

Project and Budget Narrative: 2020 COVID-19 Virginia CARES Act Fisheries Relief Funding Proposal

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Objective: This project will distribute Virginia’s allocation of funding to eligible participants negatively affected by the COVID-19 pandemic as allowable under the CARES Act P.L. 116-136 section 12005.

Project Details:

Background:

The Coronavirus Aid, Relief, and Economic Security Act, (CARES Act) allocated \$300 million in fisheries assistance to the Secretary of Commerce to provide assistance to states, Tribes, and territories with coastal and marine fishery participants who have been negatively affected by the COVID–19 pandemic. The National Oceanic and Atmospheric Administration (NOAA), at the Secretary’s direction, allocated portions of the funding to states, Tribes, and territories. The funds will be distributed through the regional fisheries Commissions. The Atlantic States Marine Fisheries Commission (ASMFC) will distribute Virginia’s allocation once NOAA has approved Virginia’s spend plan. The Virginia Marine Resources Commission (VMRC) will develop the spend plan for Virginia’s allocation of \$4,484,370. The funding was allocated to Virginia based on readily available multi-year averages to estimate the total average annual revenues from each sector including: Charter-for-Hire (CFH), 4.9%, Commercial Fisheries/Aquaculture, 52.8%, Seafood Dealers/Processors, 42.30%. These allocations were based on past revenues and contributions and do not reflect estimated losses per sector due to the pandemic.

The COVID-19 pandemic has had a devastating effect on Virginia’s seafood industry. Commercial watermen, aquaculture operations, seafood dealers and processors, and CFH businesses all experienced significant economic hardships due to the ongoing pandemic. State requirements to stay at home, close restaurants and non-essential businesses, such as the CFH industry, and limit out of state travel negatively impacted Virginia’s fishing industry. The seafood industry in Virginia relies heavily on the restaurant market both within the US and abroad to deliver fresh seafood. Requirements to close restaurants or limit to take-out caused demand for fresh seafood to drop precipitously, particularly affecting the shellfish industry. Some seafood dealers began seeing impacts as early as January when foreign markets began to shut down. Travel restriction and quarantine requirements for out of state visitors drove down demand for restaurants in areas that depend on a high volume of coastal tourists. Restaurants that are open are operating with ongoing restrictions that limit customer capacity. There

has been a slight increase in demand as restaurants reopen, but it does not approach the level seen in past years.

A closure of the CFH industry as a non-essential business was required by Virginia Executive Order from April 2 – May 15 and the industry has operated with restrictions that limit business since May 15th. Ongoing social distancing requirements limit capacity on CFH vessels. Further, decreased travel and tourism restrictions resulted in numerous canceled trips and ongoing decline in demand for charter trips. CFH vessels in Virginia have seen decreased activity due to shutdown orders and ongoing prevention measures that limit capacity resulting in economic hardships for the industry.

Approach:

VMRC developed an online survey, and convened a web-based working group, and held a public comment period on the draft spend plan to solicit input from affected constituencies.

VMRC's initial online survey contained 10 questions and was sent to all MRC-ID permit holders who have an email address on file with the agency¹. The survey was also posted on the VMRC website and Facebook page and distributed to watermen's associations and recreational fishing organizations. Responses were accepted for two weeks and yielded 466 responses. The average loss according to survey participants was \$33,000² and 67% of respondents lost more than 35% of their income from January to May 31, 2020. Based on individual answers, many people lost significantly more than 35% of their income. The majority of respondents (91%) supported direct payments. Overall, every sector lost a significant portion of their income.

VMRC convened a working group of stakeholders composed of existing agency advisory committee members and represented the four sectors in Virginia: commercial watermen, aquaculture harvest, dealers/processors, and CFH. The working group voiced support for limiting funding to full-time participants in the fishery and flat payments for sectors. There were mixed opinions regarding if all approved applicants should receive the same direct payouts given the losses, or if different sectors should receive different payouts based on the sector-based revenue information NOAA used to determine Virginia's allocation. It was acknowledged that the dealer sector likely had larger economic impacts, but that given the size of the possible payout, it would not be enough to meaningfully address the impact.

