



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF THE DIRECTOR

235 Promenade Street, Room 425
Providence, Rhode Island 02908

Response to Comments

Offered During May 25, 2016 – June 27, 2016 Public Comment Period
& June 27, 2016 Public Hearing

Re:

*Rules and Regulations Governing the Administration of Federal Groundfish Disaster Funds –
Phase Three Program for Rhode Island*

Summary – The proposed rules would implement the Rhode Island component of Phase Three [aka Phase 3 or Bin 3] of the Consensus Plan for the Distribution of Federal Northeast Multispecies [Groundfish] Fishery Disaster Funds. For this program, as proposed in the draft rules, the Rhode Island Department of Environmental Management (DEM) would disburse \$635,092 in federal aid to assist those engaged in the Rhode Island groundfish community who were significantly adversely affected by the groundfish disaster, declared by the U.S. Secretary of Commerce in September 2012. Additionally, as proposed in the draft rules, \$70,566 would be made available for the development and implementation of a crew recruitment and training program.

After considering the comments provided during the public comment period, DEM has decided to disburse all the federal aid available under the program to assist those engaged in the Rhode Island groundfish community who were significantly affected by the groundfish disaster, and not allocate a portion of the aid for the development of a crew recruitment and training program.

Comments – A total of eleven comments were submitted. They pertain to one primary issue, and one additional issue, as set forth below.

Issue #1: The proposed regulations would provide \$70,566 for the development of a crew recruitment and training program; the monies would be set aside and made available to a qualified bidder, as determined by the RI Department of Administration, Division of Purchases, in response to a Request for Proposals solicitation process conducted by the Division of Purchases, in coordination with DEM.

Public comment on this aspect of the Phase 3 Program was mixed. Four commenters, including the Commercial Fisheries Center of Rhode Island, the president of a fish dealer and processor in Galilee, the owner/captain of a commercial fishing vessel home-ported in Galilee, and the owner/president of three RI-based companies involved in marine safety, also representing the interests of 13 larger fishing vessels, 4 offshore lobster vessels, and 5 inshore vessels, expressed support for the crew program. Seven commenters, including the Rhode Island Fishermen's Alliance, a representative of a RI-based seafood producer and trader, two owner/captains of commercial fishing vessels home-ported in Galilee, a current RI-based commercial fishermen, and two former RI-based commercial fishermen, expressed opposition.

Those in support offered the following points:

- There is a shortage of qualified individuals interested in becoming commercial fishermen – in RI and throughout the region. Thus, programs aimed at promoting inter-generational fishery access and entry level access into the fishery should be prioritized and supported.
- A crew recruitment and training program comports well with the guidance provided to the states by NOAA Fisheries for the Bin 3 grants.
- A crew recruitment and training program comports well with Governor Raimondo’s agenda for growing Rhode Island’s economy, including growing Rhode Island’s commercial fishing industry.
- Commercial fishing businesses in Rhode Island – particularly Galilee, the state’s major commercial port – strongly rely on the availability of crew members to staff the vessels that fish from and land in the port.
- The RI industry is ageing, with a large number of vessels dating to the 1970s and many captains and crew approaching retirement. The industry is therefore in desperate need of reliable crew, some of whom, with experience, may eventually become vessel captains and/or owners, thereby sustaining the industry in the long-term.
- It is expensive and dangerous for commercial fishing vessels to take inexperienced crew out to sea; thus, a program that can provide safety and navigation training for prospective crew would be extremely helpful.
- It benefits the RI commercial fishing industry to put responsible, hard-working people on RI vessels. A more robust supply of reliable crew would address a number of major issues facing the industry, including access to and costs of insurance, the unacceptably high levels of risk, injury, and loss of life due to inexperience and lack of knowledge, and the efficiency of commercial fishing operations.
- A 10 percent set-aside from RI’s Bin 3 grant for crew recruitment and training would amount to just 2.6 percent of the entire groundfish disaster assistance funding made available to RI (Bins 1, 2, and 3 combined), with the balance (97.4 percent) all going to direct assistance payments to fishermen affected by the disaster. It is appropriate that the vast majority of the funds have gone, and will continue going, to direct payouts. It is also appropriate that a small percentage be dedicated to the development of a program that seeks to bolster and stabilize the RI commercial fishing industry.
- Other states in the region have used portions of their groundfish disaster assistance grants to help bolster their industries; so RI would be in sync with the other states by utilizing a portion of its Bin 3 grant for a program that seeks to achieve a better and more sustainable industry for the future.
- The Commercial Fisheries Center of Rhode Island has applied to the National Fish and Wildlife Foundation for a grant to fund a crew recruitment and training program, and is hoping to utilize the 10 percent set aside from the Bin 3 grant as in-kind, supplemental funding to lend additional support to the program.

