



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF MARINE FISHERIES
Three Fort Wetherill Road
Jamestown, Rhode Island 02835

Federal CARES Act
Fisheries Disaster Assistance
Spend Plan for the State of Rhode Island

July 27, 2020

DRAFT FOR REVIEW PURPOSES

Objective:

Administer Rhode Island's \$3,267,923 allocation of federal fisheries disaster assistance under Sec. 12005 of the CARES Act by expeditiously and equitably disbursing it in the form of direct payments to eligible fishery participants in the four sectors used by NOAA Fisheries to establish Rhode Island's allocation: commercial fishing, commercial aquaculture, seafood processing/wholesaling, and for-hire businesses.

Project Summary:

1. RIDEM will set aside \$100,000 to cover RIDEM's administrative costs for the program
2. RIDEM will allocate the remaining \$3,167,923 among the four sectors used by NOAA to establish RI's allocation, via the same proportions used by NOAA, along with a state-specific sub-allocation for the for-hire sector:
 - a. Commercial Fishing (62.6%) = \$1,983,120
 - b. Commercial Aquaculture (5.4%) = \$171,068
 - c. Seafood Processing/Wholesale (28.5%) = \$902,958
 - d. For-Hire (3.5%) = \$110,877
 - Party/Head Boat Sub-allocation (67%) = \$74,288
 - Charter Boat Sub-allocation (33%) = \$36,589

3. RIDEM will establish eligibility criteria for fishery participants in each sector.
 - a. For all participants:
 - i. Must be a RI resident
 - ii. Must be 18 years of age or older
 - iii. Must have owned a properly licensed business that was engaged in one or more of the four sectors between March 1 and May 31 during one or more years over the five-year period 2015-2019
 - iv. Must have incurred, as a direct or indirect result of the coronavirus pandemic, a documented fishery-related loss in revenue, during the period between March 1 and May 31, 2020, greater than 35% relative to average fishery-related revenues earned during the same 3-month period over the prior 5 years (2015-2019), or active portion thereof if fishery-related revenues did not encompass entire 5-year period
 - b. For participants in the commercial fishing sector:
 - i. Must be the owner of a commercial fishing vessel home-ported in RI (owners of more than one qualifying vessel may submit separate applications for each vessel); or
 - ii. Must be the holder of a RI commercial fishing license, not affiliated with a fishing vessel/business, valid for 2020 (e.g., shore-based fishers)
 - c. For participants in the commercial aquaculture sector:

Must be the owner of an aquaculture business, based in RI, who holds a RI-based aquaculture lease and holds a RI aquaculture license valid for 2020 (holders of more than one qualified lease may submit separate applications for each lease)
 - d. For participants in the seafood processing/wholesaling sector:

Must be the owner of a seafood wholesale/processing business, with facility based in RI, who holds a RIDEM Dealer License and a RIDOH wholesaler's license, both valid for 2020
 - e. For participants in the for-hire sector:

Must be the owner of a for-hire vessel/business, home-ported in RI, who holds a RI Party/Charter license valid for 2020

4. RIDEM will provide all participants with an Affidavit and Application form, to be completed and submitted to RIDEM for review.
 - a. RIDEM will establish a firm, 15-day application period
 - b. Applications may be downloaded from RIDEM's website, or picked up at RIDEM's Marine Fisheries Office in Jamestown, or Coastal Resources Office in Galilee (Narragansett).
 - c. Applications must be notarized and submitted as a hard copy at RIDEM's Marine Fisheries Office in Jamestown, or Coastal Resources Office in Galilee (Narragansett).
 - d. RIDEM will require applicants to provide the following information as part of each application:
 - i. Self-certification that the applicant meets the 35% loss-in-revenue threshold
 - ii. Quantification of revenue loss during the 3-month reference period in 2020, relative to average revenue earned during same 3-month period over prior 5 years, or active portion thereof if revenues did not encompass entire 5-year period
 - iii. Identification and submittal of data source(s) used to quantify revenue loss
 - iv. Identification and quantification of any/all direct assistance received from other sources to cover COVID-19-related financial impacts, through the date of submission of the application, or certain to be received subsequent to the submission of the application
 - Not including one-time stimulus payments
 - Including unemployment insurance benefits, forgivable Payroll Protection Program loans, and any/all other forms of financial assistance, received by the applicant prior to the submission of the application, or certain to be received by the applicant subsequent to the submission of the application, that are not subject to repayment.
 - v. The amount of the applicant's claim for federal fisheries disaster assistance, based on subtracting any/all direct assistance as noted above from the documented revenue loss during the 3-month reference period in 2020.
 - vi. Self-certification that the applicant is not seeking assistance that would render them "more than whole" relative to their documented loss during the 3-month reference period in 2020.

