

August 12, 2021

SPEND PLAN FOR
STATE OF HAWAII

**Consolidated Appropriations Act, 2021, Pub. L. 116-260 (December 27,
2020) (the “Act”)**

*For the Periods February 1, 2020 – December 31, 2020
and January 1, 2021 – June 30, 2021*

Objective: To provide fast and direct economic assistance to Hawaii’s fishery sectors and outline available funding for direct payments, fishery-related infrastructure, and fishery-related education that address direct and indirect COVID-19 impacts to commercial fishers, charter businesses, qualified aquaculture operations, subsistence/cultural/ceremonial users, processors, and dealers.

About the CARES Act

On March 27th, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act H.R.784 – 116th Congress (2019-2020) was passed by Congress and signed into law by President Trump to direct an economic relief package of over \$2 trillion USD to protect the American people from the economic and public health impacts of COVID-19 (i.e. coronavirus disease 2019) outbreak. The CARES Act provides fast and direct economic assistance for American workers, families, and small businesses, and preserves jobs for our American industries. On December 27, 2020, Congress passed the Consolidated Appropriations Act, 2021, Pub. L. 116-260 (the “Act”), Division M, providing an additional \$300 million to be used only for activities authorized under section 12005 of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) (the “CARES Act”).

Fishery & Aquaculture Funding

The CARES Act Title II Sec. 12005 authorizes and provides appropriations for the Department of Commerce to aid certain tribal, subsistence, commercial, processors, qualified aquaculture operations, and charter fishery participants affected by COVID-19. This assistance may include direct relief payments. A total of \$300 million was identified for fisheries and aquaculture with a total sum of \$4,337,445 USD allocated for eligible Hawaii fishery sectors.

The State of Hawaii fishing and seafood industries experienced severe economic hardship in the COVID-19 pandemic, the impacts of which are ongoing and need to be addressed urgently. On January 31st, 2020, the United States Secretary of Health and Human Services declared the outbreak of COVID-19 a public health emergency for the United States. Based on the actions and directives from the President and the Centers for Disease Control and Prevention, and current conditions globally, the Governor of Hawaii issued an Emergency Proclamation on

March 4th, 2020 indicating the significant danger that warranted preemptive and protective actions in order to provide for the health, safety, and welfare of the people of the state. On March 21st, the Governor issued a mandatory 14-day quarantine for travelers entering the state, which was extended to interisland travel on March 31st. Social distancing and “stay at home” orders further disrupted fishery business and practices, leading to decreased demand for fishery products and services, lost opportunity for fishing, and many other impacts yet to be fully understood. Due to the severity of these impacts, both direct and indirect, upon the State of Hawaii fishery sectors, funds under Section 12005 of the CARES Act will be made available as quickly as possible. Funds may be awarded on a rolling basis, and within a fishing season, to ensure rapid delivery during the COVID-19 pandemic. 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.

Eligibility

Under the CARES Act, “**fishery participants**” include Tribes, persons, fishing communities, aquaculture businesses not otherwise eligible for assistance under part 1416 of title 7 of the Code of Federal Regulations for losses related to COVID-19, processors, or other fishery-related businesses*, who have incurred, as a direct or indirect result of the coronavirus pandemic:

1. Economic revenue losses greater than 35% as compared to the prior 5-year** average revenue; or
2. Any negative impacts to subsistence, cultural, or ceremonial fisheries

(Sec. 12005(b)).

*“**Fishery-related businesses**” applies to commercial fishing operations, aquaculture, the seafood supply chain (processors, dealers, wholesalers, and distributors), and charter fishing businesses. It does not include businesses such as vessel repair, restaurants, or seafood retailers further down the supply chain.

**Entities that have been in business less than 5 years are still eligible for assistance.

See the section **Criteria** in this document for additional details regarding how the State of Hawaii will identify and determine fishery participants eligible for funding.

Hawaii Program Development & Coordination

On May 7, 2020, the Secretary of Commerce announced an allocation of \$300 million for fishery participants to be disbursed by the National Oceanic and Atmospheric Administration (NOAA) to states, Tribes, and territories with coastal and marine fishery participants who have been negatively affected by COVID-19. NOAA Fisheries will make non-competitive grant awards to the Interstate Marine Fisheries Commissions (Commissions), U.S. Virgin Islands and Puerto Rico.

NOAA Fisheries resolved to make funds available as quickly as possible while accounting for regional variability in the sizes of fishery sectors. To determine allocations across sectors, NOAA Fisheries used readily available multi-year averages to estimate the total average annual revenues from commercial fishing operations, aquaculture firms, the seafood supply chain (processors, dealers, wholesalers, and distributors), and charter fishing businesses from each coastal state, Tribe, and territory. Additional considerations were made for negative impacts on subsistence, cultural, and ceremonial fisheries. These calculations were used to allocate set amounts of the total \$300 million among coastal states, Tribes, and territories. This amount was set at \$4,337,445 for the State of Hawaii. For further details on NOAA's process for allocating funding, see its NOAA Fisheries COVID-19 Update Page on its website at <https://www.fisheries.noaa.gov/national/noaa-fisheries-coronavirus-covid-19-update>.

