# State of Texas CARES Act Fishery Disaster Assistance Program Spend Plan

## Applicant Name: Texas Parks and Wildlife Department, Coastal Fisheries Division

## Project Duration: July 1, 2020 – September 30, 2021

### Introduction.

The COVID-19 pandemic was confirmed in the United States in January 2020. The first COVID-19 case in Texas was reported on March 4, 2020, and the commissioner of the Texas Department of State Health Services declared a public health disaster in Texas on March 19, 2020. Beginning in the end of March and since that time there have been restrictions impacting in-house dining in restaurants, and stay-at-home orders in the spring may have disrupted the seafood supply chain and commercial fisheries across the state. With the implementation of stay-at-home recommendations and closures of hotels, tourism along the Texas coast dramatically declined during that time immediately following March and into early summer. During those times recreational fishing and the for-hire sector may also have been impacted.

Sec. 12005 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) authorized the secretary of Commerce to provide $300 million in appropriated funds to assist fishery participants affected by the novel coronavirus (COVID-19). National Oceanic and Atmospheric Administration (NOAA) Fisheries used available total annual revenue information from the commercial fishing, charter fishing, aquaculture, and processor sectors of coastal states, Tribes, and territories to allocate Sec. 12005 funding. The total allocation to Texas is $8,968,805[[1]](#footnote-1).

### Objectives.

The scope and funding are designed to supplement individuals for losses incurred by commercial and recreational fishing businesses due to COVID-19. The funds that are available will provide some unmet financial relief to some participants in these sectors. Although there are three federally recognized tribes in Texas, they are not fishery participants and are not included in this plan. The state does not anticipate any eligible participants who may have had negative impacts to ceremonial or subsistence fisheries.

The objective of this spend plan are as follows:

1. Conduct a thorough review of all applications and supporting documents to verify that all criteria have been met and ensure all eligible applicants obtain direct relief payments.
2. Provide financial assistance through direct relief payments to eligible individuals and businesses within the prescribed sectors that can demonstrate an economic revenue loss greater than 35% as compared to the prior 5-year average revenue;

### Approach.

Texas Parks and Wildlife Department (TPWD or department) has determined that direct payments to eligible seafood dealers and processors, commercial fishers, and recreational for-hire businesses would be the optimal use of these funds. Texas does not have any aquaculture businesses in marine waters. A total of $9,237,949 in CARES Act funds were appropriated to Texas. Administrative fees for National Marine Fisheries Service (NMFS) ($64,610), Gulf States Marine Fisheries Commission (GSMFC) ($21,497) and TPWD ($183,037) totaling $269,144, result in a final allotment of $8,968,805 to provide direct assistance to eligible stakeholders. As a target, the final allotment of appropriated CARES Act funds by category will be allocated to each eligible sector based on the allocation determined by NOAA Fisheries (Table 1). If payments to eligible participants in one category do not exceed the allotment for that category, unused funds will be distributed proportionally according to the NOAA allocation proportions amongst the other categories where requested payments exceed the allotment for that category.

Table 1. NOAA Fisheries CARES Act allocation and ratio of each eligible sector’s contribution to funds allocated to Texas.

| **Sector** | **NOAA Allocation Proportions** | **Total Funding** |
| --- | --- | --- |
| Commercial Fishing | 64.3 | $5,766,942 |
| Seafood Dealer/Processor | 25.1 | $2,251,170 |
| Recreational For-Hire | 10.6 | $950,693 |
|  | 100.0 | $8,968,805 |

Table 2. Potential number of licensed participants within each eligible sector during the COVID-19 impact period in Texas.

|  |  |
| --- | --- |
| **Sector** | **Number of Licensed Participants or Businesses During (Sept. 1, 2019-Aug. 31, 2020)** |
| Commercial Fishing | 1,922 |
| Seafood/Bait Dealers | 1,225 |
| Recreational For-Hire | 1,370 |

To provide the greatest assistance to as many eligible individuals and businesses, all available funds, minus allowable administrative costs, will be distributed as direct assistance through direct relief payments. As part of the administrative costs, TPWD is requesting to include pre-award costs as part of the Spend Plan.

These direct relief payments will be issued by the GSMFC based on the applicant meeting eligibility requirements as specified in the CARES Act. These funds will be used to cover and/or reimburse individuals or businesses for uninsured losses or losses not covered through other federal funding sources (e.g. Federal Emergency Management Agency, Small Business Administration loans, etc.).

