

# **Pennsylvania CARES Fisheries Relief Funding Proposal**

## **Pennsylvania Fish and Boat Commission 2020 Fisheries Assistance Program**



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## **Objective**

Distribution of Pennsylvania's allocation of Coronavirus Aid, Relief, and Economic Security (CARES) Act Fisheries Assistance Program relief funding to eligible marine fishery-related businesses which have been negatively impacted by the COVID-19 virus.

## **Need**

Pennsylvania for-hire and recreational fishing industries were impacted by efforts to slow the spread of COVID-19 when non-essential businesses were required to be closed and stay-at-home orders were issued throughout the Commonwealth. The seafood industry – commercial fisheries, aquaculture, processors, and wholesale dealers/distributors – was directly affected as restaurants and other retail distribution sources were forced to reduce operations, severely curtailing orders of fresh or frozen seafood.

Pennsylvania has begun its reopening phases, lifting stay-at-home orders and allowing non-essential businesses to operate within limited capacities. Many businesses are now functioning with a smaller workforce to keep employees safe and limiting the number of people in confined spaces to comply with social distancing requirements. These procedures, while necessary, continue to suppress demand for the products and services provided by the seafood and recreational/for-hire fishing industries.

On May 7, 2020, the Secretary of Commerce announced \$300 million in fisheries assistance funding provided by Sec. 12005 of the CARES Act to states, tribes, and territories with coastal and marine fishery participants who have been negatively affected by COVID-19. National Oceanic and Atmospheric Administration (NOAA) Fisheries developed an allocation plan based on multi-year averages of annual revenue for each coastal state, tribe, and territory from four business sectors: commercial fishing, charter fishing, aquaculture, and seafood-related businesses. Funds for the Atlantic coastal states were awarded to the Atlantic States Marine Fisheries Commission (ASMFC) which will provide sub-awards to the states. Pennsylvania was allocated \$3,368,086 prior to removal of administrative fees by NOAA (0.7%) and ASMFC (0.1%).

Distribution of relief funds from the CARES Act is necessary to keep eligible Pennsylvania businesses afloat during this economic downturn. 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.

## **Approach**

CARES Act relief funds will be available to Pennsylvania resident commercial fishermen, seafood processors, wholesale dealers/distributors, recreational for-hire fishing businesses, privately owned marine aquaculture businesses growing products in state or federal marine waters of the United States (i.e., shellfish leases, hatcheries, nurseries), and other fishery-related businesses such as bait and tackle operations which meet saltwater tackle sales criteria. Pennsylvania has no federally recognized tribes, therefore, no funding has been allocated to tribal commercial fishing, aquaculture, and for-hire sectors. Sec. 12005 of the CARES Act does not include coverage for seafood retail markets, restaurants, boat yards or vessel repair businesses, and freshwater industries.

Under the CARES Act, only fishery participants who have incurred a greater than 35% economic revenue loss caused by COVID-19 relative to the average revenue from the preceding five-year period (2015-2019), or experienced any negative impacts to subsistence, cultural, or ceremonial fisheries, will qualify for these funds. Recipients may not be made more than whole through this funding and other forms of pandemic-related aid and/or any traditional revenue compared to average annual revenue earned across the previous five years.

Applicants who have received funding through the U.S. Small Business Administration (SBA) from the CARES Act (i.e., Paycheck Protection Program) or another program are eligible to receive Fisheries Assistance Program relief funding. Such funding will not be included when establishing the greater than 35% revenue loss; however, when calculating the amount of Fisheries Assistance Program funding an applicant may receive, the terms of the applicant's SBA funding will be taken into consideration.

- SBA funds which must be paid back are deemed a loan. These amounts will not be included when calculating Fisheries Assistance Program relief funding.
- SBA funds which do not require repayment (forgiveness) are considered assistance. Any amount which is forgiven will be included in the calculations for, and will reduce the amount of, Fisheries Assistance Program relief funding.