- vii. Self-certification that the applicant has the records/documentation to support the reported loss, will retain those records for at least three (3) years after receipt of payment, and will make the records available upon request from the State of Rhode Island, NOAA, or the Office of the Inspector General, if necessary, for purposes of conducting individual or programmatic audits.
 - viii. Self-certification that the applicant is in good standing with the RI Department of Revenue, Division of Taxation.
 - ix. Consent to allowing RIDEM to use SAFIS data, VTRs, dockside sales records, CRMC Aquaculture Questionnaires, and other relevant data sources to verify the information provided by the applicant to quantify revenue loss.
 - e. Determination as to how each applicant wishes to be notified regarding RIDEM's decision on each application: either via certified mail, or by picking up and signing for the decision letter at RIDEM's Marine Fisheries Office in Jamestown, or Coastal Resources Office in Galilee (Narragansett).
- 5. Upon close of the application period, RIDEM will conduct an expeditious review of all applications.
 - a. For participants in the commercial fishing sector:

Available statistics on the commercial fishing fleet and information requested from applicants will be used to determine minimum eligibility. Information from independently verifiable sources such as SAFIS dealer reports will be used to verify losses.
 - b. For participants in the commercial aquaculture sector:

Available statistics on the aquaculture industry and information requested from applicants will be used to determine minimum eligibility. Information from verifiable sources such as RI Coastal Resources Management Council (CRMC) Annual Aquaculture Questionnaires and Hazard Analysis Critical Control Point (HACCP) records will be used to verify losses. Data sources used for verification may differ by participant depending on what data are available. Participants will be required to provide relevant HACCP reports and other relevant information documenting their sales.

- c. For participants in the seafood processing/wholesale sector:

Available statistics on the seafood processing/wholesale industry and information requested from applicants will be used to determine minimum eligibility. Information from independently verifiable sources such as SAFIS dealer reports will be used to verify losses.

- d. For participants in the for-hire sector:

- i. Available statistics on the for-hire fleet and information requested from applicants will be used to determine minimum eligibility. Information from independently verifiable sources such as federal Vessel Trip Reports (VTRs) and eTrips Mobile will be used to verify losses. For active years in which those data sources are not available, applicants will be required to provide information documenting their activity.
- ii. For federal boats, years from 2015-2019 can be evaluated from VTRs or 2019 information from eTrips. For state-only boats, only 2019 eTrips information will be available.
- iii. Information regarding number of trips and passenger capacity for the trips during the reference period will be used to quantify baseline activity for comparison to calculated losses.
 - Head boat passengers will be estimated via reported gear quantities in VTRs or eTrips, with the verification dataset varying depending on years of which the applicant asks to be reviewed.
 - Charter boat passengers will be assumed as six for all trips based on the fleet dynamics.
- iv. Revenue will then be quantified as a function of fees associated with passengers based on Lovell et al. (2020), with an estimated for-hire cost associated with passengers of \$106.75 (incorporating guide fees and crew tips).

6. Pursuant to RIDEM's review of all applications, those applications not meeting eligibility criteria, or who submit claims that do not align with the data sources used to establish claims, will be issued letters of denial and be afforded a 15-day window of opportunity to appeal.