Those in opposition offered the following points:

- Disaster relief money should go to relieve those who were hurt by the disaster. There are three entities who got hurt: the boats, captains, and crew. All of the funding should go to those three entities.

- Per the guidance from NOAA Fisheries on RI's use of the Bin 3 grant, the funding can/should be used to help prevent future disasters. Crew training did not create this disaster; it was created by management and science.
- Allowing a portion of the funds to go to other entities that were not affected by the disaster, i.e., did not suffer financial damage because of the disaster, would constitute the awarding of aid under false pretenses.
- Affected fishermen should be afforded the opportunity to make their own decisions on what to do with their money. If they wish to spend it on crew recruitment and training, it's their prerogative to do so; but government should not make that decision for them.
- The need for a crew recruitment program is questionable; the industry is not attractive to new entrants, and that's unlikely to change.
- There are other, more appropriate sources of funding for crew recruitment and training that should be pursued.
- A crew recruitment and training program is a good idea, and worth pursuing, but it needs to be more fully vetted and supported via consensus-building before it moves forward.
- Individual captains should be responsible for training their own crew; training should not be conducted by someone else.
- Instead of institutionalizing the 10 percent set-aside, a better approach would be afford each awardee the opportunity to donate a portion of his/her award to the crew program.
- It doesn't matter what other states have done with their Bin 3 grants. RI should decide what's best for RI, based on consensus within the RI industry.
- The relatively light turn-out for the public hearing is largely due to the highly productive squid season that has kept the industry very busy; were it not for that, the hearing could have been packed with a lot of people opposing the 10 percent set aside for crew recruitment and training.

Response: The Department acknowledges the strong points made both in support and in opposition to the proposed allocation of funding from the Phase 3 Program for the development of a crew recruitment and training program. Upon final consideration, the Department finds that disbursing all the federal aid available under Phase 3 to assist those engaged in the Rhode Island groundfish community who were significantly affected by the groundfish disaster is the most appropriate use of the Phase 3 funding. The reasons for this decision are as follows:

1. Providing direct assistance to those who were most impacted by the federal groundfish disaster is, de facto, the primary purpose of the federal appropriation issued in response to the federal disaster declaration. While Rhode Island and the other New England states have been afforded the opportunity to tailor their disbursement programs to best address the needs and interests of their groundfish communities, Rhode Island has embraced direct assistance as the most straightforward and fair way to allocate federal disaster assistance funds -- supporting it for Phase 1 and adopting it for Phase 2. The Department finds that it is best to maintain that consistent approach for the third and final phase.
2. Many of those who oppose the use of Phase 3 funds to support a crew recruitment and training program are only opposed to the use of disaster assistance funds for that purpose, not the validity of the program per se.
3. A crew recruitment and training program would indeed advance the economic and safety interests of the RI commercial fishing industry, help to generate new job opportunities, and help to put the industry on stable footing for years to come.