The Pennsylvania Fish and Boat Commission (PFBC) will administer the determination of candidate eligibility, evaluation, and any necessary appeals process. PFBC will authorize ASMFC to issue direct payments to approved applicants. Data forwarded to ASMFC for payment to approved applicants will include tax identification numbers (SS or FEIN). CARES Act relief funds are taxable; ASMFC will issue all recipients a 1099 form at the end of the calendar year and will notify the IRS of the distribution of relief funds. The amount of potential losses from COVID-19 impact may exceed the amount available in the CARES relief funds and applicants should only expect to receive a portion of their economic losses.

Pennsylvania residents who are 18 years or older will be eligible for relief funding through this program. Eligible fishery participants include fishery-related businesses which have incurred, as a direct or indirect result of the COVID-19 pandemic, economic revenue losses greater than 35% as compared to the prior five-year average revenue (2015-2019). Applicants that have not been in business during the entire five-year period of 2015-2019 are considered eligible if they

conducted business operations for a minimum of two of the last three consecutive years (2017-2019) and can demonstrate a greater than 35% revenue loss for the shorter average time period. Revenue history must be provided for all years during which the business was in existence from 2015 to 2019, even if revenue was not generated each year.

After deduction of administrative fees for ASMFC and NOAA, Pennsylvania received \$3,341,184 in CARES Act funds. Pennsylvania will withhold 5% (\$167,059) of this amount for appeals, providing an allotment of \$3,174,125 to provide direct assistance to the fishery sectors. Direct assistance will be provided to Pennsylvania residents falling into one of the following categories: 1) seafood processors, wholesale dealers/distributors, and marine aquaculture operations, 2) bait and tackle operations for which saltwater bait, tackle, and other equipment sales are responsible for 50% or greater of total annual retail sales, 3) recreational for-hire fishing businesses, and 4) commercial fishers.

NOAA identified only one sector – Seafood – in its funding determination for Pennsylvania. The PFBC has elected to make relief funds available to other eligible sectors. The PFBC does not regulate or permit any commercial marine fisheries; bait and tackle operations; or seafood processors, wholesale dealers/distributors, and marine aquaculture operations. The PFBC does permit recreational for-hire fishing businesses (i.e., fishing guides); however, fisheries targeted (e.g., marine versus inland) are not classified on applications. Given the paucity of available data pertaining to these sectors, sector allocations detailed in the table below were derived from the best information available to estimate potential sector needs. Sector allocations are subject to change; should a sector receive fewer applications than expected or it is anticipated that not all funds will be distributed, funds will be equitably reallocated to the other sector(s).

<b>Fishery Sector</b>	<b>Proportion of Total</b>	<b>Fund Allocation</b>
Seafood Processors, Wholesale Dealers/Distributors, and Aquaculture Operations	50%	\$1,587,063
Bait and Tackle Operations	30%	\$952,238
Recreational For-Hire Fishing Businesses	15%	\$476,118
Commercial Fishing	5%	\$158,706
<b>Total</b>	<b>100%</b>	<b>\$3,174,125</b>

For the purposes of this Program, the impact period for COVID-19 in Pennsylvania is from March 19, 2020 to June 30, 2020. This period coincides with the beginning of the Commonwealth’s ordered closure of non-essential businesses, social distancing requirements, travel limitations, and the subsequent decline in the demand for fresh seafood products and services.

An application process will be developed, including an affidavit for self-certification, which will allow Pennsylvania residents with businesses in the eligible sectors to apply for potential financial assistance. Applicants will be required to provide documentation of a sustained greater than 35% loss in revenue due to COVID-19 for any consecutive four-week period of time between March 19 and June 30, 2020, compared to an average of the same time period from 2015 to 2019. Businesses in operation for less than the designated five-year period may apply so long as they were in business for at least two of the last three consecutive years (2017-2019) and can demonstrate the required revenue loss.

