CARES Act Sec. 12005 Washington Spend Plan

Prepared by the State of Washington

January 22, 2021

BACKGROUND

This spend plan was developed under a grant made by the National Oceanic and Atmospheric Administration's National Marine Fisheries Service ("NOAA Fisheries") to the Pacific States Marine Fisheries Commission (PSMFC) in the amount of $143,215,349. NOAA Fisheries allocated $50 million for PSMFC to distribute according to this Washington state spend plan.

The purpose of the grant is to provide assistance to fishery participants, fishery-related businesses, and tribes affected by the novel coronavirus pandemic (COVID-19) in Alaska, the West Coast states, Hawaii, and the Pacific territories. The grant originated from the $300 million in total fishery assistance appropriated by Congress with Section 12005 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law No: 116-136).

PSMFC will distribute 22% of the available Washington state funding to spend plans developed by the Washington treaty tribes, as set forth in the tribal set-aside addendum, and the remaining 78% of the funds according to the main body of this plan.

After administrative fees from NOAA and PSMFC, the total amount available for PSMFC to distribute is $49,440,179. Following the 78%/22% split, the amount to be distributed under the tribal plans is $10,876,839. The remaining 78% equals $38,563,340. The state will not deduct additional fees for its work on the plan.

The provisions of this plan, once reviewed and approved by NOAA, may be used for any future funds appropriated by Congress for the same purpose. Congress did appropriate another round of fishery assistance funds with the Consolidated Appropriations Act, 2021 (which became law on December 27, 2020). Once NOAA Fisheries allocates those funds to PSMFC and the state spend plans, addendums may be used to modify provisions of this plan before the second round of applications opens.

PLAN DEVELOPMENT AND APPROVAL

The plan was developed by the Office of Governor Jay Inslee with assistance from the Washington Department of Fish and Wildlife, Washington Department of Agriculture, Washington Department of Commerce, Office of Financial Management, and in conjunction with the treaty tribes. The state spend plan provides for the submission of separate individual tribal government spend plans. The Northwest Indian Fisheries Commission will submit an addendum on behalf of the treaty tribes. The addendum will explain the details of the set-aside for the distribution of funds for losses associated with commercial activities and any negative impacts to subsistence, cultural and ceremonial fisheries resulting directly or indirectly from the pandemic.

This plan and all tribal spend plans will be reviewed and approved by NOAA Fisheries. PSMFC will administer the application and disbursement process, as detailed below.

OVERARCHING APPROACH FOR WASHINGTON'S SPEND PLAN

Direct payments will be made to qualifying businesses based on COVID-19-related losses that were incurred between January 1 and July 31, 2020 in full or over a period of at least 28 consecutive days within it, as further detailed below. All applications received by the deadline will be evaluated. The order of receipt will not affect eligibility or disbursement amount. Applications received after the post-mark due date will not be considered. Direct payment disbursements will depend on the sum of approved claims and available funds, as described below.

Eligibility will be based on self-certification and a signed affidavit from the applicant, to be provided with the application materials. Applicants must show a greater than 35% loss of gross revenues for their fishery-related business in the time period specified in 2020 compared to average revenue for the same time period for the five prior years, 2015-2019. Further detail is provided below including exceptions to the prior 5 year period (e.g. for business less than 5 years old).

Applicants are subject to audit by the U.S. Department of Commerce Office of Inspector General. Applicants will submit their applications and affidavits documentation to PSMFC. Applicants will be required to have documentation supporting the revenue losses and other eligibility criteria, as well as proof of funds received, but will not submit it to PSMFC. Instead, such documentation will be retained for no less than 3 years after the close of the grant award between NOAA and the Pacific States Commission, or 3 years after the resolution of any ongoing audits, whichever is longer. All documents must be made available for inspection upon request by the Federal Government or the Pacific States Commission."

APPLICATION PERIOD AND APPEALS

PSMFC will begin the application period as soon as possible after receiving NOAA Fisheries' approval of this spend plan. Applicants will have 45 -days to apply from the date when application materials become available on the PSMFC website (https://www.psmfc.org/cares-act-the-coronavirus-aid-relief-and-economic-security-act).

The application period is anticipated to begin in early February 2021. PSMFC will notify applicants by postcard of the plan's approval and application availability using the addresses listed on the relevant license or permit with the state's assistance. The state has coordinated with the Alaska Department of Fish and Game and PSMFC to ensure that all eligible licenses and permits and addresses will be included.

PSMFC will also publish the instructions for submitting materials, including the deadline for submission of application materials and the timeframe for the distribution of funds. All applications must be signed and mailed to PSMFC, and must be post-marked by the deadline.

PSMFC will receive and review applications and approve claim eligibility, determine direct payment amounts, and disburse payments. PSMFC, in coordination with the agencies developing this spend plan, will follow up with applicants as necessary to clarify information and will notify applicants that do not meet eligibility requirements or provide necessary certification or sufficient documentation. Applicants will have one week from the time of notification to correct deficiencies for PSMFC review and final determination, after which all decisions will be final.