With the assistance of NOAA Fisheries and the interstate marine fisheries commissions, the states, Tribes, and territories began a process of outlining their respective spend plans for their allocations. Spend plans are reviewed and approved by NOAA before disbursement of any funds. The Pacific States Marine Fisheries Commission (PSMFC) has been tasked with assisting fishery participants affected by COVID-19 in Alaska, Washington, California, Oregon, Hawaii, American Samoa, Guam, Commonwealth of the Northern Mariana Islands (CNMI), Federally Recognized Tribes in Alaska, and Federally Recognized Tribes on the West Coast. The PSMFC has a proven track record of quickly and efficiently disbursing emergency funding. The State of Hawaii worked closely with the PSMFC to develop and coordinate the application process and to process payments to eligible fishery participants on behalf of the state as quickly as possible. The first round of CARES Act assistance ("Round 1") was disbursed to qualifying fishery participants in December 2020.

On March 29, 2021, NOAA Fisheries announced the allocation of an additional \$255 million in fisheries assistance funding ("Round 2") provided by the Consolidated Appropriations Act of 2021. Of this amount, \$3,660,340 USD has been allocated to eligible Hawaii fishery sectors. The funding will support activities previously authorized under Sec. 12005 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

Stakeholder Input

The State of Hawaii spend plan was developed through a process with significant industry participation. Coordination between the Department of Land and Natural Resources (DLNR) Division of Aquatic Resources (DAR) and the fisheries sectors began in May 2020 concurrently with discussions between DAR, the PSMFC, and NOAA Fisheries. However, due to the COVID-19 policies in place at both state and federal levels, in-person public meetings were not possible. In lieu of public meetings, phone calls were scheduled with stakeholder representatives to discuss the scope and criteria for funding payments prior to drafting the spend plan.

Oversight and Administration

NOAA Fisheries will pass funds to the PSMFC for disbursement to eligible applicants. All funds must be disbursed by September 30, 2021.

Each fishery participant receiving CARES Act funding will be required to certify that, should s/he receive any additional COVID-19 related Federal financial assistance and/or is able to collect traditional revenue, the sum of all funds, including Section 12005 assistance, will not exceed the participant's average annual revenue earned across the previous 5 years.

- Direct Payments are expressly allowed by the CARES Act; however, applications must address direct payments as follows:
- Direct payments may not be directed to minors.
- Funds cannot be used to compensate state, local, or tribal governments for lost municipal or government tax revenue.
- Funds must be used to address fishery related direct or indirect losses or subsistence/cultural/ceremonial impacts.
- Participants can only be eligible for assistance from their state/territory of residence.

These funds will be audited by the Office of Inspector General.

Of the total \$3,660,340 USD Round 2 funding allocated to the State of Hawaii fishery participants, NOAA required a total amount of \$40,227, or 1.10%, for administration costs. An additional \$16,576, or 0.45%, was allocated for the same purposes to the PSMFC. Up to 2% of funds may be used for coordination and administrative processes to determine which fishing participants will receive direct payments and at what level, and for the performance of such economic analysis that supports the details of this spend plan. The total amount is therefore \$3,603,537, of which \$10,000 USD or 0.28% is used to contract the support of one additional team member for the State of Hawaii's part in administration. All other personnel costs and resources will be provided by the State.

State of Hawaii Contractual Services Work Plan:

Task 1: Research fisheries sectors and eligibility requirements under the CARES Act Sec. 12005.

Task 2: Develop a spend plan for the State of Hawaii to be approved by NOAA.

Task 3: Assist DAR with coordinating and evaluating applications from eligible fisheries sectors.

With significant insight into the issues and processes for administering fishery economic relief programs, the PSMFC will administer the payments and provide management oversight and program administration. The PSMFC will coordinate meetings with the state representatives and NOAA Fisheries to advise the state on the eligibility criteria, processes and the necessary documentation for audit purposes. PSMFC staff drafted application forms that were circulated to the DLNR-DAR representatives for comment. Correspondence outlining the program and criteria for the participants were distributed along with an application form from the PSMFC office.

The PSMFC staff has outlined the application evaluation process upon receipt of the forms and will distribute the outline to its staff so that all applications may be handled in a consistent manner. Staff will review applications for completeness and necessary documentation as outlined in the original correspondence. If an application is incomplete, staff will be contacting the participant to notify them of the additional documentation or information needed to process their application for payment. The participant must provide the missing information or documentation to the PSMFC within 7 days of being notified. In the event that the PSMFC requires additional support, DAR may also be contacted for assistance.