4. The Department is aware that, on July 12, 2016, the Commercial Fisheries Center of Rhode Island was awarded a \$105,500 grant from the National Fish and Wildlife Foundation [Fisheries Innovation Fund] to develop and implement a crew recruitment and training program.
5. The Phase 3 regulations, as proposed, would offer an opportunity to utilize a relatively small amount of funds -- \$70,566 – as seed money to support the development of a crew recruitment and training program, via an open solicitation process conducted by the RI Department of Administration, Division of Purchases. However, there is no guarantee that such funding would be made available to any specific entity; moreover, the funding would be limited in scope and duration, leaving open the question of long-term programmatic support. Rather than engage in a lengthy administrative process, with an uncertain outcome, as would be the case under the terms of the proposed regulations, a more focused effort, building directly on the National Fish and Wildlife Foundation grant, is a more reasonable and fruitful strategy. The development of a crew recruitment and training program is of such merit and importance, as evidenced by the Commercial Fisheries Center’s successful grant application to the National Fish and Wildlife Foundation, that it warrants greater attention and focus, particularly with a view to long-term sustainability, than that which would be provided by the RFP process set forth by the proposed regulations.
6. The Department is committed to working closely with the Commercial Fisheries Center to help make their program a success. That will require additional, long-term funding. The Department will explore opportunities with the RI Department of Labor and Training to pursue a long-term strategy targeting training and workforce development within the RI commercial fishing industry, drawing upon the Commercial Fisheries Center’s recent grant award as a launching point.

Changes to Final Regulations: For the reasons given above, the Department has modified the final regulations as follows:

1. Under Part 1. Purpose – Change “\$635,092” to “\$705,658.” Also, strike the following sentence: “Additionally, \$70,566 will be made available for the development and implementation of a crew recruitment and training program.”
2. Under Part 6. Organization and Method of Operation – Strike the following sentence: “Funds from the Grant dedicated to the development and implementation of a crew recruitment and training program will be made available via a Request for Proposals, administered by the Rhode Island Department of Administration, Division of Purchases, in coordination with the Department.
3. Under Section 7.1.5(A), strike subsection 1.
4. Under Section 7.1.5(A), subsection 2, change “\$635,092” to “\$705,658.”
5. Under Section 7.1.5(B), change “381,055” to “\$423,395.” Also, change “\$254,037” to “\$282,263.” Also change “\$8,861” to “\$9,846.”

Issue #2: The proposed regulations allocate 60 percent of the disaster assistance payments to commercial permit holders and 40 percent to commercial captains and crew. One commenter made the

following points: 1) a portion of the Bin 2 grant/program was used to cover the Department's administrative costs, and another portion was used to support groundfish sector administration; 2) since most of the Bin 2 grant/program was used to provide payments to captains and crew, they effectively subsidized overall administration (Bins 2 and 3) and received less because sectors, which primarily support permit holders, received payments on top of the payments to permit holders provided via the Bin 1 program; 3) as such, an adjustment should be made to the proposed 60/40 allocation to rebalance.

Response: The suggestion is a reasonable one, but difficult to address given the many variables that would have to be considered. The administrative costs that were allocated from the Bin 2 grant/program totaled \$24,738. Those funds are being reprogrammed to cover the combined administrative costs associated with the Bin 2 grant/program as well as the Bin 3 grant/program. It would be difficult to determine a fair and equitable adjustment to the Bin 3 60/40 allocation to account for the issue. The payments from the Bin 2 grant/program that went to sector administration totaled \$46,700. While sectors probably do relate more to the interests of permit holders than to the interests of captains and crew, sectors are a stand-alone entity who, along with for-hire permit holders and for-hire captains and crew, were identified as an affected interest under the Bin 2 grant/program and awarded assistance as a result. It would be difficult to reconcile the relative status of the sectors vis-à-vis permit holders, and difficult to determine a fair and equitable adjustment to the Bin 3 60/40 allocation to account for the issue.

In consideration of the above-noted challenges, and in view of the strong interest expressed by many to have the Bin 3 program move forward expeditiously, the 60/40 provision remains unchanged in the final regulation.