Estimated Timeline

Applications become available	February 8, 2021
Application Deadline	March 25, 2021 (45 days from website availability)
Application Review and Appeals	May 9, 2021 (45 days)
Disbursement payments sent	May 23, 2021
Final Report	June 22, 2021

SCALING METHOD AND EQUITABLE ADJUSTMENT

Washington is home to one of the nation's largest commercial fishing, shellfish aquaculture, and seafood economies. The businesses eligible to apply under this plan range from relatively small sole proprietorships to corporations with annual revenues in the hundreds of millions of dollars range, if not larger. All fishery and seafood related businesses are being affected by the pandemic through a mix of increased operating costs and decreased revenues. And all would likely have earned more profit under typical economic conditions. At the same time, the state understands that many sectors will not meet the greater than 35% loss in gross revenues threshold.

All in all, the total amount and mix of claims that will be submitted under the Washington plan is unknown and could not be reliably forecasted. With that uncertainty, the state decided to make no subdivision among the sectors. Claims will be placed into the same pool. The state does expect that the total amount of eligible claims will exceed the total funding available to the Washington spend plan. This section describes how payments will be adjusted if it does.

Although not anticipated, if there is instead a surplus of funding, a second application period will be opened, as set forth in a future addendum to the plan. Both non-tribal and tribal fisheries participants may apply in a second application round per the state's agreement with the treaty tribes.

Marginal Rate Adjustment

With several large revenue companies in the state, it is also possible that the losses experienced by some could take up a major portion of the available assistance. The state recognizes that businesses of all sizes are experiencing financial stress and yet also wishes to spread the aid equitably. Therefore if claims do exceed the total available funding, claims will be reduced using the following marginal rates:

- The first $200,000 of the claim will not be reduced.
- Bracket 1: dollars > $200,000 and ≤ $1,000,00 will be reduced by 10%.
- Bracket 2: dollars > $1,000,00 and ≤ $10,000,000 will be reduced by 20%.
- Bracket 3: dollars > $10,000,000 will be reduced by 30%.

Marginal means that, like the federal income tax, the specified rates only apply to dollars above the bracket's threshold. The total reduction on a claim will be less than the marginal rate. For example, a claim of $350,000 would be reduced by a total of 3.3% percent because only $150,000 of the claim would be subject to the 10% reduction.[1] Likewise, a claim of $3 million would be reduced by a total of 16.0% and a claim of $12 million by 20.7%. The formula for calculating the reduction and a table showing the amount reduced for scaled claims of varying amounts will be included in the instructions. Applicants will not be responsible for making the calculation. The information will be provided so that applicants have information on how their claim may be adjusted. PSMFC will make the calculation when claims are processed.

If the marginal rate reductions are more than is needed to bring the claims in line with the total funding amount then the surplus funds will be distributed back to claims greater than $200,000 proportionally.

Proportional Scaling

If the total amount of eligible claims is still over the total funding amount after the marginal rate reduction, then all disbursements will be reduced proportionally to the shortfall. This reduction is additional to the marginal rate reductions. For instance, if total eligible claims are twice the size of the funding available after the marginal rate reductions have been made, then claims would be reduced to 50% of the submitted amount (i.e., 1/2). If total claims come in four times the size of the available funding, then claims would be reduced to 25% (i.e., 1/4) of the submitted amount. This is referred to below as proportional scaling or reduction. The resulting claims are referred to below as “scaled claims.”

The instructions will include information for applicants that will show how their claimed loss would be reduced under various proportional scaling levels. As the examples above show, the formula for the scaled claim is based on dividing the total funding amount (i.e. $38,563,340) by the total claimed amount. Without knowing the total amount claimed, the proportional reduction cannot be determined ahead of time. Again, proportional scaling will only occur should the total amount of eligible claims exceed the total funding available after the marginal rate reduction.

QUALIFYING CRITERIA AND LIMITATIONS

Qualifying criteria are derived from Sec. 12005 of the CARES Act, guidance from NOAA fisheries, and this spend plan:

- Applicants must be a fishery-related Washington business as defined below.
- Applicants must have incurred revenue losses of greater than 35% as compared to their prior 5-year average (2015-2019) with exceptions for those in business less than 5 years. Eligible revenue losses are defined below.
- The revenue loss must have been incurred as a direct or indirect result of the COVID-19 pandemic.
- Applicants must be at least 18 years old.

[1] To walk through the example, $350,000 - $200,000 = $150,000 is the amount subject to the 10% reduction. And 10% * $150,000 = $15,000 is the amount reduced. The resulting payment would be $335,000.

