

Mr. Fred M. Biddlecomb  
President  
Virginia Watermen's Association  
Reedville, Virginia

Mr. Samuel C. Brown, Jr.  
Senior Vice President  
Power Station Engineering and Construction  
Virginia Electric and Power Company  
Richmond, Virginia

Mr. Louis N. Dibrell, Jr.  
Executive Vice President  
Dibrell Brothers, Incorporated  
Danville, Virginia

Mr. J. Carter Fox  
President  
The Chesapeake Corporation of Virginia  
West Point, Virginia

Mr. H. R. Humphreys, Jr.  
President  
Standard Products Company  
Kilmarnock, Virginia

Mr. William C. Monroe, A.I.A.  
Caro, Monroe, Liang - Architects  
Newport News, Virginia

Mr. Joseph R. Neikirk  
Vice President - Personnel and Labor Relations  
Norfolk Southern Corporation  
Norfolk, Virginia

Attachment 2, continued

Mr. Samuel Sandler  
Chairman of the Board  
Sandler Foods  
Virginia Beach, Virginia

Captain J. Maury Werth, U.S.N. (Ret.)  
Former Superintendent of the U.S. Naval Observatory  
Hagerstown, Maryland

Mr. George A. Zahn, Jr.  
President  
Deepsea Ventures, Inc.  
Gloucester Point, Virginia

ATTACHMENT 3

VIMS Designated Representatives to Marine Related Organizations  
in Virginia

These representatives attend regularly scheduled meetings of the respective organization and are available to meet with committees of the organization when desired.

Virginia Marine Products Commission	W. D. DuPaul
Virginia Seafood Council	W. D. DuPaul
Virginia Association of Marine Industries	J. A. Lucy
Virginia Boating Advisory Committee	J. A. Lucy
Virginia Watermen's Association	M. Oesterling
Virginia Marine Resources Commission	H. M. Austin
Potomac River Fisheries Committee	H. M. Austin

ATTACHMENT 4

VIMS-Sea Grant Sponsored Annual Industry Meetings

The Virginia Institute of Marine Science Sea Grant Program sponsors or co-sponsors the following annual meetings to provide an opportunity for interaction with specific client groups.

Virginia Commercial Fishery Forum

Virginia Sport Fishermen's Forum

Annual Seafood Industry Seminar for  
Virginia Bankers' Association

Seminars and Educational Programs for the  
East Coast Fish-Expo



ATTACHMENT 5

Membership in VPI&SU Industry Advisory Panel

John Holt  
Bureau of Shellfish Sanitation  
Virginia Department of Health

Jack Anles  
J. H. Miles & Company

Helmer Olsen  
Lawson Seafood

Andy Drewer  
H. V. Drewer & Son, Inc.

Keith Porter  
Virginia Seafood Council

Cloyde Wiley  
Bureau of Shellfish Sanitation  
Virginia Department of Health

Roy Martin  
Shellfish Institute of North America

O. A. Spady  
Battery Park Fish and Oyster Company

Cranston Morgan  
W. F. Morgan and Sons, Inc.

Frank McGinnes  
Virginia Seafoods

Weston Conley  
RCV Seafood Corporation

George Kahle  
(Seafood Processor)

Joe Saunders  
Mr. Frosty Seafood

John Lewis  
J. H. Lewis Seafood

Tommy Shackelford  
Shackelford/Thomas Seafood

George Harrison  
Harrison Seafood, Inc.