At the close of the application period, after all applications have been reviewed and verified for accuracy, the PSMFC will determine each qualifying applicant's disbursement amount in accordance with this spend plan. This information will be forwarded to the PSMFC accounting office and checks will be disbursed. With the information collected from the **IRS Form W-9**, which is required from every individual requesting reimbursement, the PSMFC staff will generate 1099-MISC forms at the end of the calendar year. This information will be forwarded to the appropriate taxing authorities when the PSMFC files their 2020 and 2021 tax reports. The PSMFC office will maintain all the required documentation in their official files for audit purposes regarding expenditures for this program. There will be no process for appealing eligibility determination or disbursement amounts.

With a program of this type, there will be numerous phone calls to the PSMFC office requesting information on the status of their application and check, calls from financial institutions on the validity of the checks, and from Certified Public Accountants. Based on experience from prior fishery assistance programs, the PSMFC has established a dedicated toll-free number to handle these calls.

In order to maximize the amount of funds distributed into the communities affected by the COVID pandemic it was decided that the PSMFC would minimize the administrative costs by not direct costing the program expenses (salary, benefits, general operating costs) for this project and not applying the approved standard indirect cost rate of 13%, but charge an approved amount of \$16,576 (0.45%) administrative fee that the PSMFC currently charges all pass-through costs, therefore covering all the direct program costs through administrative fee.

Pre-Award Costs

State expenses associated with administration and program development described in the prior section will cover a period from April 1, 2021 – September 30, 2021, to cover the expenses incurred while meeting with industry and agency representatives, developing this spend plan, and providing support for applicants. It is estimated that costs for the period of April 1, 2021 – September 30, 2021 are as follows:

DLNR-DAR Contractor Services:

Salary (6 months, ~20% FTE)	\$6,900
Fringe	\$2,191
Indirect Costs (10%)	\$909
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DLNR-DAR Contract Project Total	\$10,000

Performance Period

A performance period of April 1, 2021 – September 30, 2021 will apply for the funds. The end date under Sec. 12005 of the CARES Act is used for this performance period. Funds will be applied to cover the estimated payments for commercial fishery participants in the five identified sectors. \$100,000 will be set aside for claims from other fishery-related businesses, as well as claims for subsistence, cultural, and ceremonial fisheries. There are no federally recognized tribes eligible for these funds in the State of Hawaii. Once the application process has concluded, any remaining set-aside funds will be proportionally distributed according to this spend plan to all eligible applicants in the other five sectors.

Timeline

No awards will be made until NOAA Fisheries has reviewed and approved the state's spend plan. The state anticipates that it will submit the final draft by July 23, 2021 so that the application process may begin as quickly as possible. Following the approval of the State's spend plan, there will be a 45-day period for eligible fishery participants to submit their applications. An application due date will be published and no applications will be reviewed or considered after this date. Applications must be **postmarked** by the application deadline. DAR will widely circulate notifications by email, on its website, and through local media outlets regarding application information for eligible fishery participants impacted by COVID-19. Applications are submitted to and processed by the PSMFC on behalf of the State of Hawaii.

The process of disbursement of funds is to be as fast and direct as possible. In addition to funds that are otherwise made available to assist fishery participants under the CARES Act, the funding allocated under Sec. 12005 will be disbursed as a one-time payment to qualifying Hawaii fishery participants by September 30, 2021.

Administration Tasks:

July 26*:	Public Posting of HI Spend Plan	PSMFC/DAR
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General Application Period Open 45 days	
September 9*: General Application Period Closed	
Review and verify General Applications 14 days	PSMFC/DAR
September 23*: Decision Notice to Non-Eligible Applicants	PSMFC
September 30*: Funds distributed to Eligible Recipients 7 days	PSMFC
October 28*: Final report submitted to PSMFC 28 days	DAR

**Dates are provided as an estimated timeline only. The actual posting date could be earlier should the spend plan be approved earlier. The 45-day application period will begin upon public posting of the HI Spend Plan and application documents on the PSMFC website. The application deadline will be 45 days after the application period begins.*

Eligibility Criteria for Applicants

The following section describes the main categories for funding that addresses the direct and indirect COVID-19 impacts to commercial fishermen, charter businesses, qualified aquaculture operations, subsistence/cultural/ceremonial users, processors and dealers. In addition to the terms of eligibility detailed in the CARES Act Sec. 12005, the following conditions apply for all sectors:

1. Applicable losses must be the direct or indirect result of impacts related to the COVID-19 pandemic and must have occurred within one or both eligible loss periods from February 1, 2020 – December 31, 2020 and from January 1, 2021 – June 30, 2021 over the course of at least four consecutive weeks.
2. Fishery participants can only be eligible for assistance from their state/territory of residence;
3. Funds cannot be used to compensate state, local, or tribal governments for lost municipal or government tax revenue;
4. Direct payments may not be directed to minors.
5. Each entity shall require that each fishery participant receiving CARES Act funding will need to certify that should they receive any additional COVID-19 related Federal financial assistance and/or is able to collect traditional revenue, the sum of all funds, including Section 12005 assistance, will not exceed the participant’s average annual revenue earned across the previous 5 years.