The application period for relief funding will be open for 30 days; applications received after the published due date will not be reviewed or considered. Applicants will be required to provide supporting materials documenting revenue loss, such as payment records, notarized statements from buyers, amount of marine fisheries-related revenue that contributes to overall revenue, and/or other supporting information. The affidavit will require additional legal acknowledgements and self-certifications with penalties outlined for false information.

Applicants will be notified that assistance is taxable and that state and federal auditors are expected to audit the records of those receiving funds. Applications will be reviewed; examined for completeness, accuracy, and plausibility; and deemed eligible or ineligible based on documentation provided, including confirmation that the applicant met the greater than 35% revenue loss between March 19, 2020 and June 30, 2020.

Applications will be reviewed and processed in the order in which they are received. After all applications have been reviewed and any appeals have been resolved, the process of issuing relief payments will begin. PFBC will transmit to ASMFC all pertinent recipient data, to include recipient name, address, approved funding amount, and tax identification information. ASMFC will disburse relief funding via checks to approved applicants and will transmit 1099 forms to them at the end of the tax year.

**Timeline**

The proposed timeline is dependent on NOAA approval and will be adjusted accordingly. The PFBC intends to complete the measures outlined in this Spend Plan and close out the relief program by September 30, 2021.

Timeline		Develop Funding Application and Outreach	Open Program to Applicants	Process and Validate Applications	Resolve Appeals	Provide Funding Data to ASMFC
2020	Sep	X				
	Oct	X				
	Nov	X				
	Dec		X			
2021	Jan		X	X		
	Feb			X	X	
	Mar			X	X	
	Apr				X	X
	May					X
	Jun					X
	Jul					
	Aug					
	Sep					

**Application and Eligibility Criteria**

To receive CARES Act aid from Pennsylvania, all applicants must:

- Be 18 years of age or older.
- Provide proof of residency in Pennsylvania in the form of one of the following:
  - Valid PA driver’s license
  - Valid non-driver photo identification card
  - Prior year’s Pennsylvania state income tax return showing proof of payment of personal income tax as a resident of Pennsylvania
  - Prior year’s local earned income tax return showing tax paid to a Pennsylvania municipality
  - Current Pennsylvania voter registration card
- Provide a Tax ID number. If an applicant has multiple qualifying fisheries related businesses, each individual business may apply for relief funding provided each business has a unique Tax ID number. Each individual business may apply to only one sector; applicants with businesses encompassing multiple fisheries sectors must select the most appropriate sector (typically, the sector from which the majority of fisheries related income is generated). There can be only one Tax ID number associated with each application. If an applicant has only one Tax ID number for all businesses, they may submit only one application and should choose the business which generates the majority of their fisheries related revenue, which also shows a greater than 35% loss.

- Be a licensed commercial fisherman, licensed operator of a for-hire fishing vessel, a licensed wholesale seafood processor or wholesale dealer/distributor, qualifying aquaculture business, or own/operate a qualifying bait and tackle business in Pennsylvania.
  - *Qualifying aquaculture businesses* are those businesses growing products in state or federal marine waters, and hatcheries that supply such businesses. This includes all businesses that culture molluscan shellfish and marine algae. Businesses that grow non-salmonid marine finfish in marine waters that do not qualify for USDA aid are eligible for aid from the CARES Act Fisheries Assistance Program.
  - *For-hire fishing vessels* are vessels operating under a Pennsylvania Charter Boat permit and carrying passengers for the purpose of recreational fishing for marine species.
  - *Qualifying bait and tackle businesses* provide fishing supplies and equipment necessary for fishing for marine species and the saltwater equipment portion of their sales is equal to or greater than 50% of their total sales.
  - See further below for sector-specific criteria.
- Submit an affidavit that:
  - Self-certifies the applicant has suffered a greater than 35% loss in economic revenue from commercial fishing, for-hire vessel operations, seafood processing or dealing, operation of a qualifying aquaculture business, or operation of a qualifying bait and tackle shop as a direct or indirect result of the COVID-19 pandemic during the period of March 19 to June 30, 2020, relative to their five-year average revenue during that same period in 2015-19 (or during the eligible period if in business less than five years).
  - Quantifies the total commercial fishing, for-hire fishing, seafood processing or dealing, aquaculture, and/or bait and tackle sales revenue lost in 2020 during the Application Period in question as a direct or indirect result of the COVID-19 pandemic, relative to the five-year average revenue during those same months in 2015-19 (or during the eligible period if in business less than five years).
  - Discloses the amount and source of any other aid that the applicant has received to offset COVID-19 related losses during the Application Period.
    - No applicant may receive CARES Act Fisheries Assistance Program funding which, in combination with other forms of pandemic-related aid and/or any traditional revenue, will make them more than whole or receive compensation exceeding 100% of their documented losses as compared to their average annual revenue earned across the previous five years. When determining aid disbursement, the PFBC will take into consideration all other COVID-19 related aid that the applicant reports as having received.
    - Applicants must disclose whether they have applied for or received CARES Act Fisheries Assistance Program aid from any other state, tribe, or territory.