Different distribution formulas were considered based on sector loss with the goal to be efficient, transparent, and minimize the burden on applicants. Based on Virginia's estimated loss due to COVID-19 pandemic, the economic loss for each sector will far exceed the amount of available disaster funding.

¹ Approximately 60% of permit holders.

² We dropped zeros and the highest number to better reflect the average loss per respondent. Keeping in the highest and lowest values resulted in a mean of \$68,000.

Several options were considered including a tiered approach based on losses, a flat rate approach per sector based on the NOAA ratios, and flat payment per application regardless of sector.

The first option considered, a tiered approach based on losses, was discarded because it would have substantially increased the time (estimated 6-8 months) it would take to distribute money to individuals, would require a substantial paperwork burden on applicants, and would require additional staffing costs to cover the workload, decreasing available relief funding. The second option was to use sector-based revenue information provided by NOAA that was used to allocate the CARES Act funding to each state. An allotment of money would be designated for each sector based on those ratios (total funding*percent of industry = amount for that sector). The third option was to provide each applicant the same payment regardless of sector. Options 2 and 3 did not differ markedly in the estimated payments to CFH, commercial watermen, and aquaculture operations. However, under the second option, seafood dealers and processors would receive a higher payout. Based on feedback from the working group of some of the stakeholders, this difference would not be enough to make a meaningful impact on their losses, given the small amount of money.

VMRC chose the third option in the draft spend plan: each applicant will receive the same payment regardless of sector. Under this option, VMRC will be able to distribute funds efficiently while minimizing the burden to the applicant.

VMRC posted a draft version of the spend plan that outlined all eligibility criteria and allocation formulas that the agency had considered. The spend plan survey was sent to all MRC-ID permit holders who have an email address on file with the agency³. This survey was also posted on the VMRC website and Facebook page and distributed to watermen's associations and recreational fishing organizations. Responses were accepted for two weeks and generated 714 responses. Of the responses, 504 (70%) supported the third option of flat payments. Of those who said no, half of them had no additional thoughts on how the money should be divided and the others were split on whether payments should be tiered or based on investment.

The methodology in the following Detailed Spend Plan, once reviewed and approved by NOAA, may be used for any future funds appropriated by Congress for the same purpose.

Process Outline:

VMRC will distribute \$4,483,370 of Virginia's CARES Act funding as direct payments to eligible participants and eligible appellants (see Administrative Costs). Eligible participants include Tribes, people, and fishery-related businesses who have direct or indirect economic revenue losses due to COVID-19 greater than 35 percent as compared to the five-year average revenue (2015-2019). Fishery related businesses include commercial fishing, aquaculture, dealers, processors, and for hire vessels who hold an MRC ID. However, some people such as mates, or workers at a dealer or processing plant, will not have MRC IDs but will be considered for relief during the appeals process should they meet the

³ Approximately 60% of permit holders.

same criteria as MRC ID holders and can provide additional documentation. NOAA Fisheries took into consideration negative impacts to subsistence, cultural, and ceremonial fisheries during the allocation process for this program. In Virginia, there are no fishery-specific allocations (e.g., quotas) for tribes or known ceremonial fisheries that were affected. Virginia recognizes fishing rights and allows 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. Virginia requires all persons, entities and tribes to be permitted to participate in the four named sectors of the fishing industry. Therefore, tribal businesses and tribal members that hold an MRC ID and meet the established criteria are eligible to apply for economic assistance in any of the sectors they are permitted to participate in.

Additional guidance from NOAA allowed for states to consider bait and tackle shops, *however “NOAA fisheries generally does not expect bait and tackle operations and gear and vessel suppliers to be eligible for Section 12005 funding.”* VMRC will require an MRC ID for anyone to qualify for economic relief and bait and tackle shops do not have MRC IDs. Bait and tackle shops were not considered in NOAA's allocation to the state and the agency does not have any existing information on these businesses, thus VMRC chose to exclude them from relief.

