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TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 25 – Emergency Regulations Governing the Administration of Additional Federal Fisheries Disaster Relief Funding Provided to the State of Rhode Island Under the Consolidated Appropriations Act of 2021

25.1 Purpose

A. The purpose of these rules and regulations is to administer Rhode Island's additional $985,375 allocation of fisheries assistance provided by the Consolidated Appropriations Act, 2021 (Pub. L. 116-260) by bolstering local demand for local seafood products through a statewide collaborative seafood marketing initiative and expeditiously and equitably disbursing funds in the form of direct payments to eligible fishery participants in the two sectors with uncompensated losses: commercial fishing and seafood processing/wholesaling.

B. Of the total $985,375 allocated, $255,549 will be spent on expanding local demand for seafood products thereby increasing product values and giving rise to long-term stability and growth opportunities for the RI commercial fishing and aquaculture industry. The breakdown of traditional seafood supply chains during 2020 sharpened recognition by the RI fishing and aquaculture community regarding the vital importance of establishing stronger, more secure local markets for the wide range and large quantity of products harvested, grown, and landed in RI year-round by the multi-sector commercial community. The project addresses this priority need and interest, lending support to all sectors.

C. The remaining $729,826 received by Rhode Island in 2023 will be distributed to fisheries participants whose needs were not met with the original $2,959,612 allocation in 2021. As of 2022, all Rhode Island applicants within the commercial aquaculture and for-hire sectors were awarded the full amount of their disaster relief claim under the CAA. The commercial fishing and seafood processing/wholesaling sectors received only 65.6% and 6.5% of their claims, respectively, due to claims exceeding the amount of money available after rolling over excess funds from the sectors that did not exceed their sub-allocation.

25.2 Authority

These rules and regulations are adopted pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), R.I. Gen. Laws Title 20, Chapter 42-17.1, and promulgated in accordance with R.I. Gen. Laws Chapter 42-35.

25.3 Definitions

"ASMFC" means the Atlantic States Marine Fisheries Commission.

"CAA" means the Consolidated Appropriations Act, 2021 (Pub. L. 116-260).

"Department" means the Rhode Island Department of Environmental Management.

"NOAA Fisheries" means the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

"SAFIS" means the Standard Atlantic Fisheries Information System.

25.4 Findings

NOAA Fisheries granted final approval to the amended CAA Rhode Island spend plan on May 17, 2023. Within this spend plan, $255,549 was allocated to seafood marketing efforts in Rhode Island and the remaining $729,826 was allocated to distribution to fisheries participants whose needs were not met with the original $2,959,612 allocation. These emergency regulations operationalize the process of disbursing Rhode Island's additional $985,375 allocation under the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), consistent with the provisions of the Act, the guidance provided by NOAA Fisheries, and the approved Rhode Island spend plan.

25.5 Assessment of Administrative Fees

The Department will not set aside funds to Rhode Island to cover the administrative costs of developing and implementing the Rhode Island spend plan.

25.6 Sector-Based Sub-Allocations

A. $729,826 will be allocated among the two sectors whose needs were not met with the original $2,959,612 allocation, via the same proportions used by NOAA to establish the allocation of funds to Rhode Island. Proportions have been adjusted from the four original sectors (commercial fishing, commercial aquaculture, for-hire, and seafood processing/wholesale) to reflect the two sectors that were not fully compensated, as follows:

1. Commercial Fishing (68.7%): $501,390.46

2. Seafood Processing/Wholesale (31.3%): $228,435.54

25.6.1 General:

A. All applicants must meet the flowing criteria:

1. Must not be debarred from receiving federal funds.

2. Must not be on the federal government's "do not pay" list.

3. Must be a participant of the commercial fishing or seafood processing/wholesale sector.

4. Must have previously been awarded CAA relief funds from Rhode Island under Part 17 of this Subchapter, but not for the full approved claim amount.

5. Must not be made "more than whole" when receiving additional funds.

25.7 Evaluation, Award, and Notification

A. All eligible fishery participants will already have undergone evaluation and award per the process identified in § 17.11 of this Subchapter.

B. The Department will tally all claims within each sector and, for each sector, undertake the following process of determining payment amounts:

1. For applicants in the commercial fishing sector:

a. If the total amount of claims is less than $501,390.46, the Department will process payments for the full amount of each claim.

b. If the total amount of claims is more than $501,390.46, the Department will calculate the percentage of the total shortfall and apply that percentage to each claim.

2. For applicants in the seafood processing/wholesale sector:

a. If the total amount of claims is less than $228,435.54, the Department will process payments for the full amount of each claim.

b. If the total amount of claims is more than $228,435.54, the Department will calculate the percentage of the total shortfall and apply that percentage to each claim.

C. The Department will issue letters of eligibility to all qualifying applicants in both sectors.

1. Each letter will include the individual award amount based on the process described above. The letter will also request that if the award amount will make the participant more than whole, they must notify the RIDEM Division of Marine Fisheries within two weeks and provide an alternate, lower amount that they should be awarded.

2. Letters will be sent via mail and by electronic mail to ensure that all qualifying applicants receive notification in a timely manner.

D. There will be no appeals process as part of this program.

25.8 Final Awards and Issuance of Payments

A. The Department will make any final adjustments to awards necessary to ensure that the $729,826 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.

B. The letters of eligibility will serve as the final letters of award.

C. Following distribution of letters of eligibility and final award, the Department 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 the Department 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.

25.9 Termination of Program

The activities of this funding program will be completed, and the program will be terminated, once the complete list of all final award recipients has been provided to the Atlantic States Marine Fisheries Commission, the Commission has issued all payments in accordance with that list, the Rhode Island Department of Revenue, Division of Taxation has addressed and fully resolved any tax obligations applicable to any awardees, and at least three years have elapsed since the close of the primary grant award to the Atlantic States Fisheries Commission.