For the purposes of carrying out the provisions in Section 12005 of the CARES Act, “**fishery-related businesses**” include commercial fishing businesses, charter/for-hire fishing businesses, qualified aquaculture operations, processors, and dealers. Marine bait and tackle operations, marine gear and vessel suppliers, vessel repair businesses, restaurants, or seafood retailers—are not considered “fishery-related businesses” for the purposes of this funding. Any business or operation involving freshwater species are also ineligible.

Fisheries participants within the State of Hawaii are to identify their losses as part of one or more of the approved sectors: commercial longline, commercial non-longline, charter, seafood processors & dealers, aquaculture, and subsistence/other. Losses cannot be double-counted across sectors, but fishery participants may submit multiple applications for different and distinct revenue losses that are eligible under the terms in this plan. For example, a business with qualified losses in both commercial non-longline and seafood processing sectors may submit two separate applications for those separate and distinct losses as long as the losses are each greater than 35% as compared to the previous 5-year average.

Periods of Eligible Losses

The two periods of eligible losses are February 1, 2020 – December 31, 2020 and January 1, 2021 – June 30, 2021. The date of February 1, 2020 was selected as it is the day after January 31, 2020 when the United States Secretary of Health and Human Services declared the outbreak of COVID-19 a public health emergency for the United States. Eligible losses include only those related, directly or indirectly, to the COVID-19 pandemic and may not be claimed for potential future losses. Eligible losses must have occurred over a minimum consecutive four-week period in a calendar year.

Individuals or entities that received Round 1 CARES Act payments for losses during the first period of eligibility (February 1, 2020 – September 30, 2020) may apply for Round 2 assistance but may only claim losses that were not claimed previously. Qualifying individuals or entities that did not apply for Round 1 CARES Act assistance or had their Round 1 application denied may claim losses for the entirety of both loss periods: February 1, 2020 – December 31, 2020 and January 1, 2021 – June 30, 2021.

Application Process

In order to qualify for Round 2 CARES Act funds, applicants must provide documentation of sustained economic losses greater than 35% due to COVID-19 when compared to average pre-pandemic earnings for the same time period. The period of claimed losses (i.e., the period in which the greater than 35% loss due to COVID-19 was felt), must span a minimum of four consecutive weeks between February 1, 2020 and December 31, 2020, and/or January 1, 2021 – June 30, 2021. To demonstrate what an individual's typical pre-pandemic earnings are, the applicant must provide total revenues for the same monthly or weekly period as the period of claimed losses between 2015 and 2019. For example, if an applicant would like to claim losses during the entire extended eligibility period of October 1, 2020 to June 30, 2021, they must provide documentation of their total landings revenues for the same nine-month time period (October – December and January – June) during the years 2015-2019.

The application includes:

- Self-Certification and Assurances Form (Affidavit)
- Application

- Tax Reporting Information (all funds are taxable per the IRS)

Applicants must sign and submit their application and included certification – certifying the following:

- Fishery participant is eligible for CARES Act assistance
- Funds will be used to address direct or indirect fishery-related losses related to the COVID-19 pandemic
- Recipient is at least 18 years of age
- Applicant has suffered greater than 35% loss of revenue due to COVID-19 during February 1, 2020 through December 31, 2020 and/or January 1, 2021 through June 30, 2021 over the course of at least four consecutive weeks compared to the prior five-year average (2015-2019)
- Applicant has documentation of gross revenues within the February 1, 2020 through December 31, 2020 and/or January 1, 2021 through June 30, 2021 timeframe and comparison years
- Applicant has relevant license or certification for business eligibility
- Business is based in Hawaii or applicant is Hawaii resident
- Sum of all CARES Act funding, any additional COVID-19 related federal financial and traditional revenue (including state unemployment) does not exceed the annual average revenue earned across the previous five years

Applicants will complete their applications at the following site:

<https://fs2.formsite.com/r5VtxP/eoe2b6gizc/index.html>

Application must be submitted **no later than 11:59 PM (PDT) on 9/30/2021**. Late applications will not be accepted. All payments will be issued, at the same time, after the application period ends and will be mailed to the address included in the application. All funds received are taxable subject to income and self-employment taxes. Questions about the application process may be directed to HICares@psmfc.org or via phone toll-free number (888) 595-1538.

