



## **RHODE ISLAND**

### **DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

#### **DIVISION OF MARINE FISHERIES**

Three Fort Wetherill Road  
Jamestown, Rhode Island 02835

## Federal Consolidated Appropriations Act

### Fisheries Assistance Spend Plan for the State of Rhode Island

June 11, 2021

DRAFT

#### Objective:

Administer Rhode Island's \$2,959,612 allocation of fisheries assistance provided by the Consolidated Appropriations Act of 2021 (CAA) 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.

The methodology in this Spend Plan largely mirrors that set forth in the prior RI Spend Plan for Fisheries Relief pursuant to the Federal CARES Act, dated September 9, 2020. The methodology may be used for any future funds appropriated by Congress for the same purpose.

#### Project Summary:

1. The Rhode Island Department of Environmental Management (RIDEM) will set aside \$30,369 to cover RIDEM's administrative costs for the program (see Part 13, herein).

2. RIDEM will allocate the remaining \$2,929,243 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%) =	\$1,833,706
b. Commercial Aquaculture (5.4%) =	\$158,179
c. Seafood Processing/Wholesale (28.5%) =	\$834,834
d. For-Hire (3.5%) =	\$102,523
Party/Head Boat Sub-allocation (67%) =	\$68,691
Charter Boast Sub-allocation (33%) =	\$33,833

Note: NOAA Fisheries took into consideration negative impacts to subsistence, cultural, and ceremonial fisheries during the allocation process for this program. In Rhode Island, there are no fishery-specific allocations (e.g., quotas) for tribes or known ceremonial fisheries that were affected. Rhode Island recognizes aboriginal fishing rights allow the taking of fish for subsistence purposes, notably the harvest and consumption of those fish and shellfish by the harvester and his/her family. Fishing for these purposes was not restricted or constrained by the pandemic or by any state rules enacted in response to the pandemic

3. RIDEM will establish eligibility criteria for fishery participants in each sector.

- a. For all participants:
  - i. Must be a RI resident, or a member of a federally recognized tribe residing in RI, upon date of application.
  - ii. Must be 18 years of age or older upon date of application.
  - iii. Must have owned a properly licensed business in 2020 that was engaged in one or more of the four sectors during the sector-specific reference period 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 sector-specific reference period, greater than 35% relative to average fishery-related revenues earned during the same sector-specific reference 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. Sector-specific reference period is April 1 - July 31, 2020.

- ii. Must be the owner of a commercial fishing vessel holding a commercial vessel declaration or landing permit issued by RIDEM (owners of more than one qualifying vessel may submit separate applications for each vessel); or
    - iii. 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:
    - i. Sector-specific reference period is March 1 – May 31, 2020.
    - ii. 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:
    - i. Sector-specific reference period is March 1 – May 31, 2020.
    - ii. 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:
    - i. Sector-specific reference period is May 1 – December 31, 2020
    - ii. Must be the owner of a for-hire vessel/business, 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 and validation.
  - a. RIDEM will establish a firm, 15-day application period. Applications received after the publicly noticed deadline will not be reviewed or considered.
  - 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 greater than 35% loss-in-revenue threshold.
- ii. Quantification of revenue loss during the sector-specific reference period in 2020, relative to average revenue earned during same 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.
  - Not including stimulus payments (i.e., Economic Impact Payments sent by the IRS to qualified individuals).
  - Including prior CARES Act fisheries assistance, unemployment insurance benefits, forgivable Payroll Protection Program loans, and any/all other forms of financial assistance received by the applicant that are not subject to repayment.
- v. The amount of the applicant's claim for assistance, based on subtracting any/all direct assistance as noted above from the documented revenue loss during the sector-specific reference period in 2020.
- vi. Self-certification that the applicant is not seeking assistance that would render them "more than whole" relative to their average annual revenue earned across the previous five years.
- 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 the close of the primary grant award to the Atlantic States Marine Fisheries Commission, 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, RI Coastal Resources Management Council (RI CRMC) Aquaculture Questionnaires, and other relevant data sources to verify the information provided by the applicant to quantify revenue loss.
- x. 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).

- e. Drawing upon information available from RIDEM's Office of Boating Registration and Licenses, the RI CRMC, and the RI Department of State, RIDEM will validate each application with regard to each applicant's license status, vessel ownership status, and business ownership status.
5. Upon close of the application period, RIDEM will conduct an expeditious review and validation of all applications.

- a. For participants in the commercial fishing sector:

Available records and statistics on the commercial fishing fleet and information requested from applicants will be used to determine minimum eligibility.

Available and independently verifiable sources include RIDEM's commercial license and boat registration database, business records maintained by the RI Department of State, SAFIS dealer reports, dockside sales logbooks, VTRs, and state logbook reports (eTRIPS or paper logbook). Information from these same sources, as well as other information (e.g., tax records) provided by applicants, will be used to verify losses.

- b. For participants in the commercial aquaculture sector:

Available records and statistics on the aquaculture industry and information requested from applicants will be used to determine minimum eligibility.