Attachment 5, continued

Charlie Amory  
L. D. Amory Company



# COMMONWEALTH of VIRGINIA

*Department of Health  
Richmond, Va. 23219*

JAMES B. KENLEY, M.D.  
COMMISSIONER

November 18, 1983

Honorable Betty J. Diener  
Secretary of Commerce & Resources  
607 Ninth Street Office Building  
Richmond, Virginia 23219

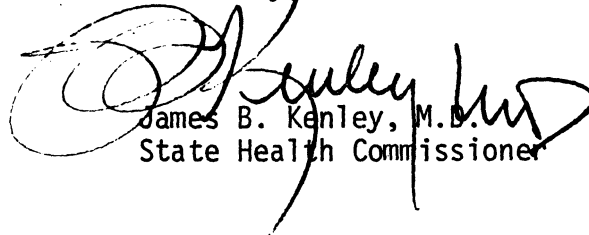
Dear Dr. Diener:

On November 16, 1983, Ms. Beth Hester, Sea Grant intern on your staff, requested the Virginia State Health Department review and update its December 30, 1982 comments on the 1982 JLARC Report, "The Economic Potential and Management of Virginia's Seafood Industry." Ms. Hester requested a copy of these comments be supplied to you in order that they might be included in a report to the Governor and General Assembly.

Attached are the Department's revised comments on the subject report as well as more recent comments on the 1983 JLARC staff recommendations regarding the transfer of the Bureau of Shellfish Sanitation from the Health Department to the Department of Agriculture and Consumer Services. These comments are also appropriate responses to recommendation No. 30 of the 1982 JLARC report.

Please let me know if I can be of further assistance to you in this matter.

Sincerely,



James B. Kenley, M.D.  
State Health Commissioner

Enclosure

cc: Honorable Joseph L. Fisher

1134



# COMMONWEALTH of VIRGINIA

*Department of Health*

*Richmond, Va. 23219*

JAMES B. KENLEY, M.D.  
COMMISSIONER

December 30, 1982

Mr. Philip A. Leone, Deputy Director  
Joint Legislative Audit and Review Commission  
910 Capital Street  
Richmond, Virginia 23219

Dear Mr. Leone:

The attached comments are in response to your December 16, 1982 letter requesting State Health Department review of a JLARC Exposure Draft entitled "The Economic Potential and Management of Virginia's Seafood Industry".

Various members of my staff have reviewed the draft and present the enclosed concerns and comments for your consideration and possible incorporation into the final report.

One cannot read the report without coming to the conclusion that it is very thorough and comprehensive in scope. The cooperative attitude and spirit evidenced by the investigators during the entire course of the study, investigation and research were commendable in every respect.

Thank you for the opportunity to review the draft report prior to its presentation to the Joint Legislative Audit and Review Commission.

If I may be of further assistance, please advise.

Sincerely yours,

James B. Kenley, M.D.  
State Health Commissioner

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COMMENTS ON JOINT LEGISLATIVE AUDIT AND REVIEW

COMMISSION EXPOSURE DRAFT ENTITLED:

THE ECONOMIC POTENTIAL AND MANAGEMENT OF

VIRGINIA'S SEAFOOD INDUSTRY

By

Virginia State Department of Health

December 30, 1982

HEALTH DEPARTMENT CONCERNS

1. In the event a Department of Natural Resources or Fisheries Management Agency is formed, the protective umbrella provided by the State Health Department will be diminished for the Seafood Industry. In order for the industry to survive, it is essential the public be assured the product is safe and wholesome. The close sanitary supervision of the shellfish industry now in effect results from a shellfish oriented typhoid fever outbreak in 1925. Proper classification of shellfish waters and sanitary supervision of processing plants is necessary to assure consumer acceptance of the product. Should these responsibilities not be adequately handled, serious damage may be done to the shellfish and crab meat industries. It is recommended the Secretary of Human Resources be included in the early deliberation of any consolidation effort.
2. The activities of the Bureau of Wastewater Engineering and Water Supply Engineering, which are vital to the overall management scheme that supports the seafood industry, were not discussed in the report.
3. Health Department review and action on permit applications from the Marine Resources Commission, State Water Control Board and U. S. Corps of Engineers were not discussed in the report.

