

# Congress of the United States

## Washington, DC 20510

September 14<sup>th</sup>, 2020

The Honorable Sonny Perdue  
Secretary of Agriculture  
U.S. Department of Agriculture  
1400 Independence Avenue, SW  
Washington, D.C. 20250

Dear Secretary Perdue:

We write to request that USDA utilize already-existing resources and authorities to aid shellfish growers throughout our country who have been irreparably harmed by the COVID-19 pandemic.

USDA has rejected requests to include certain farmed shellfish aquaculture in the Coronavirus Food Assistance Program (CFAP) and has also rejected a request for the agency to purchase oyster meat under the Section 32 program. Due to both decisions, we are concerned that USDA has provided this industry with no other options during this economically challenging time. It is essential that USDA reconsider these requests. We have included as attachments to this correspondence supporting documents, including research studies, the original Section 32 proposal, and news articles providing support for this need for assistance. Although Congress has provided \$300 million to the National Oceanic and Atmospheric Administration (NOAA) for fisheries assistance as part of the CARES Act, these funds have still yet to be disbursed to many states, and are a pittance compared to what other farmers – including some aquaculture producers – are eligible to receive under CFAP. Given that funds are still available under CFAP (with USDA working on the structure of a second round of CFAP now) and that Section 32 continually remains an option for the agency to pursue – and which requires no additional Congressional appropriation at this time – we request that you take advantage of these resources already available to you and provide resources to this sector immediately.

### *The Case for Section 32 Purchases*

On August 14<sup>th</sup>, the USDA Agricultural Marketing Service rejected a petition from the East Coast shellfish industry for Section 32 oyster meat purchases. This petition was denied on the grounds that the “cost of purchasing oyster products outweighed the volume of product that could be made available to food banks and feeding programs.” However, USDA announced it

would be purchasing up to \$30 million in shrimp in early August, and in May, USDA announced a purchase of \$30 million in catfish. According to our industry experts, last year's price on whole gulf shrimp, given that 75% of the shrimp weight would be edible meat, was approximately \$8 per pound<sup>i</sup>. With 100% oyster meat being edible meat, the costs are comparable. Our industry experts believe the price range for oyster meats would be approximately \$10-20 per pound of edible meat.

We encourage you to consult Public Law 74-320 (7 U.S.C. 612c), which specifies three clauses for the use of funds. Although 7 U.S.C. 612c goes into detail as to what is an appropriate use of the funds, nowhere in the law is it written that the cost of purchasing a product should be the sole determinant of whether that product is purchased by USDA.

The economic argument for Section 32 purchases is strong. These purchases are necessary to avert a pending price collapse that will likely be inevitable for fresh, in-shell oysters. Oyster farmers have significant inventories of product with sales reduced due to the lower restaurant demand. With commodity oversupply, prices are likely to crash precipitously this fall. Growers can maintain this inventory temporarily but will not be able to do so indefinitely.

According to a study, *Impacts of COVID-19 on U.S. Mollusk aquaculture: Quarter 2 Results*, conducted by Virginia Tech, The Ohio State University, and Engle-Stone Aquatics, LLC, 90% of respondents to their survey reported that their farm or business had been affected by the pandemic in some way. The study, conducted from April 10<sup>th</sup> to June 29<sup>th</sup>, 2020, surveyed 117 mollusk farm participants from the Northeastern, Southern, Western, Tropical, and Sub-tropical Aquaculture Regions. Of those surveyed, less than half (42%) indicated that their farm or business would survive the next 3 months without any external interventions. Unfortunately, 98% of all respondents reported lost sales in the 1<sup>st</sup> Quarter Survey; in the 2<sup>nd</sup> Quarter Survey, 93% of respondents reported lost sales. Of those surveyed for the 2<sup>nd</sup> Quarter Survey, 88% reported that they expected to experience additional lost sales in the 3<sup>rd</sup> Quarter of 2020.

Especially important for the Section 32 program, respondents to the survey were asked about volume and price of products sold. According to the survey, during the 1<sup>st</sup> quarter, 9% of volume was sold at a reduced price, and in the 2<sup>nd</sup> quarter, *52% of volume was sold at a reduced price*. Unfortunately, to sell market-ready products, shellfish farmers can only hold the product for a limited period before the product becomes un-marketable. In the survey, 69% of all respondents noted that holding products would result in reduced price, 67% noted that holding products would reduce the quality of products, and 80% of those surveyed said that holding a product would make it less marketable.

Additionally, of those surveyed in the 2<sup>nd</sup> quarter, 30% of respondents had laid off employees, with another 14% responding that they would soon have to lay off employees. Of those surveyed, 59% of respondents said that federal assistance would increase the likelihood of their farm or business surviving the pandemic.

With more than half of all survey participants experiencing reduced prices for products in the 2<sup>nd</sup> Quarter, it is essential that USDA take note of the real issues that this industry is facing and provide them with commensurate relief.

During a call with USDA legislative affairs, staff were asked if shellfish farmers were changing their marketing or approach to selling products in order to meet the challenges of the COVID-19 pandemic. Survey results demonstrate that shellfish farmers are quick to adapt and find new markets to sell their goods, but it has been challenging. Of those surveyed in the Virginia Tech and The Ohio State University study, 48% of shellfish growers had implemented or attempted to implement a new marketing channel, with another 17% responding that they were in the process of attempting to do so.