Funding Availability

The allocation of funds among eligible fisheries participants will vary between sectors (Table 1) and is further detailed in the following section. For all sectors, the minimum value of relief distributed to each validated application will be \$50. Any claim determined to be less than \$50 is ineligible. No single application will be awarded for an amount in excess of the allocated funds for that sector, though it is well understood that the demonstrated need may far exceed the funds available under the CARES Act Sec. 12005.

*Table 1. Hawaii Fishery Participant Sector Allocations. The allocations were based on the relative proportion of a fishery to the sum calculated value. Percentages were adjusted for the added subsistence/other sector and administrative costs (ex. Longline fishery $\$98,941,808 / \$163,034,698 = 60.69\%$ and $60.69\% * (\$3,603,537 - \$10,000 - \$100,000) = \$2,120,143$, or 58.84% of $\$3,603,537$). Note that the amount $\$3,603,537$ represents the original allocation ($\$3,660,340$) minus the administrative charges from NOAA and PSMFC.*

Sector/Funding Category	Calculated Value		Allocation of total funding	
	USD	% of total	USD	% of total
Longline Fishery	\$98,941,808	60.69%	\$2,120,143	58.84%
Commercial Non-Longline (CML holders)	\$17,562,147	10.77%	\$376,325	10.44%
Charter Fishery	\$19,487,805	11.95%	\$417,588	11.59%
Seafood Processors/Dealers	\$27,042,938	16.59%	\$579,481	16.08%
Aquaculture	\$0	0%	\$0	0%
Subsistence/Other	---	---	\$100,000	2.78%
State Admin	---	---	\$10,000	0.28%
Total	\$163,034,698	100%	\$3,603,537	100%

Sector Descriptions and Eligibility Requirements

Commercial Longline Fishing Sector

The commercial longline fishing sector uses longline gear¹ for pelagic tunas, billfish, mahimahi, wahoo, moonfish, oilfish, and pomfret. There are approximately 140 Hawaii Longline Limited Entry Permits (vessels) actively operating in Hawaii. Vessel owners are required to submit landing reports to NOAA Fisheries, which include pounds landed, pounds sold, and value. From 2015 to 2019, the Hawaii longline fishery landed an annual average of 33.5 million lbs. of fish with an average annual value of approximately \$99 million.

Table 2. Longline fishing sector value.

HI 5-Year Longline Value Calculation		source: HICL2015_2019.dbf		
<u>Year</u>	<u>No. HLLE Permits</u>	<u>Lbs. landed</u>	<u>Lbs. sold</u>	<u>Value</u>
2015	142	33,870,234	27,127,056	\$94,144,690
2016	142	32,737,118	26,208,187	\$101,679,036
2017	145	35,029,525	28,287,752	\$100,461,376
2018	142	33,396,145	26,988,970	\$102,881,296
2019	147	32,261,890	26,692,986	\$95,542,641
Avg.	144	33,458,982	27,060,990	\$98,941,808

Fish prices at the Honolulu auction suffered extreme reductions on March 14, 2020. During the following two weeks, there was an 80% decline in the value of dockside landings. From March through July 2020, Hawaii longline fishery incurred losses of 45% less revenue compared to the 5-year average for the same period, placing the Hawaii longline fleet at the top of the Nation's most affected fisheries as a result of COVID-19 market impacts.

The primary reason for the decline was the rapid elimination of foodservice (restaurant, hotel, catering) orders both locally and in US markets. Several Hawaii wholesale distribution companies each laid off large percentages of their employees.

¹ Section 189-2.5, Hawaii Revised Statutes (HRS) defines longline fishing as "fishing conducted with gear consisting of at least one mainline over one nautical mile in length, to which is attached a number of branchlines with baited hooks and which is suspended below the surface of the ocean by floatlines attached to surface floats."

Weak and sometime volatile market conditions persisted through 2020, resulting in the Hawaii longline fleet to lose approximately \$35 million in revenue as compared to recent 5-year average and \$45 million in revenue in factoring opportunity costs of extended tie-ups.

All validly permitted Hawaii longline vessels with landings in Hawaii in calendar years 2020 and 2021 are eligible to apply for assistance. Applicants must certify via affidavit that they have experienced revenue losses greater than 35% over a period of time that spans at least four consecutive weeks as compared to the prior 5-year annual average revenue for that time span. For qualifying participants that have been in operation for less than 5 years, annual average revenue will be calculated based on the number of years in operation, provided they have been in operation for at least 1 year. Qualifying vessels will receive an equal share of the longline sector allocation with the objective of recovering lost revenue. Vessel owners will apply individually to the Pacific States Marine Fisheries Commission (PSMFC) to obtain their share of the available funding. The application will include the vessel name, vessel owner’s name, address, and phone number, and Hawaii Longline Limited Entry Permit number.