- The application affidavit will include acknowledgement that the information provided is subject to verification/audit by either the Commonwealth of Pennsylvania or the United States Department of Commerce.

To qualify for CARES Act relief funding, sectors must meet the following criteria. The COVID-19 timeframe for evaluation of lost revenue is March 19, 2020, through June 30, 2020. No payments will be made to any sector for projected losses.

### **Seafood Processers, Wholesale Dealers/Distributors, and Aquaculture Operations**

- Provide proof of a current Seafood/Shellfish Registration and Certification issued by the Pennsylvania Department of Agriculture.
- Provide verifiable revenue data for 2015-2019 such as tax returns or recorded processor or wholesale dealer/distributor sales activity reports. Records for at least two of the three previous years (2017-2019) may be provided if not in operation for the stated five-year period. Revenue history must be provided for all years in which the business existed from 2015 to 2019, even if revenue was not generated each year.
- Annual revenues of 50% or greater must be derived from sales and/or propagation of marine species.
- Business must be physically located in Pennsylvania.

### **Commercial Fishing**

- Provide proof of a commercial fishing enterprise which is either headquartered or physically located in Pennsylvania.
- Provide verifiable revenue data for 2015-2019 such as tax returns or monthly reporting of daily catch rates. Records for at least two of the three previous years (2017-2019) may be provided if not in operation for the stated five-year period. Revenue history must be provided for all years in which the business existed from 2015 to 2019, even if revenue was not generated each year.
- Annual revenues of 50% or greater must be derived from fishing for marine species.

### **Recreational For-Hire Businesses**

- Provide proof of current Charter Boat Operator permit and valid Pennsylvania Fishing License issued by the Pennsylvania Fish and Boat Commission.
- Provide verifiable revenue data for 2015-2019 such as tax returns and booking or logbook records. Records for at least two of the three previous years (2017-2019) may be provided if not in operation for the stated five-year period. Revenue history must be provided for all years in which the business existed from 2015 to 2019, even if revenue was not generated each year.

- Annual revenues of 50% or greater must be derived from chartered trips to fish for marine species in Pennsylvania waters of the Delaware Estuary, Delaware River or its tributaries.
- Business must be physically located in Pennsylvania.

### **Bait and Tackle Operations**

- Provide proof of current enterprise registration and/or sales tax license with the Pennsylvania Department of Revenue.
- Provide proof that 50% or greater of total annual revenue is generated by retail sales of saltwater bait, tackle, and other saltwater equipment and supplies (i.e., sales and inventory records).
- Provide verifiable revenue data for 2015-2019 such as tax returns. Records for at least two of the three previous years (2017-2019) may be provided if not in operation for the five-year period. Revenue history must be provided for all years in which the business existed from 2015 to 2019, even if revenue was not generated each year.
- Must be an independently owned, small business with fewer than 100 employees.
- Business must be physically located in Pennsylvania.