The primary impact period associated with COVID-19 in Texas was from mid-March through May 31, 2020. During this period of license year 2020 Texas had a total of 4,517 license holders within the eligible sectors (Table 2). To determine whether applicants meet the requirement of a greater than 35% loss as compared to the previous five-year period, the following set of payment eligibility criteria for each sector were developed.

#### The following criteria will apply to all applicants applying to the Texas CARES Act Fishery Disaster Assistance Program:

* Applicant must be a resident of the state of Texas or a non-resident who resides in a state that did not receive CARES Act funding (i.e. a non-coastal state).
* Applicants must be at least 18 years of age.
* Applicants must show documented proof of a greater than 35% loss during the impact loss period (January 1, 2020 through December 31, 2020) as compared to the prior five-year average revenue (2015-2019) over the same months. Applicants must have at least one year of historical landings or revenue within this five-year period in order to determine loss percentage. For applicants who do not have landings or revenue for one or more years within the period from 2015-2019 (i.e. the individual or business was in the fishery for less than 5 years), the average will be calculated using only the years that do have landings or revenue.
* Applicants must submit a completed application packet with all required information, a certification under penalty of perjury of a greater than 35% loss, IRS Forms W-9, and loss-determination paperwork (e.g. receipts, tax records, other funding paperwork, business logbooks, etc.) within a defined 45-day application period. Applications received after the published due date will not be reviewed or considered.
* For the purposes of determining eligible participants, the license holders who actually hold the license that allows participants to act as recreational guides, wholesale dealers, or to prosecute the commercial fishery are the eligible participants. Holders of licenses that allow workers to work onboard vessels are not eligible participants.
* Texas resident applicants who land product in states other than Texas and non-resident applicants who land product in Texas must not have been eligible for or received CARES Act funds from any other state programs.

#### Commercial Fishery Participant Applicants:

* All eligible commercial fishermen must have done one of the following:
	+ Held one of the following licenses during the 2020 license year (September 1, 2019 through August 31, 2020):
		- Commercial Crab Fisherman (Type 338 or 438)
		- Commercial Finfish Fisherman (Type 371 or 361)
		- Commercial Fishing Boat (Type 304 or 404)
		- Commercial Bait Shrimp Boat (Type 337 or 437)
		- Commercial Bay Shrimp Boat (Type 336 or 436)
		- Commercial Gulf Shrimp Boat (Type 330 or 430)
		- Commercial Oyster Boat (Type 306 or 406)
		- Commercial Mussel and Clam Fisherman (Type 320 or 420)
		- Class C Menhaden License (Type 339)
	+ Be a Texas resident with an appropriate license to participate in a commercial fishery in another state where they were not eligible to receive CARES Act funds and provide proof upon request
* All commercial fishery participant applicants must be either a resident of Texas or have landings of marine or estuarine products in Texas
	+ Texas residency will be determined by the provided mailing address and driver’s license
	+ Landings of marine or estuarine products in Texas will be determined by the Trip Ticket Program or by supporting documents provided during the appeals process
* Fishery participants must have a history of landings of marine or estuarine products during at least one year within the period of 2015-2019
	+ Trip tickets of marine or estuarine products in at least one year between 2015-2019
	+ Other supporting documents of landings provided during the appeals process
* Demonstrated greater than 35% loss in 2020 as compared to the period from 2015-2019
	+ Trip tickets
	+ Other supporting documents of landings provided during the appeals process

#### Wholesale Seafood/Bait Dealer Applicants:

* All eligible commercial seafood dealers must have held one of the following licenses during the 2020 license year (September 1, 2019 through August 31, 2020):
	+ Wholesale Fish Dealer License (Type 314)
	+ Wholesale Fish Truck Dealer License (Type 315)
	+ Bait Shrimp Dealer License (Type 335)
	+ Bait Dealer-Building License (Type 515)
	+ Bait Dealer-Vehicle License (Type 516)
	+ Bait Dealer-Individual (Type 312)
* The wholesale seafood/bait business must be located in Texas as shown by the provided address
* The business must be a legitimate fishery-related business as defined as the first point of sale of the products. Businesses further down the supply chain, such as bait and tackle businesses, do not qualify.
* The business must have a history of landings of marine or estuarine products during at least one year within the period of 2015-2019
	+ Trip tickets of marine or estuarine products in at least one year between 2015-2019
	+ Other supporting documents of landings provided during the appeals process
* Demonstrated greater than 35% loss in 2020 as compared to the period from 2015-2019
	+ Trip tickets
	+ Other supporting documents of landings provided during the appeals process