4. The classification of shellfish growing areas relative to their suitability for harvesting for direct marketing is a vital function of the Virginia State Health Department and should be given additional emphasis.
5. Relaying (oysters and clams) occurs from many condemned areas in Tidewater Virginia, not solely from the James River, this activity is jointly controlled by the State Health Department and Marine Resources Commission.
6. Shellfish have not been impacted by Kepone Contamination of the James River to the extent crabs and finfish have been. The river was re-opened to the harvesting of shellfish in early 1976 following the general kepone closure.
7. Depuration or the controlled cleansing of contaminated shellfish was not discussed in the report.
8. The Virginia State Health Department makes every effort to assure that outstanding construction and equipment deficiencies in shellfish and crab meat processing establishments are corrected prior to operation of the facility. "Certificates of Inspection" may be issued if only minor deficiencies exist with the understanding, along with a signed statement from the operator that such deficiencies will be corrected prior to commencing operation or subsequent follow up. Normally, this is done in order for the plant name to appear on the Interstate Shellfish Shippers List, which expedites and facilitates interstate shipments and sales. In the event of more serious deficiencies, 30 or 60 day certificates may be issued, provided ample public health protection is afforded. Operational and maintenance deficiencies are corrected as observed while the facility is certified. Supervisors also make frequent inspections with

\* and assure that certification deficiencies are corrected as agreed by management. A policy and procedure has been developed and executed for recinding certifications if deficiencies not corrected in conformance with agreements.

sanitarians to develop uniformity of inspections

9. Formalized policies and procedures for issuing Certificates of Inspection to shellfish and crab meat processing establishments are generally believed to be adequate to ensure uniform administration and enforcement by field personnel. In addition to established Rules and Regulations governing the processing of shellfish and crab meat, Part II of the National Shellfish Sanitation Program Manual is strictly enforced. Interpretations and policies for implementing the above regulations are available to the staff through Intra-Bureau memoranda and staff conferences. However, efforts are underway to formalize all such guidelines\* and requirements into a single procedures manual as recommended. The first draft of such guide lines has been completed and is currently undergoing review.
10. It is not believed any significant duplication of seafood establishment inspectional activities exist between the State Health Department and the Department of Agriculture and Consumer Services. The State Health Department does not inspect finfish processing establishments. Also, retail seafood markets are only visited by the SHD on an infrequent, random basis to assure that shellfish and crab meat offered for sale are from certified sources for the health protection of the consumer. Virginia Department of Agriculture and Consumer Services staff assist in this effort when carrying out their inspectional responsibilities. While both VDAC and SHD may inspect different phases of a processors operation, the overlapping is minimal and could be eliminated entirely by the State Health Department inspecting all seafood operations associated with a facility that also processes shellfish or crab meat.
11. The State Health Department and Marine Resources Commission work closely

together in regard to the execution of shellfish and crab meat responsibilities. A Memorandum of Understanding was developed between the two agencies approximately 15 years ago defining procedures for administering the controls necessary to assure industry and consumer protection. The State Health Department makes observations of activities in shellfish growing areas and takes required action wherever possible. Monthly reports of shellfish growing area inspections are forwarded by SHD to VMRC for inclusion in that agencies patrol reports.

A similar M.O.U. exists between the State Health Department and the State Water Control Board regarding coordination and execution of assigned responsibilities relative to the Virginia seafood industry (copies attached).

#### GENERAL COMMENTS

1. Page VII: "The ability of state agencies to carry out their existing functions and to assume new responsibilities is critical to the success of any state effort..."

#### Comment:

The above implies new regulations which are inconsistent with current directives to reduce regulation.

2. Page XIV: "The Bureau of Shellfish Sanitation, within the State Department of Health (SHD), is responsible for monitoring shellfish and crab meat plants while the Department of Agriculture and Consumer Services (DACS) carries out similar functions for finfish plants and reprocessed shellfish (e.g. deviled crabs) operations."



Comment:

The word "reprocessed" implies a failure in the original process. Actually, it should read "further processed shellfish, e.g., breaded oysters and deviled crab operations." The State Health Department is responsible for the sanitary processing of shellfish and crab meat in the fresh and frozen state. Shellfish and crab meat are considered a processed food when condiments, seasoning, breading, batter etc. are added. Activities involving further processing is presently a VDAC responsibility.