7. RIDEM will tally all claims within each sector and, for each sector, undertake the following process of determining payment amounts:
 - a. For participants in the commercial fishing sector:
 - i. If the total amount of claims is less than \$1,983,120, RIDEM will process payments for the full amount of each claim.
 - ii. If the total amount of claims is more than \$1,983,120, RIDEM will calculate the percentage of the total shortfall, and apply that percentage to each claim. (For example, if total amount of claims is \$3,000,000, each claimant would receive 66.10% of their claim.)
 - b. For participants in the commercial aquaculture sector:
 - i. If the total amount of claims is less than \$171,068, RIDEM will process payments for the full amount of each claim.
 - ii. If the total amount of claims is more than \$171,068, RIDEM will calculate the percentage of the total shortfall, and apply that percentage to each claim. (For example, if total amount of claims is \$300,000, each claimant would receive 57.02% of their claim.)
 - c. For participants in the seafood processing/wholesale sector:
 - i. If the total amount of claims is less than \$902,958, RIDEM will process payments for the full amount of each claim.
 - ii. If the total amount of claims is more than \$902,958, RIDEM will calculate the percentage of the total shortfall, and apply that percentage to each claim. (For example, if total amount of claims is \$1,500,000, each claimant would receive 60.19% of their claim.)
 - d. For participants in the for-hire sector:
 - i. Party/Head boat permit holders:
 - If the total amount of claims from eligible party/head boat permit holders is less than \$74,288, RIDEM will process payments for the full amount of each claim.

- If the total amount of claims is more than \$74,288, RIDEM will calculate the percentage of the total shortfall, and apply that to each claim.

ii. Charter boat permit holders.

Eligible charter boat permit holders will receive equal compensation of the charter-boat sub-sector allocation; thus, RIDEM will process equal payments to all qualifying charter boat applicants based on the number of qualifying charter boat applicants.

Applicants cannot be made more than whole. As such, if the equal distribution of funds, based on the number of qualifying claims and the charter-boat sub-allocation amount, results in equal payments that exceed any individual claims, those applicants will receive payments in the amount of their individual claims.

If the above-described disbursement process results in a balance of funds remaining in the charter boat sub-sector allocation, those funds will be reallocated to the head boat subsector to cover any shortfalls in that sub-sector.

8. RIDEM will issue letters of eligibility to all qualifying applicants in all four sectors.

- a. Each letter will include the individual award amount based on the process described above.
- b. All qualifying applicants will be afforded a 15-day window of opportunity to appeal individual award amounts.

9. Appeals

- a. Any applicant who submits an application during the application period, and is deemed ineligible for an award, may appeal that determination to the Director.
- b. Any applicant who submits an application during the application period, and is deemed eligible for an award, may appeal the determination of the amount of the award to the Director.

- c. All appeals must be submitted in writing and be filed with the Director no later than fifteen (15) calendar days following the applicant's receipt of the written notification from RIDEM regarding the application. All appeals shall include a cover letter setting forth the reason(s) the application should have been deemed eligible, or the reason(s) the award amount should be different.
 - d. There will be no opportunity to appeal a determination of ineligibility if such determination is based on the submittal of an application following the close of the application period.
 - e. The Director or the Director's designee will review all appeals, determine whether the applicant/appellant has satisfied his/her burden of proving that RIDEM's determination was not consistent with the eligibility or award standards set forth in the approved RI Spend Plan and associated rules and regulations, and render final agency decisions based thereon.
 - f. The Director shall provide all applicants/appellants with written notification of her/his final agency decision.
10. Upon completion of the appeals process, RIDEM will make any final adjustments to awards necessary to ensure that the RI's \$3,167,923 total allocation is fully distributed to all eligible fishery participants. That is, any balances remaining in any sector will be reallocated, proportionally, to other sectors incurring shortfalls, and distributed, proportionally, to qualifying applicants in those sectors. RIDEM will issue final letters of award, specifying the final amounts of each award, to all qualifying applicants in all four sectors. At the same time, RIDEM will forward the names, contact information, social security numbers and award amounts of all qualifying applicants to the Executive Director of the Atlantic States Marine Fisheries Commission (ASMFC), pursuant to a Cooperative Agreement between RIDEM and ASMFC that protects the confidentiality of information not subject to public disclosure. In turn, the ASMFC will issue payments to all qualifying applicants in accordance with the award amounts. The payments will be accompanied by 1099 forms, given the taxable nature of the payments.

Literature Cited

Lovell, Sabrina, James Hilger, Emily Rollins, Noelle A. Olsen, and Scott Steinback. 2020. The Economic Contribution of Marine Angler Expenditures on Fishing Trips in the United States, 2017. U.S. Dep. Commerce, NOAA Tech. Memo. NMFS-F/SPO-201, 80 p.