#### For-Hire/Guide Applicants:

* All for-hire/guide applicants must have conducted for-hire/guide activities in saltwater and have held appropriate licenses to allow them to act as recreational saltwater guides.
	+ Texas residents or non-residents who operate for-hire trips in Texas state waters must have held one of the following licenses during the 2020 license year (September 1, 2019 through August 31, 2020):
		- All-Water Fishing Guide License (Type 610 or 710)
		- All-Water Paddle Craft Fishing Guide License (Type 650 or 750)
	+ Texas residents or non-residents who operate for-hire trips in the waters of the Gulf of Mexico that land product in Texas during their respective federal seasons must have held appropriate federal licenses to allow them to operate trips during federal seasons and provide proof upon request.
	+ Texas residents who operate for-hire trips in the state waters of other states or waters of the Gulf of Mexico and land product in other states where they were not eligible for CARES Act funds must have appropriate licenses to allow them to operate those trips and provide proof upon request.
* All for-hire/guide applicants must either be Texas residents or be non-residents who operate for-hire/guide operations in saltwater that land product in Texas. Texas resident applicants who are applying for saltwater for-hire/guide activities where product is landed in another state must not have been eligible for CARES Act funds from that state.
	+ Texas residency will be determined by the provided mailing address and driver’s license
	+ Location of for-hire/guide activities will be determined by the provided address for the for-hire/guide operation

Loss claim amounts for each approved application will be the annual loss for 2020 compared to the average of the previous 5 years as described above minus any other funds that have been received through COVID relief programs. If the allocated funds for a given sector are not exceeded by the summed total of approved loss claims, loss claims will be paid in full. If the allocated funds for a given sector are exceeded by the summed total of approved claims, a loss payment proportion will be calculated as the total amount of funding set aside for that category divided by the total amount of claims in that category. The loss payment proportion will be applied to all loss claims in that sector to determine the payment for each approved application.

Applicants will be allowed to apply for funds in all categories/sectors in which they hold a valid license but must be able to demonstrate a greater than 35% loss in each sector to be eligible for CARES Act funds. TPWD will notify licensees who may be deemed eligible either by the trip ticket system for commercial fishermen or by holding the appropriate license in the other categories through direct mail, announcements posted to the TPWD website, and press releases. The application period will be open for 45 days.

Applicants will be notified in writing whether their application has been approved or denied using e-mail if an e-mail address was provided or by mail if an e-mail address was not provided. Applicants who are denied direct compensation through this program will be given the opportunity to appeal the determination. The applicant will have 14 business days following the written denial notification to appeal this determination. Appeals will not be accepted for applications received after the published application due date or for appeals received after the deadline stated in the denial notification. An appeal to TPWD must be in writing and provided by e-mail or US postal mail. An appeal must include a narrative providing specific reasons as to why the applicant believes the denial was made in error as well as supporting documentation. Acceptable supporting documentation for an appeal includes: photocopies of ID documents (e.g. driver’s license), proof of license information, documentation of revenue loss (e.g. trip/log books, invoices on business letterhead, copies of cancelled checks), certified trip tickets from other states, confirmation of booking services, tax or accounting records, or other relevant information. After reviewing the appeal letter and supporting documentation, TPWD will notify the applicant of its final determination in writing using e-mail if an e-mail address was provided or by mail if one was not. This final determination cannot be appealed.

In order to properly oversee and administer this program, TPWD is requesting 2% of the available funds (maximum of $183,037) be allocated for administrative purposes. TPWD is also requesting pre-award costs be included as part of the 2% administrative costs. Pre-award costs would be used to cover department costs associated with developing the Spend Plan, conducting economic data analyses of commercial landings by license holder and dealer in determining loss eligibility, verifying supporting documentation provided by applicants, and compiling final report documents. Any administrative costs not expended for this purpose will be re-directed for compensation to eligible applicants.