3. Page XXII, Recommendation 25: "The General Assembly may wish to create an advisory committee representative of all major segments of the industry to advise..."

Comment:

To be all inclusive the words " and agencies" should be added after the word industry.

4. Page XXII, Recommendation 26: "The Bureau of Shellfish...formalize agreements if certification is awarded when substandard conditions exist. A required time frame should be established for correcting the deficiencies..."

\* Comment:

Normally, the sanitarians establish a time frame for correction. Action has been taken as recommended to formalize agreement with follow up.

5. Page I-8: "Few plants are modernized and, therefore, seasonally employ a large number of semi-skilled labor."

Comment:

It is believed mechanized would be a better word than modernized. Many of the plants are modern, having been built in the last 15-20 years.

6. Page I-8: "Based on various lists of the seafood processors, there are approximately 250 processors of shellfish... and approximately 50 process crabs."

Comment:

The 50 crab processors are in addition to the 250 shellfish processors.

7. Page I-10: " - contamination of the James River which has resulted in the loss of some soup contracts..."

Comment:

Statement is misleading. Soup contracts were lost to those with leases in the James River. The firms processing soup oysters simply expanded their raw product market in other areas.

8. Page I-11: " - protect the public health by regulating the quality of seafood for marketing; and ..."

Comment:

The State Health Department is the lead agency in this regard. It is essential that the health umbrella be maintained for the overall industry benefit.

9. Page II-6: "Since oysters play a major role in the fisheries economy, the General Assembly may wish to consider actions to reverse this trend."

Comment:

It is imperative that some control also be exercised over the water content in processed oysters. Many complaints have been received regarding water content (i.e. containers with 2/3 oysters and 1/3 water). The State Health Department has no regulation for controlling this problem. Federal legislation is needed to guard against unfair competition. The usual response is that any dealer will meet the competition.

10. Page II-12: "In 1959, an outbreak of the disease Minchinia Nelsoni..."

Comment:

Rules of taxonomy nomenclature require the species name to be lower case. Accordingly, "Nelsoni" should be nelsoni.

11. Page II-16: "An increase in the quantity of oysters supplied, for example, will be expected to decrease the price."

Comment:

This statement is questionable in view of the fact the 60-80% of the oysters shucked in Virginia originate in New Jersey, Maryland, Louisiana, Mississippi, Texas and possibly other states. The savings in high freight costs alone should negate this trend unless there is a surplus in all states.

12. Page II-22: "On the positive side, the marketing program would not challenge established practices or relationships in the oyster industry."

Comment:

The marketing program should challenge the industry regarding the

"watering" of oysters as currently practiced.

13. Page II-26 Opt. 4: "...for at least some of the 35 tongers who currently harvest and transplant seed."

Comment:

Surely there are more than 35 tongers harvesting "seed" oysters in Virginia.

14. Page II-41: "Hard clams can be harvested throughout the year except in the polluted James River. During the summer months, contaminated clams may be fished from the James River and relayed to clean water for a minimum of 15 days where the clam cleanses its tissue and becomes suitable for human consumption."

Comment:

Hard clams, as well as oysters can not be harvested from any condemned areas, not just the James River, except for relaying during the time period authorized in the Code of Virginia which is May 1 to August 15. Accordingly, the last sentence on page II-41 should be corrected - May 1 to August 15 - the relaying period.

15. Page II-65: "For example, each dredge boat is limited to harvesting 25 bands a day."

Comment:

Bands should read barrels a day.

16. Page II-69: "...to destroy bacteria and increase shell life..."

Comment:

Shell should read "shelf-life". Repeated in second paragraph.

17. Page II-69: "Wider use of pasteurization techniques could enhance this potential for Virginia's blue crab increase. The Marine Products Commission should take steps to inform and encourage industry members on the potential benefits and costs associated with pasteurization of crab meat."