Commercial Non-Longline Fishing Sector

All commercial fishers fishing in state waters or landing fish in Hawaii are required to have a Commercial Marine License (CML) from DLNR-DAR. They are also required to submit monthly reports of all fishing activity and catch. A commercial fisher is defined as anyone who takes marine life for commercial purposes. The commercial non-longline fishing sector encompasses a wide variety of fishing gears and methods (e.g., troll, bottomfish, handline, throw net, gill net, trap, spear, hand harvest, etc.), which are used to target a wide variety of marine species (e.g., reef fish, bottomfish, pelagic fish, crustaceans, seaweed, mollusks, cephalopods, etc.). Marine aquarium fish collection is included within this sector.

DAR collects data on non-longline commercial marine landings from CML reports. DAR also collects data on the amount and value of catch sold through mandatory Commercial Marine Dealer reports. The average annual value of non-longline commercial marine landings sold from 2015 to 2019 is \$17,562,147.

Table 3. Non-Longline fishing sector value.

HI 5-Year Non-longline Value Calculation			source: HICL2015_2019.dbf append from AQ2015_2019.dbf	
Year	No. CML	Lbs. landed	Lbs. sold	Value
2015	2,063	6,353,335	5,034,413	\$19,252,392
2016	1,906	5,230,542	4,395,384	\$18,239,818
2017	1,820	4,860,815	4,168,362	\$17,473,015

2018	1,708	5,022,785	4,143,079	\$16,668,882
2019	1,609	4,498,379	3,960,596	\$16,176,628
Avg.	1,821	5,193,171	4,340,367	\$17,562,147

A total of 2,985 unique licensed non-longline commercial fishers reported landings from 2015 through 2019. Of these fishers, some left the fishery prior to the onset of COVID-19, so only those holding valid CMLs during the period of January – September 2020 are considered active commercial fishers.

All active commercial fishers with fish sales averaging at least \$7,000 annually (based on data reported to DLNR-DAR) over the past 5 years (2015-2019) are eligible to apply for assistance. For commercial fishers that have been in business for less than 5-years, the average will be based on their period of operation (i.e., the period of time a valid CML was held and no less than 1 year). Applicants must provide their name, address, phone number, CML number, and CML expiration date. Applicants must certify that their COVID-related revenue losses exceed 35% of their prior average revenue. Any person criminally convicted of violating any state fishing law (Subtitle 5 of Title 12, Hawaii Revised Statutes, or any rule adopted thereunder) while holding a valid CML within the past five years shall be ineligible for assistance. To assist in verifying the eligibility of applicants, DAR will provide to the PSMFC a list of commercial fishers that meet the above criteria, including name, CML number, and CML expiration date.

Each qualifying non-longline commercial fishing participant will receive a percentage of the non-longline sector allocation based on the proportion of their claimed revenue loss as compared to the total claims of all eligible non-longline participants. **Applicants may contact DAR directly to request their monthly landings revenue totals.** Anticipating a high volume of requests for such information, it is suggested that those wishing to do so contact DAR as soon as possible and also have all receipts available if discrepancies arise.

Charter/For-hire Fishing Businesses

Charter fishing businesses in Hawaii were hit particularly hard by the coronavirus pandemic. The mandatory 14-day quarantine for all persons travelling to the state, which took effect on March 21, completely shut down charter fishing businesses through October 2020. Demand for fishing charters began to pick up slowly from November through early 2021. Fishing charter businesses have reported that operations did not return to “near normal” until late April 2021.

All businesses that conduct commercial activities in state ocean waters, including vessel-based and shore-based charter fishing businesses, are required to have a Commercial Use Permit (CUP) from DLNR’s Division of Boating and Ocean Recreation (DOBOR). CUP holders are required to provide monthly statements of gross receipts to DOBOR. There are two privately operated marinas in the State, Kewalo Basin and Ko’olina. Charter fishing businesses that operate out of

these facilities do not have CUPs from DOBOR, but have similar permit and reporting requirements from the private marina operators.

To determine the total value of the for-hire fishing charter sector, DLNR-DAR obtained the total 2019 gross receipts of 172 fishing charter businesses operating under DOBOR permits, as well as the total gross receipts of 17 fishing charters operating out of Kewalo Basin and Ko'olina. This total came out to \$19,487,805.

Businesses whose primary business activity² is charter fishing are eligible for assistance. Charter fishing sector applicants shall provide the following information on their application:

1. Applicant name, company name and contact information
2. Vessel Name and ID number (HA or USCG) (if a vessel-based charter)
3. Home Port (if a vessel-based charter); note trailered vessel or shore-based charter
4. DOBOR account number or account number from private marina
5. Is charter fishing your primary business activity? (y/n)
6. Gross receipts³ for calendar years 2015 – 2019
7. Lost revenue due to COVID-19, which must be greater than 35% loss compared to prior years average revenue

Applicants must certify via affidavit that they have experienced revenue losses greater than 35% over a period of time that spans at least four consecutive weeks as compared to the prior 5-year annual average revenue for that time span. For qualifying participants that have been in operation for less than 5 years, annual average revenue will be calculated based on the number of years in operation, provided they have been in operation for at least 1 year.