#### Commercial Fishers

Texas has 1,922 fisherman/vessel license holders that allow participation in the four primary commercial fisheries – shrimp, crabs, finfish, and oysters. License holders are required to sell aquatic products to a licensed Wholesale Fish Dealer and these dealers are required to report these landings through the department’s Commercial Landings Program (Trip Ticket Program). Some license holders are authorized to sell directly to the public and these landings are required to be reported to the Commercial Landings Program by the license holder. Qualifying loss eligibility will be evaluated based on data collected through the Texas Commercial Landings Program and applications will be reviewed to ascertain, to the best of TPWD’s ability, whether the applicant had COVID-19-related assistance from any other federal source. Applicants will be notified that assistance may be subject to federal tax requirements and that state and federal auditors are expected to audit records of those who receive funds.

#### Seafood Dealers and Processors

Texas has 1,225 Wholesale, Bait, and Bait Shrimp Dealer license holders that are eligible for these funds. These licenses are required of anyone who purchases aquatic products from harvesters and represents the first point of sale in the seafood supply chain. Some of the license holders may not have reported direct landings inside of the Commercial Landings reporting system, but for those who do any loss calculations will be compared to trip ticket landings that have been reported as part of the loss determination process. In cases where they did not report, applicants will need to provide supporting documentation of losses greater than 35% during the appeals process as described above￼￼to demonstrate that the loss threshold has been met. Additionally, an application process, including an affidavit for self-certification for those who can claim a greater than 35% loss in revenue due to COVID-19, is required to apply for potential financial assistance.

#### For-Hire Sector

In LY 2020 Texas had 1,355 Resident All-Water Guide, 6 Non-Resident All-Water Guide, and 9 Resident All-Water Paddle Craft Guide license holders. Texas for-hire operators are also required to be properly licensed by the U.S. Coast Guard (USCG). Texas does not collect census-level landings or economic data for this sector; therefore, applicants will need to provide supporting documentation to demonstrate that the loss threshold has been met. As such, an application process, including an affidavit for self-certification, will be utilized, allowing all license holders in the Texas saltwater for-hire sector, who can claim a greater than 35% loss in revenue due to COVID-19, to apply for potential financial assistance.

The application period will be open for 45 days. The application process will require applicants to provide information on financial losses incurred as a direct or indirect result of the COVID-19 pandemic during the 2020 calendar year, IRS forms W-9, and a completed application form. The included affidavit will require additional acknowledgements, indemnification, and self-certification with penalties outlined for submitting false information. Applicants will be notified that assistance may be subject to federal tax requirements and that state and federal auditors are expected to audit records of those who receive funds.

During the period applications are open and for 60 days afterwards, applications and supporting information received by TPWD will be reviewed as they are received to determine if the licensee meets eligibility requirements including confirmation of a greater than 35% loss in revenue during the impact period using the TPWD Commercial Landings System or provided supporting documentation and whether the applicant had COVID-19-related assistance from any other federal source. After each application has been reviewed by TPWD, each applicant will be notified in writing using either e-mail or mail whether their initial application has been approved or denied. Applicants will have 14 business days after notification of denial to submit an appeal as described above. Applicants will be notified of the outcome of their appeal once it has been received and processed by TPWD. Specific eligibility criteria for payments are listed under the Payment Eligibility Criteria above. Loss payment amount per applicant will be based on the total number of qualifying applicants within their sector. Submissions to GSMFC for payments for all approved applications will be made during a 60-day period beginning after the last appeals have been completed. The packet of information submitted to GSMFC will include paper or digital copies of application information, W-9 information, and verification of losses by the TPWD Commercial Landings program or by additional documents submitted during the appeals process.

#### Expected Benefits

The direct payments to qualifying license holders will provide some financial relief to these eligible sectors due to disruptions in seafood supply chains and reductions in for-hire fishing trips due to reduced tourism travel resulting from COVID-19 impacts and mitigation measures.

#### Cost Summary (Budget)

After subtraction of NOAA Fisheries and GSMFC administrative fees of ~0.7% and 0.23% respectively, the total Texas allocation of assistance funds is $9,151,842.