Comment:

However, pasturization is a very complex process which requires competent and trained personnel. If not handled properly, it could lead to serious trouble with salability or possibly food poisoning outbreaks - i.e. botulism.

18. Page III-41: "Marine Law Enforcement - The division has also been delegated responsibility for enforcing small boat safety in conjunction with the Commission of Game and Inland Fisheries, carrying out portions of the National Shellfish Sanitation Program and patrolling the Potomac River..."

Comment:

The posting and patrolling of condemned shellfish growing areas is of great importance to the proper management of the shellfish industry and should be so stated here.

19. Page III-52: "Further, night and weekend patrols apparently need to be increased..."

Comment:

Without question, there should be random night, weekend and holiday patrols to discourage clandestine harvesting and sale of polluted shellfish.

20. Page IV-41: "... and a second time by SHD to ensure the product is from a certified source rather than from contaminated water or a bootleg operation."

Comment:

The rest of sentence after certified source is unclear. If not from a certified source, it may be either from contaminated water or a bootleg operation.

21. IV-44 Recommendation (7): "The Bureau of Shellfish Sanitation should take steps to ensure that departmental policies are uniformly applied across area offices.

Comment:

The Bureau has issued a formal policy in reference to repeat violations and developed a tracking mechanism for assuring compliance.

22. Page V-3: " - Creating a new agency to house all natural resource functions."

Page V-7: Option 3: "Creating a single Department of Natural Resources".

\*Comment:

Certain of the Commonwealth's Natural Resources Agencies could be put under a single agency. However, it is believed imperative that responsibility for the sanitary control of the shellfish industry remain in the Health Department. Most states have had great success with the health umbrella concept. Even in those states cited, North Carolina and Maryland, as having DNR, also have health department oriented oversight. Attached, are State Health Department responses to the 1983 JLARC staff proposal that the Bureau of Shellfish Sanitation be transferred to the Department of Agriculture and Consumer Services.

JLARC Recommendation I-4: Transfer to Shellfish Sanitation to the Department of Agriculture and Consumer Services.

The protective umbrella presently provided by the Health Department has assured public confidence in the safety of shellfish. (There is no other agency in state government that can better provide the required degree of support for the shellfish industry as well as protection of the public health. Delegation of this responsibility to a non-health oriented agency could quickly erode the national marketing advantage the Virginia shellfish industry has been able to establish largely as a result of the highly recognized sanitation control program administered by the Health Department).

Day to day coordination with other health department programs is essential to the administration of the Virginia shellfish sanitation program. A vital portion of the program involves the conduct of sanitary shoreline surveys of shellfish growing areas which identify sources of pollution that may cause shellfish to be hazardous to the consumer. These surveys are made by the Bureau of Shellfish Sanitation with corrective action on pollution sources undertaken by the local health departments. Daily interaction with the Bureau of Wastewater Engineering concerning the operation of sewage treatment facilities that discharge to shellfish waters and the effects of boat pollution on shellfish water quality is of immense value to the proper classification of the waters from which shellfish are harvested. Similar coordination with the Bureau of Toxic Substances Information and the Division of Solid and Hazardous Waste Management provides the technical assurances and guidance on making decisions regarding the safety of shellfish or their growing areas. The Bureau of Water Supply Engineering also works closely with the Bureau of Shellfish Sanitation on water supply problems at shellfish processing establishments and supplies personnel and resources on short notice to assure that the industry has safe, high quality water for its processing requirements. Immediate assistance on disease related problems associated with shellfish is provided around the clock by the epidemiological and medical staff of the Health Department and is indispensable in making decisions regarding the safety of shellfish offered to the consumer.

It is the team effort provided by the total Health Department expertise that makes the Virginia Shellfish Sanitation Program the best in the nation. This fact is recognized by the U.S. Food and Drug Administration as well as other state control officials. The fragmentation of this well coordinated shellfish sanitation control effort would be a disservice to the citizens of the Commonwealth and a lethal blow to the shellfish industry. The ability to make the right decisions requires the range of expertise and knowledge only found in a health oriented agency.