### **Distribution of Funds**

Distribution of funds to applicants will be determined based on each sector’s total applicants and eligible revenue losses. Other COVID-19 related assistance reported by an applicant will be deducted from their reported revenue loss to determine the eligible amount of revenue loss. Funds will be distributed based upon each applicant’s share (percentage) of the sector’s total eligible revenue losses as noted in the sample table below.

*Eligible Revenue Loss = Applicant’s Reported Revenue Loss - Other Assistance Received*

*Percent of Total Sector Losses = Applicant’s Individual Eligible Revenue Loss ÷ Sector’s Total Eligible Revenue Loss*

*Funding Distribution = Available Sector Funding × Percent of Total Sector Losses*

**\$ 1,587,063.00 Available Sector Funding**

<b>Applicant</b>	<b>Reported Revenue Loss</b>	<b>Other Assistance Received</b>	<b>Eligible Revenue Loss</b>	<b>Percent of Total Sector Losses</b>	<b>Funding Distribution</b>
A	\$ 1,050,875.00	\$ 500,000.00	\$ 550,875.00	23.34%	\$ 370,497.03
B	\$ 15,258.00	\$ -	\$ 15,258.00	0.65%	\$ 10,261.94
C	\$ 763,278.00	\$ 75,000.00	\$ 688,278.00	29.17%	\$ 462,908.93
D	\$ 225,000.00	\$ 60,000.00	\$ 165,000.00	6.99%	\$ 110,972.56
E	\$ 84,750.00	\$ 15,000.00	\$ 69,750.00	2.96%	\$ 46,911.13
F	\$ 76,985.00	\$ -	\$ 76,985.00	3.26%	\$ 51,777.11
G	\$ 576,500.00	\$ -	\$ 576,500.00	24.43%	\$ 387,731.41
H	\$ 175,685.00	\$ -	\$ 175,685.00	7.45%	\$ 118,158.88
I	\$ 43,900.00	\$ 2,500.00	\$ 41,400.00	1.75%	\$ 27,844.02
<b>Total</b>	<b>\$ 3,012,231.00</b>	<b>\$ 652,500.00</b>	<b>\$ 2,359,731.00</b>	<b>100.00%</b>	<b>\$ 1,587,063.00</b>

**Appeals**

PFBC will reserve 5% (\$167,057) of its allocation to address potential appeals. Applicants may appeal PFBC determinations of the applicant’s CARES Act Fisheries Assistance Program eligibility and/or aid disbursement. Applicants may not contest Pennsylvania’s Spend Plan criteria. Applicants will be notified of a funding decision via U.S. mail or email (if provided). Applicants must appeal to the Executive Director of the Pennsylvania Fish and Boat Commission in writing within thirty (30) days of the date on the notification of the disposition of their application. Appellants should clearly identify their grounds for appeal and provide any relevant supporting documents. Supporting documentation will depend on the reason for appeal. For example, if the amount of aid awarded is disputed, the applicant will need to provide additional evidence of eligible revenue loss; or if the applicant appeals their eligibility, they must provide further documentation that they meet the eligibility criteria. The Executive Director will consider appeals and render judgement within thirty (30) days of receipt of written notice of appeal. All decisions rendered by the Executive Director in the appeal process are final.

**Unused Relief Funds**

In the event that Pennsylvania’s allocated funds are not fully distributed after all applications and/or appeals have been completed, any remaining funds will be dispersed to eligible recipients prior to September 2021. Distributions will be in equal proportion to all Pennsylvania CARES Act Fisheries Assistance Program aid recipients who meet the requirements and in amounts so that no recipient will be made more than whole through this funding and other forms of pandemic-related aid and/or any traditional revenue compared to average annual revenue earned across the previous five years. The amount of remaining distributions will be determined based on prior relief funding to individual applicants, up to but not exceeding 100% recompense for

lost revenues. If relief funds still remain, after all applications, appeals, and remaining funds distributions (if applicable) have been completed, those unused funds shall be reverted.