Table 3. Texas administrative costs and total allocation cost, by sector, for CARES Act program.

|  |  |
| --- | --- |
| **Description** | **Budget ($)** |
| Administrative Costs |  |
| Staff Salaries | $129,375 |
| Director IV- 0.03 FTE x 14 Months | $5,466 |
| Manager V- 0.01 FTE for 14 Months | $1,766 |
| Manager V- 0.08 FTE for 14 Months | $10,308 |
| Manager IV- 0.01 FTE for 14 Months | $1,026 |
| NRS V- 0.25 FTE x 14 Months | $21,277 |
| NRS IV- 0.25 FTE for 14 Months | $19,374 |
| NRS IV- 0.23FTE for 14 Months | $17,759 |
| NRS IV- 0.03 FTE for 14 Months | $2,629 |
| NRS IV- 0.03 FTE for 14 Months | $2,405 |
| Program Specialist IV- 0.23 FTE for 14 Months | $18,009 |
| Program Specialist IV- 0.23 FTE for 14 Months | $18,267 |
| Information Specialist IV- 0.12 FTE for 14 Months | $8,357 |
| Administrative Assistant IV- 0.05 FTE for 14 Months | $2,732 |
| Fringe Benefits: calculated at 32.15% Includes: FICA (7.65%), Retirement (9.5%), and Insurance (15.0%) | $41,595 |
| Director IV- 0.03 FTE x 14 Months | $1,757 |
| Manager V- 0.01 FTE for 14 Months | $568 |
| Manager V- 0.08 FTE for 14 Months | $3,314 |
| Manager IV- 0.01 FTE for 14 Months | $330 |
| NRS V- 0.25 FTE x 14 Months | $6,841 |
| NRS IV- 0.25 FTE for 14 Months | $6,229 |
| NRS IV- 0.23FTE for 14 Months | $5,710 |
| NRS IV- 0.03 FTE for 14 Months | $845 |
| NRS IV- 0.03 FTE for 14 Months | $773 |
| Program Specialist IV- 0.23 FTE for 14 Months | $5,790 |
| Program Specialist IV- 0.23 FTE for 14 Months | $5,873 |
| Information Specialist IV- 0.12 FTE for 14 Months | $2,687 |
| Administrative Assistant IV- 0.05 FTE for 14 Months | $878 |
| Operating, mailing, printing | $ 12,067 |
| Subtotal Administrative Costs | $183,037  |
|  Direct Payments |   |
| Commercial Fishers | $5,766,942  |
| Seafood Dealers/Processors | $2,251,170  |
| For-Hire Fishing Operations | $950,693  |
| Subtotal Direct Payments | $8,968,805  |
| TOTAL | $9,151,842  |

Staff salaries will cover a percentage of time that will be dedicated to development of the Spend Plan, conducting economic data analyses of commercial landings by license holder and dealer to determine loss eligibility, verifying supporting documentation provided by applicants, collecting and submitting payment batches to GSMFC, and compiling final report documents (Table 3). The distribution of effort on the project among the listed positions is an estimate, and tasks may be redistributed among the listed positions as needed. Operating, mailing, and printing costs will be used in direct mailings of applications to eligible license holders, notification of application acceptance or denial, and translation services (Spanish and Vietnamese).

Table 4. Projected Milestone Schedule:

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **July** | **Aug** | **Sep** | **Oct** | **Nov** | **Dec** | **Jan** | **Feb** | **Mar** | **Apr** | **May** | **Jun** | **Jul** | **Aug** | **Sep** |
| **Task** | 2020 | 2020 | 2020 | 2020 | 2020 | 2020 | 2021 | 2021 | 2021 | 2021 | 2021 | 2021 | 2021 | 2021 | 2021 |
| Spend Plan Development | X | X | X | X | X | X | X |  |  |  |  |  |  |  |  |
| Spend Plan approval |  |  |  |  | X | X | X |  |  |  |  |  |  |  |  |
| Application period |  |  |  |  |  |  |  | X | X |  |  |  |  |  |  |
| Application review and verification, Notification |  |  |  |  |  |  |  | X | X | X | X |  |  |  |  |
| Appeals, Final determination of eligibility, Notification |  |  |  |  |  |  |  | X | X | X | X |  |  |  |  |
| Direct relief disbursements |  |  |  |  |  |  |  |  |  |  |  | X | X |  |  |
| Final review and report |  |  |  |  |  |  |  |  |  |  |  | X | X | X | X |

1. State allocation has been adjusted to account for administration fees as allowed under the CARES Act. NOAA Fisheries’ administrative fees (~0.7%) and the GSMFC’s administrative fees (0.23%) were deducted before applying the 2% TPWD administrative fees. [↑](#footnote-ref-1)