Available and independently verifiable sources include RI CRMC lease approval records, RIDEM's aquaculture license database, business records maintained by the RI Department of State, and for 2020, SAFIS dealer reports. Information from verifiable sources such as RI CRMC Annual Aquaculture Questionnaires, Hazard Analysis Critical Control Point (HACCP) records, and other information (e.g., tax records) provided by applicants 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 records and statistics on the seafood processing/wholesale industry and information requested from applicants will be used to determine minimum eligibility. Available and independently verifiable sources include RIDEM's dealer

license database, RIDOH's processor license database, business records maintained by the RI Department of State, and SAFIS dealer reports. Information from independently verifiable sources such as SAFIS dealer reports, as well as other information (e.g., tax records) provided by applicants, will be used to verify losses.

- d. For participants in the for-hire sector:
  - i. Available records and statistics on the for-hire fleet and information requested from applicants will be used to determine minimum eligibility. Available and independently verifiable sources include RIDEM's Party/Charter license and boat registration database, and business records maintained by the RI Department of State. Information from independently verifiable sources such as federal Vessel Trip Reports (VTRs) and eTrips Mobile, as well as other information (e.g., tax records) provided by applicants, will be used to verify losses. For active years in which data sources are not available, applicants will be required to provide information (e.g., business records) 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 annual 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.
    - The number of charter boat passengers will be assumed as six (6) for all trips based on the fleet dynamics.
  - iv. Revenue will then be quantified based on the number of trips multiplied by the average passengers per trip. Average revenue per passenger will be 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 applicants 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. A publicly noticed deadline for appeals will be included in the letter. No appeals will be accepted after this date.
7. RIDEM will tally all claims within each sector and, for each sector, undertake the following process of determining payment amounts. With the exception of the charter boat sub-sector, there will be no minimum payment amounts. Maximum payments will be dictated by the upper threshold of each sector allocation, as described below.
  - a. For participants in the commercial fishing sector:
    - i. If the total amount of claims is less than \$1,833,706, RIDEM will process payments for the full amount of each claim.
    - ii. If the total amount of claims is more than \$1,833,706, 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 61.12% of their claim.)
  - b. For participants in the commercial aquaculture sector:
    - i. If the total amount of claims is less than \$158,179, RIDEM will process payments for the full amount of each claim.
    - ii. If the total amount of claims is more than \$158,179, 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 52.73% of their claim.)
  - c. For participants in the seafood processing/wholesale sector:
    - i. If the total amount of claims is less than \$834,834, RIDEM will process payments for the full amount of each claim.
    - ii. If the total amount of claims is more than \$834,834, 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 55.65% 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 \$68,691, RIDEM will process payments for the full amount of each claim.
- If the total amount of claims is more than \$68,691, 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 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 party/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 RIDEM Office of Legal Services 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, as well as any/all supporting documentation for the appeal.
  - 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's Executive Counsel, or their designee, will review all appeals, determine whether the applicant/appellant has satisfied their burden of proving that RIDEM's determination was not in compliance with the eligibility or award standards set forth in this 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 their 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 \$2,929,243 total allocation is fully distributed to all eligible fishery participants. 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.
11. If there are any funds remaining after all awards are made pursuant to this Spend Plan, those remaining funds will be designated for exclusive use in supporting Rhode Island's Seafood Marketing Program, administered by RIDEM on behalf of the Rhode Island Seafood

Marketing Collaborative and pursuant to the Collaborative's Strategic Plan for the Marketing of Seafood in Rhode Island.

## 12. Timeline for Program

Prior to approval of this RI Spend Plan by NOAA, RIDEM will set up a webpage pertaining to the program, and as part of that webpage, provide a data request portal.

Upon approval of this RI Spend Plan by NOAA, RIDEM will enact the following steps:

- a. Within two (2) weeks following approval:
  - RIDEM will promulgate emergency regulations codifying the approved RI Spend Plan.
  - RIDEM will make available a standardized Affidavit and Application form.
  - RIDEM will announce the dates of the 15-day application period.
- b. The 15-day application period will take place (estimated: mid-August 2021)
- c. Upon close of the application period, RIDEM will conduct an expeditious review and validation of all applications (estimated: early September 2021)
- d. RIDEM will issue letters of eligibility to all qualifying applicants in all four sectors. Each letter will include the individual award amount. All qualifying applicants will be afforded a 15-day window of opportunity to appeal individual award amounts (estimated: late-September 2021)
- e. RIDEM will issue letters of denial to applicants not meeting eligibility criteria, or who submit claims that do not align with the data sources used to establish claims, or who submit incomplete applications. All recipients will be afforded a 15-day window of opportunity to appeal (estimated: late-September 2021)
- f. Upon close of the 15-day appeal period, RIDEM will conduct an expeditious review of all appeals. The Director will provide all applicants/appellants with written notification of her final agency decision (estimated: mid-October 2021)
- g. Upon completion of the appeals process, RIDEM will make any final adjustments to awards necessary to ensure that the \$2,929,243 total allocation to Rhode Island is fully distributed to all eligible applicants. 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. (estimated: early-November 2021)

- h. RIDEM will forward the names, contact information, social security numbers and award amounts of all qualifying applicants to the Executive Director of the ASMFC, pursuant to a Cooperative Agreement between the Department and ASMFC that protects the confidentiality of information not subject to public disclosure (estimated: early-November 2021)
- i. The ASMFC will issue payments to all qualifying applicants in accordance with the award amounts (estimated: late November 2021)

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.