All participants must meet the following criteria:

- 1) Must certify via an affidavit an economic loss of greater than 35% was incurred from March 1, 2020 to May 31, 2020 compared to the most recent five-year period (2015-2019). Applicants must be able to provide supporting documentation upon request from either VMRC or the Federal Government, including but not limited to tax records, financial records, and harvest reports.
 - a. Applicants who have participated in a fishery for less than five years, but meet all other criteria can apply and will be considered, but may be asked to submit additional documentation including but not limited to: tax records, dealer reports, log books, aquaculture harvest reports, and reported landings. Applicants must have participated a minimum of 1 year. Applicants that have participated in a fishery less than one year are not eligible, and applications will not be considered, and there will be no appeal process.
- 2) Must be 18 years old by March 1, 2020.
- 3) Must be a Virginia resident as it appears in VMRC's Licensing Database.

4) Must have been issued an MRC ID⁴ number in 2020⁵, OR a Potomac River Fishery Commission (PRFC) License. If applying with a PRFC license, must be able to prove Virginia residency. (See Table 1 for license holders).

5) Must have documented fishing activity in 2019. For commercial watermen, aquaculture operations, and seafood dealers and processors sectors, VMRC will verify harvest, landings, and sales information via Virginia's Mandatory Harvest Reporting Database (Data uploaded as of 8/5/2019). If individuals are applying under an Oyster Aquaculture Harvester Permit (109), Clam Aquaculture Harvester Permit (120)^[VP3] or are CFH captains they must submit documents that demonstrate they were an active participant in the fishery including but not limited to harvest reports or logbooks.

a. If the applicant does not have documented fishing activity in 2019, but has documented fishing activity in 2018, they must apply through the appeals process and prove that they did not fish due to hardship for medical or military reasons per. No other reasons will be considered for not having 2019 fishing activity. If claiming medical hardship, individuals must submit a signed letter from a treating physician. If individuals are claiming a military exemption, they must submit a signed letter from the Commanding Officer and a copy of orders.

6) Must certify via affidavit that 50% of the individual's total earned income is derived from fishing activities. Applicants must be able to provide additional documentation such as tax records, dealer reports, log books, aquaculture harvest reports, and reported landings, to support the affidavit upon request from VMRC.

7) Participants who received other sources of economic funding are eligible to apply, provided that the sum total of the economic assistance in addition to traditional revenue earned does not exceed the average annual revenue earned over the previous 5 years.

8) Must not have any current compliance issues or licenses revoked by VMRC. Payments will be held for qualified applicants until compliance issues are resolved. Assistance will be forfeited after 20 days if the issues are not deemed resolved by VMRC.

9) Must certify s/he is not in violation of any federal laws.

⁴ An MRC ID is a license issued by VMRC. To obtain an MRC ID the applicant must provide a valid driver's license or other forms of documentation to prove identity.

⁵ Due to office closures, there are some individuals who may still be fishing on a 2019 license. VMRC will work with that individual, providing s/he meets all other criteria.

Table 1: Number of VMRC and PRFC license holders

Sector	Number of MRC ID and PRFC⁶ License Holders
Charter-for-Hire	242
Commercial fishing and Aquaculture	2,874
Dealer or Processor	244
Total	3,360

Allocation budget:

- 1) All eligible applicants will receive the same amount of assistance, **regardless which type of license holder they are (MRC or PRFC) and of how many sectors in which they qualify.**
- 2) Appeals and funding for non-MRC ID holders will be considered as part of a \$500,000 set aside.
- 3) Remaining funds after all appeals processes are complete will be distributed equally to any applicant that qualified.

Applications Process:

- 1) Applications for all sectors must be completed and received by mail or through the online service by the assigned deadline. The application process will be open for three weeks. Applications received after the published due date will not be reviewed or considered. Appeals will not be accepted for applications received after the published application due date.
- 2) All applications will be reviewed with those eligible receiving an equal share of the available funds.
- 3) Names, addresses, tax ID information, and amount of assistance will be forwarded to ASMFC who will distribute checks.

⁶ This is an incomplete list of PRFC permit holders, but reflects the number we have at this time. These numbers do not reflect the number of fully qualified applicants, just those who might be eligible.