Recent problems with unsatisfactory quality of Gulf Coast oysters shipped to Virginia dealers for processing have been handled effectively by Health Department staff possessing expertise in epidemiology, sanitary engineering, microbiology, public health, and shellfish sanitation. Through the coordinated experience of the various disciplines in the Department, evaluation and adoption of a new standard was accomplished which allows the industry to utilize the shellfish they require from the South, but at the same time provides adequate public health protection. This sort of problem is more appropriately addressed

Department of Health  
Response to JLARC Recommendations

by an agency with public health experience than one with primarily a regulatory background.

It is difficult to understand how the most recent JLARC study could recommend the Bureau of Shellfish Sanitation be placed in the Department of Agriculture and Consumer Services rather than retained in the Health Department in light of the very unsatisfactory evaluation given that agency in the 1982 JLARC study entitled The Economic Potential and Management of Virginia's Seafood Industry. On page 122 of that report it states:

"In contrast to the State Health Department's program for shellfish sanitation, the DACS program for finfish facilities has several programmatic deficiencies. The agency does not require notification of plant operation; no specific standards exist for finfish plants; an inadequate facility evaluation form is used; and intermediate sanctions such as suspension of certification or an administrative order are not available."

Page 124

"JLARC's analysis of DACS' plant inspection records reveals that the agency's administrative goal of conducting sanitary inspections every six months is inconsistently applied.

A randomly-selected sample of 47 finfish plant inspection records were reviewed by JLARC staff for the period January 1979 through July 1982. Analysis of the two most recent inspections for each facility found that almost 75 percent of the sampled facilities were not inspected with DACS' six month goal."

Page 129

"Without effective interim sanctions to deal with flagrant and repeated violations of Virginia Food Laws, DACS must rely on voluntary compliance by processors to ensure that sanitary conditions are maintained. Voluntary compliance has, however, permitted some processors to continue operating under unsanitary conditions."

It is believed that the above quotes from the 1982 JLARC Report are ample evidence that the Department of Agriculture and Consumer Services is not oriented in the essential sanitation or public health doctrines so vital to the administration of an effective shellfish sanitation program for the Commonwealth. VDAC's record of being unable to make the needed inspections of seafood processing establishments and enforce sanitary compliance is unacceptable and of serious concern. It is recommended that the Bureau of Shellfish Sanitation remain in the Department of Health where the mutual benefits of various health related bureaus and personnel may continue to provide the support necessary for the protection of the public health and enhancement of the shellfish industry.



Date: October 11, 1983

The JLARC recommendation for transferring the Health Department's (SHD) Bureau of Shellfish Sanitation to the Department of Agriculture and Consumer Services (DACS) because of supposed duplication and fragmentation in the sanitary inspections of seafood processing establishments is based on incomplete comprehension regarding the public health mandates associated with the shellfish and crabmeat sanitation program.

Inspection of shellfish and crabmeat establishments cannot be related to the inspection of other seafood processing operations. The inspectional objectives for shellfish and crabmeat processors are entirely different. It is also imperative that it be recognized there is No Duplication or Fragmentation involved in the seafood processing plant inspectional programs administered by SHD and DACS. The SHD and DACS do not conduct "identical activities" (as defined in the definition of duplication) or do they carry out "different activities leading to the same goal" (as defined in the definition of fragmentation).

The Health Department's basic activities in seafood plant inspections are designed to assure that human diseases are not transmitted by shellfish and crabmeat. Compliance with this mandate is dependent upon the integrated cooperation of a number of other SHD programs. The shellfish program cannot be compared to DACS inspectional activities in seafood processing plants which are infrequently performed for compliance with basic procedures for quality control similar to those carried out in the chicken or meat packing industries. DACS is not concerned with the daily, technical, public health related sanitary requirements so essential to the operation of a shellfish or crab meat processing establishment that must be consistently carried out to prevent the spread of disease via such products.