To facilitate the review of charter sector applications, DAR will provide the Commission with the list of 189 identified charter fishing businesses. Applicants not on the list will not be automatically disqualified, but will undergo review based on the above listed criteria. Each qualifying claim of revenue loss will be calculated as a percentage of the total charter sector claims. Assistance will be distributed proportionately, based on revenue loss, as a percentage of the charter sector allocation.

Seafood Processors and Dealers

DLNR-DAR collects information from commercial marine dealers, including the value of all marine life purchased or obtained from commercial fishers. This total value of marine life purchased can be used to derive the economic value of the seafood processor and dealer sector. NOAA Fisheries has provided information on how it calculated its allocation of Sec. 12005

² “Primary business activity” means that greater than 50% of business revenue comes from charter fishing.

³ For each year of operation, please provide the annual gross receipts listed on the DOBOR Statement of Gross Receipts (SGR) form, if applicable. Alternatively, you may provide the annual gross receipts listed on lines 7 and 17 of your G-49 (General Excise/Use Annual Return & Reconciliation form). If using other documentation as proof of gross receipts, please specify. If charter fishing is not your sole business activity, only provide gross receipts from charter fishing activity.

funds to the States, Tribes, and Territories. For Hawaii, NOAA provided the following percentages of total annual revenue across sectors:

<u>For-Hire Fishing</u>	<u>Commercial Fishing and Aquaculture</u>	<u>Seafood Sector</u>
13.8%	69.4%	16.8%

Hawaii's seafood sector accounted for slightly less than 25% of the value of commercial fishing and aquaculture sectors ($16.8/69.4 = 24.21\%$). Using this as a guide, the average annual value of the seafood processor and dealer sector is treated as a percentage (25%) of the average annual values purchased from the commercial longline and non-longline fishing sectors combined.⁴

DAR consulted with the United Fishing Agency and other known wholesale dealers to identify all major wholesale fish processors and dealers operating in the State. Twelve businesses in DAR's Commercial Marine Dealer database were identified as major wholesale processors or dealers. The 5-year average annual purchase value of these businesses account for \$108,171,750, or over 94% of the total average annual value of seafood purchased.⁵ The remaining 6% of value is purchased by small-scale dealers and retail dealers, such as fish markets and restaurants.

To estimate the value of the wholesale seafood processor and dealer sector, DAR applied the 25% conversion factor to the \$108,171,750 average purchase value of the twelve major wholesale businesses for a total value of \$27,042,938.

Commercial seafood processors and dealers that process marine life products in the state and distribute them at wholesale are eligible for assistance, provided they:

1. Are registered with the FDA (Registration # required on application)
2. Operate from an FDA compliant facility
3. Possess a green Health Department inspection rating
4. Have a federal tax ID number
5. Are registered as a business with the state Department of Commerce and Consumer Affairs (DCCA)
6. Have a valid certificate of insurance
7. Have experienced greater than 35% revenue loss due to COVID-19

Applicants must certify via affidavit that they have experienced revenue losses greater than 35% over a period of time that spans at least four consecutive weeks as compared to the prior 5-year annual average revenue for that time span. For qualifying participants that have been in operation for less than 5 years, annual average revenue will be calculated based on the number of years in operation, provided they have been in operation for at least 1 year.

Processors and dealers that conduct both wholesale and retail sales may only claim losses arising from the wholesale component of their business. Retail losses are ineligible for compensation.

⁴ The value of the aquaculture sector is \$0, so it is not factored into the equation.

⁵ Based on reported dealer purchases in DAR's Commercial Marine Dealer database.

Each qualifying claim will be calculated as a percentage of the total seafood sector claims. Assistance will be distributed proportionately, based on revenue loss, as a percentage of the seafood sector allocation.

Qualified Aquaculture Operations

Eligible fishery participants include “aquaculture businesses not otherwise eligible for assistance under part 1416 of title 7 of the Code of Federal Regulations for losses related to COVID-19.” NOAA has provided guidance that “aquaculture businesses growing products in marine waters and the hatcheries that supply them” are potentially eligible for CARES Act funding. DAR has identified one aquaculture business that would potentially be eligible, but it has indicated it would not meet the greater than 35% loss threshold to qualify for assistance. There are no other known aquaculture businesses in Hawaii that are potentially eligible for assistance under section 12005. Therefore, the allocation to this sector is set at zero.