4) Those not eligible will be contacted with information regarding appeals. An individual can appeal **NOT** getting assistance, but not the amount of assistance. Non-MRC ID holders will be considered ineligible for the first distribution of funding and will automatically be placed into the appeals process. Appeals will be heard through an independent panel whose decision is final.

5) Names, addresses, tax ID information, and amount of assistance will be forwarded to ASMFC who will distribute checks to qualified appellants and non-MRC ID holders.

6) A second round of appeals for non-MRC ID holders will be held where the individual can appeal **NOT** getting assistance, but not the amount of assistance. Appeals will be heard through an independent panel whose decision is final.

7) Names, addresses, tax ID information, and amount of assistance will be forwarded to ASMFC who will distribute checks. At this time, VMRC will ask ASMFC to distribute any remaining amount of funding to all qualified applicants (whether they qualified through an appeals process or the first round of applications).

The application process will be open for three weeks. Once VMRC has received all applications, they will be reviewed and verified to ensure all eligibility requirements have been met. When all applicants have been approved, VMRC will take the amount of disaster relief (see budget) and divide it by the number of applicants to get the direct payment for each applicant. All payments will be made by ASMFC with authorization from VMRC. **Direct payments are taxable** and the IRS will be notified of the applicants receiving these funds. Applicants will need to include a social security number or tax ID with their applications and ASMFC will send 1099 forms at the end of the calendar year.

Applicants who are denied assistance will receive a certified letter in the mail and will have two weeks to appeal the decision. VMRC will convene an appeal panel of three people from outside the agency. We will reach out to the Virginia Institute of Marine Science and Virginia Sea Grant for reviewers. Applicants who choose to appeal and non-MRC ID holders will be required to submit additional documentation, specifically 2019 tax records such as W2 or 1099 that indicate income from employment with a qualified in-state business sector: commercial fisheries, charter-for-hire, dealers/processors, or aquaculture as justification to support their claim. No appeals payments or payments to non-MRC ID holders will go above the maximum allowed relief payment that other applicants received and VMRC anticipates the funds set aside being adequate to address all rounds of appeals. Appeals will be processed within three weeks and all decisions rendered in the appeal process are final. After all appeals have been resolved, ASMFC will be notified so that any remaining funding can be distributed in the form of final payments to all qualified candidates.

Expected Benefits and Evaluation of Program:

The direct payments will provide financial relief to participants in Virginia's fishing industry that have been negatively impacted by the COVID-19 pandemic. The program will be completed when all funding has been distributed to affected parties.

Administrative Costs:

Budget Item	Amount
Direct assistance payments	\$3,983,370
Postage	\$1,000
Appeals and non-MRC ID holders	\$500,000

VMRC will not request pre-award administrative costs beyond those outlined above for postage. VMRC will allocate the majority of funding for direct assistance payments, \$3,983,370. VMRC permit holders will be notified of the applications process by mail and denied applicants will be notified via certified mail, therefore VMRC is requesting \$1,000 be set aside to cover postage costs. VMRC is requesting \$500,000 be set aside for potential appeals, and addressing participants who did not meet the eligibility requirements in the first round of funding, specifically fishery participants who did not have MRC IDs such as helpers and mates, but work in the fishing industry. VMRC will use the same application system and payment system. The agency will use existing staff to administer the program.

Project Timeline:

April - July 2020:

- Conduct stakeholder outreach
- Convene working group
- Develop of Virginia's spend plan

July - August 2020:

- Submit proposal and budget to NOAA for review and approval

September - October 2020:

- Once spend plan has been approved by NOAA, VMRC will manage the three-week application process as laid out in the proposal

October - November 2020:

- Send names and information of qualified participants to ASMFC for distribution of funds
- Two-week process and evaluation of any appeals on lack of relief from MRC ID holders and applications from non-MRC ID holders
- Send names and information of appellants and non-MRC ID holders who are granted funds through the appeals process to ASMFC

November - December 2020:

- Two-week process and evaluation of any appeals on lack of relief from non-MRC ID holders
- Send names and information of non-MRC ID appellants holders who are granted funds through the second appeals process to ASMFC
- Distribute remaining funds to any participants who have previously qualified

January - February 2021:

- Submit final grant report to the Commission and NOAA