The Bureau of Shellfish Sanitation (BSS) shellfish and crabmeat plant inspectional activities are totally integrated with other BSS program mandates such as shoreline survey, water quality monitoring and growing area classification. The SHD shellfish sanitation program must be supported by day to day coordination with other health department programs which is necessary for effective administration.

The protective umbrella presently provided by the SHD has assured public confidence in the safety of shellfish. There is no other agency in state government that can better provide the required degree of support for the seafood industry as well as protection of the public health. Delegation of this responsibility to a nonhealth oriented agency could quickly erode the national marketing advantage the Virginia shellfish industry has been able to establish largely as a result of the highly recognized sanitation control program administered by the Health Department.

The essential shellfish growing area sanitary survey and seawater analysis program administered by the SHD has no interaction with activities carried out by DACS. These activities are closely aligned with the water program activities delegated to the SHD and is one of the main reasons the BSS should remain in the SHD. It makes good sense to keep all of these functions together rather than fragmenting them between the SHD and DACS.

Virginia's shellfish sanitation program must have the ability to respond to problems or crises at any hour of the day or night in order to prevent the marketing of hazardous shellfish or crabmeat. This capability presently exists in the SHD but would very probably be diminished under DACS as referenced in the 1983 JLARC study of the seafood industry. Due to the urgent need to respond immediately to shellfish related crises, BSS has its own authorized laboratory capability which can be brought into play at a moments notice. These laboratories are also involved in analysing samples for compliance with the Safe Drinking Water Act which is administered by the SHD.

In order for the shellfish and crabmeat industry to survive, it is essential the public be assured the product is safe and wholesome. The close sanitary supervision of the shellfish and crabmeat industries now in effect results from a shellfish oriented typhoid fever outbreak in 1925. Proper classification of shellfish waters and sanitary supervision of processing plants is necessary to assure consumer acceptance of the product. Should these responsibilities not be properly handled, serious damage may be done to the industry. While DACS has responsibility for enforcing the Good Manufacturing Practices (GMP) for certain segments of the food industry, it has very little experience with the highly specialized National Shellfish Sanitation Program requirements for sanitation of the harvesting and processing of shellfish or the sanitation of the picking, packing, and marketing of crabmeat. Sanitary supervision of the shellfish and crabmeat industries requires a highly skilled, public health oriented, technical knowledge that is not mandatory in general food manufacturing work such as administered by the DACS. The ability to assure the production of safe, wholesome shellfish and crabmeat products requires a minimum of monthly or more often inspections. The DACS 6-8 month inspectional interval between inspections would be totally inadequate for this purpose.

The noted 1981 FY expenditure of \$772,986 was for administration of the entire BSS and not just its seafood processing sanitary inspection activities. The \$772,986 allocation included the shoreline sanitary survey, seawater monitoring, laboratory analysis, and inspection programs of the Bureau. The inspectional portion of the program would be allocated only about 40% of that total.

It is not believed any significant duplication or fragmentation of seafood establishments activities exist between the SHD and DACS. The SHD inspects all phases of the seafoods processing industry except for finfish and manufactured products. While DACS and SHD may inspect different types of processing operations

the overlapping is minimal and could be eliminated entirely by the SHD assuming responsibility for inspecting all seafood operations associated with a facility that also processes shellfish or crabmeat. This could be accomplished with very modest additional resources and would provide the seafood industry with vastly improved sanitation support over that currently provided by DACS. Assumption of this responsibility would not only provide the additional public health assurance so necessary to the industry, but would also free present DACS inspectors for more concentrated activities in nonseafood related industries.

It is recommended the JLARC staff give serious consideration to the above recommendation as an alternative to removing the shellfish sanitation program and associated shellfish and crabmeat industry from the vital "Health Umbrella" provided by the State Health Department.