Applicants must certify via affidavit that they have experienced revenue losses greater than 35% over a period of time that spans at least four consecutive weeks as compared to the prior 5-year annual average revenue for that time span. For qualifying participants that have been in operation for less than 5 years, annual average revenue will be calculated based on the number of years in operation, provided they have been in operation for at least 1 year.

Should any qualified application(s) be submitted, the allocation process will be repeated with the reported aquaculture revenue factored into the allocations by sector. Each qualifying aquaculture claim will be calculated as a percentage of the total aquaculture sector claims. Assistance will be distributed proportionately, based on revenue loss, as a percentage of the aquaculture sector allocation.

Other Fishery-Related Businesses

Other fishery-related businesses that fall outside of the five sectors identified above may be eligible for assistance under section 12005. Examples of other fishery related businesses include dealers of live ornamental marine life (aquarium dealers) and residents who operate commercial fishing businesses outside of Hawaii, but report fishery-related income on Hawaii tax filings.

Aquarium fish dealers that obtain live marine life directly from commercial aquarium collectors and distribute them at wholesale are eligible for assistance, provided they:

1. Are identified as aquarium dealers within DAR’s commercial marine dealer database;
2. Are compliant with weekly aquarium dealer reporting requirements; and
3. Can demonstrate greater than 35% lost revenue due to COVID-19

Residents who operate commercial fishing businesses outside of Hawaii are eligible for assistance, provided they:

1. Held a valid commercial fishing license from the jurisdiction of operation for each year of operation;

2. Provide annual commercial landing values for each year of operation from 2015-2019;
3. Claim their out of state commercial fishing income on their Hawaii tax filings; and
4. Can demonstrate greater than 35% lost revenue due to COVID-19

Applicants must certify via affidavit that they have experienced revenue losses greater than 35% over a period of time that spans at least four consecutive weeks as compared to the prior 5-year annual average revenue for that time span. For qualifying participants that have been in operation for less than 5 years, annual average revenue will be calculated based on the number of years in operation, provided they have been in operation for at least 1 year.

A designated amount of \$80,000 will be reserved for claims of revenue loss from other fishery-related businesses. Because DLNR-DAR is unable to pre-identify these other fishery-related businesses, it is not possible to estimate the total value of this “other” sector for purposes of assigning a proportionate percent of the total allocation. The \$80,000 is most likely an over-estimate. To ensure fairness, each qualifying “other” claim of revenue loss will be calculated as a percentage of the total claims from all five fishery sectors. Assistance will then be distributed to eligible businesses proportionately as a percentage of the total \$3,603,537 allocation. If, after the application period has ended, no or few claims have been made such that an excess amount of the \$80,000 remains, that excess amount will be redistributed proportional to the sector percentages of the other sectors.

Subsistence, Cultural, and Ceremonial Fisheries

Under section 12005, persons and fishing communities who have experienced any negative impacts to subsistence, cultural, or ceremonial fisheries due to the coronavirus pandemic are eligible for assistance. DLNR-DAR consulted with the Office of Hawaiian Affairs (OHA)⁶ and Kua‘aina Ulu Auamo (KUA)⁷, to identify any negative impacts of COVID on subsistence, cultural, or ceremonial fisheries. Both OHA and KUA reported an overall increase in nearshore subsistence fishing activities and raised general concerns about increased fishing pressure on nearshore fisheries resources. However, specific impacts on subsistence, cultural, or ceremonial fisheries were not identified.

Subsistence, cultural, and ceremonial fishery applicants are not required to demonstrate revenue losses greater than 35% as compared to prior years. However, applicants must complete an application and provide a narrative explanation detailing the nature of the claim and estimated value.

While the State does not anticipate that claims will be made in this sector, a designated amount of \$20,000 will be reserved for such claims. If after the application period has ended and no or

⁶ OHA is a public agency responsible for improving the well-being of Native Hawaiians.

⁷ KUA is a non-profit organization that serves as a statewide network of native Hawaiian community groups and cultural practitioners.

few claims have been made such that an excess amount of the \$20,000 sector allocation remains, that amount will be redistributed proportional to the sector percentages of the other sectors.

Contact Information

Questions from prospective applicants may be directed to:

Pacific States Marine Fisheries Commission
HICares@psmfc.org
or via phone toll-free number (888) 595-1538

David Sakoda, State of Hawaii Department of Land and Natural Resources
David.sakoda@hawaii.gov

Additional information is available at:

<https://dlnr.hawaii.gov/dar/announcements/>

<https://www.psmfc.org/cares-act-the-coronavirus-aid-relief-and-economic-security-act>

For further details on NOAA's process for allocating funding, see its NOAA Fisheries COVID-19 Update Page on its website at <https://www.fisheries.noaa.gov/national/noaa-fisheries-coronavirus-covid-19-update>.