In a second study, conducted by Connecticut Sea Grant and UConn Extension at the University of Connecticut and the Connecticut Department of Agriculture, respondents on average had a 93% reduction in revenue (in the period of March 23<sup>rd</sup> through April 3<sup>rd</sup>, 2020) compared to the previous year. Additionally, more than half of all respondents had laid off employees, and half of all respondents had product returned or destroyed following delivery to wholesalers or restaurants that were subsequently closed or went out of business.

According to the *Virginia Tech Q2 Aquaculture Industry COVID Impact Survey*, many growers have dropped prices, with an average decline from \$0.60 to \$0.53 cents between January and June of 2020. Additionally, the Virginia Tech survey found that growers have large amounts of inventory and have already experienced a lost value as the oysters have outgrown the desired market size. Specifically, this survey found that the national average price decline in oysters was 20% - from \$0.60/oyster in January to \$0.53/oyster in July. It is likely that farmed oyster prices will continue to drop this fall, as the wild-harvest fisheries open in October.

With the raw-bar market disappearing, raw-bar oyster growers will then have to sell these oysters to shucking houses for a \$0.25-\$0.35 price, creating a huge price drop-off for this product. A price collapse in the fall will undoubtedly push hundreds of farms into bankruptcy and could result in several thousand lost jobs.

### *The Case for CFAP*

In May, USDA announced that the Coronavirus Food Assistance Program (CFAP) would soon be operational, and that USDA was interested in learning about losses for the aquaculture industry; as provided in the FAQs: “The Department is particularly interested in the [sp] obtaining information with respect to aquaculture and nursery products.” The rule in the Federal Register notes: “Additional eligible commodities, such as aquaculture and nursery crops (including cut flowers) will be announced in a subsequently announced Notice of Funding Availability (NOFA) issued by FSA on behalf of the Secretary.” When the NOFA was posted on May 20<sup>th</sup>, comments on additional commodities could be received by June 22<sup>nd</sup>, 2020.

Unfortunately, on June 1<sup>st</sup>, before the comment period ended for the proposed rule, USDA decided that farmed shellfish aquaculture would be ineligible for CFAP. Previously, according to USDA's own CFAP Aquaculture FAQs, the agency wrote: "USDA will consider information submitted by aquaculture producers in the NOFA for private-owned aquaculture businesses that propagate eligible [...] freshwater and saltwater products in controlled environments." Unfortunately, prior to the publication of the Rule, USDA made the decision *not* to include farmed shellfish aquaculture in CFAP.


USDA also notes<sup>[1]</sup> that to be eligible for CFAP, "a producer must have suffered a 5-percent-or-greater price loss over a specified time resulting from the COVID-19 outbreak or face additional significant marketing costs for inventories – whether caused by lower prices given significant declines in certain types of demand, surplus production, or by disruptions to shipping patterns and the orderly marketing of commodities." Given the data provided in this correspondence, it is clear that this industry has met the financial hardship test which would merit their eligibility for this program.

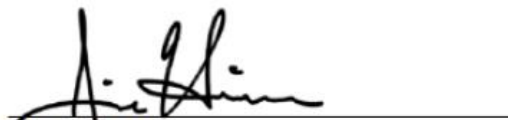
With funds still available in this program – which the agency will be disbursing to commodities which have already received significant assistance – we request that the agency consider the shellfish aquaculture industry for CFAP, especially because USDA is already working on details for a second round of CFAP. There is no coherent argument to exclude them from this program, as USDA could easily promulgate regulations prohibiting any "double dipping" from NOAA funds. Already, farmers cannot receive more than 100% of what would make them "whole" through the Paycheck Protection Program, Economic Injury Disaster Loan Program, CFAP, or NOAA programs. The Department should consider this change and provide this support to these farmers, who have encountered more dire financial difficulties than many other agricultural sectors, but have yet to receive substantial assistance from any federal agency.

Sincerely,

  
JOE COURTNEY  
Member of Congress

  
ROSA L. DELAURO  
Member of Congress

  
JOHN B. LARSON  
Member of Congress

  
JIM HIMES  
Member of Congress

  
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### ***Attachments***

- CFAP Aquaculture FAQs from USDA
- Impacts of COVID-19 on U.S. Mollusk aquaculture: Quarter 2 Results
- Connecticut Sea Grant Research Study
- Section 32 Proposal – East Coast Shellfish Growers Association
- News articles:
  - *Alaska had a burgeoning, year-round oyster industry. It may not make it.*
  - *With restaurants closed due to COVID-19, oyster farmers look for a way forward*
  - *COVID-19 has the West Coast shellfish sector on hold*
  - *Shaken up by COVID-19, shellfish industry moves to reinvent itself*

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<sup>i</sup> <http://extension.msstate.edu/newsletters/mississippi-marketmaker/2020/vol-10-no-5-dockside-and-wholesale-prices-brown-shrimp>

<sup>ii</sup> <https://beta.regulations.gov/document/FSA-2020-0004-0003>