ELIGIBLE WASHINGTON FISHERY-RELATED BUSINESSES

NOAA Fisheries allocated the $300 million in Sec. 12005 grants to the three interstate fisheries commissions and state, territorial, and tribal spend plans in proportion to fishery-related revenues. For the non-tribal spend plans, NOAA Fisheries classified revenues into the following sectors: Charter, Commercial Fishing and Aquaculture, and the Seafood Sector (buyers, processors, wholesalers). This spend plan uses those same sectors to define eligible fishery-related Washington businesses.

As part of the allocation formula, NOAA Fisheries assigned Commercial Fishing sector revenues earned by fishing businesses in Alaska to the Washington spend plan if the vessel's owner was listed as a resident of Washington with the Alaska Commercial Fishery Entry Commission.[2] This residency adjustment added approximately $19 million to the Washington spend plan. A residency adjustment was also made for vessels fishing in the West Coast at-sea whiting fishery. No residency adjustments were made for the Aquaculture, Seafood, or Charter sectors. This spend plan follows those same residency criteria. PSMFC will assist applicants with questions about residency and which spend plan to apply under.

For purposes of this spend plan, a Washington fishery-related business is a business that earns revenues through sales and activities authorized by one of the license or permit types listed in Table 1. Washington residency and eligibility to apply under this spend plan is determined by the address listed on license or permit unless an exception is specified in Table 1 or elsewhere in this plan.

The next section identifies which revenues eligible businesses may include under this spend plan.

Fishery-related businesses show a diversity of organizational structures, partnerships, etc. Businesses should apply using the same business structure listed on the license or permit or that they use to file federal taxes.

In addition, Commercial and Charter sector operations fishing under limited entry often involve leasing or other contractual arrangements for sharing of the fishing privileges granted by a license or permit. Similarly, the spend plan covers multiple catch share programs (e.g., individual fishing quota programs) where fishing privileges held by multiple entities are fished under a single license or permit. For such situations, all parties with ownership or contractual interest in the licenses and permits (including IFQ permits) are eligible to apply. Applicants involved in such arrangements may apply using a single application and share any payment received according to their agreements. Or if doing so would better suit their circumstances, persons may apply separately based on their respective shares of the revenues. Under no circumstances, however, can the same revenue losses be claimed on more than one eligible application. Separate applications for shared revenues must describe how the revenue loss is apportioned between the applications so it is clear to reviewers and auditors that the total claim for shared revenues does not exceed the actual loss.

All applicants must meet the greater than 35% loss threshold and satisfy the other eligibility criteria based on their own individual revenue histories and circumstances. For example, a license owner that leases a commercial fishing license for a fixed fee and received full payment in 2020 would not qualify

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[2] https://www.cfec.state.ak.us

under that license because they would not have incurred the required loss in gross revenues of greater than 35%. The business holding the lease and fishing the license would still be eligible if a loss of greater than 35% was incurred.

Table 1. Eligible Licenses and permits

Sec. 12005 Sector	
Charter Sector	● Washington salmon or non-salmon charter license (RCW 77.65.150)
Seafood Sector	● Washington Limited fish seller endorsement (RCW 77.65.510) ● Washington Fish dealer license (RCW 77.65.280)
Shellfish Aquaculture	● Aquatic Farm Registration or Washington Department of Health license authorizing the harvest of cultivated stock for human consumption: Shellstock Shipper License, Shucker-Packer, or Harvester. ● For in-state hatchery or nursery facilities, a WDFW Shellfish Transfer permit for planting or selling seed in-state. ● For out-of-state hatcheries run by a Washington-based business, a WDFW Shellfish Import Permit authorizing the planting or sale of shellfish seed into the state if the hatchery is not covered by another Sec. 12005 spend plan.
Commercial Fishing	**Landings into Washington** ● Washington resident commercial license that authorizes fishing for or delivery of food fish or shellfish in the state. ● Non-resident food fish or shellfish under a state commercial fishing or delivery license if the owner or holder resides in a U.S. state or territory that is not covered by another Sec. 12005 spend plan. **Revenues earned from Alaska catches** Washington residency listed on: ● Commercial Fisheries Entry Commission Commercial Vessel License or Fishery Permit. ● Pacific Halibut and Sablefish Individual Fishing Quota Program Fishing permit ● Bering Sea and Aleutian Islands Crab Rationalization Individual Fishing Quota Permit

	West Coast At Sea Whiting Washington residency of permit or vessel owner: ● Catcher-Processors and vessels delivering catch to Mothership processors: sector endorsed federal Pacific Coast Groundfish Fishery limited entry permit. ● Mothership Processors*:* federal Mothership (MS) permit. **Other** ● Washington residents that did not make landings into Washington but landed fish or shellfish into another state or territory under a license or permit not listed above if such activity is not covered by another Sec. 12005 spend plan. ● Owners of federal West Coast Groundfish Quota Share Permits with a Washington address.

ELIGIBLE REVENUES

This section defines which revenues are eligible to include in the loss calculation. There are some differences among sectors with the difference based on the residency adjustments made by NOAA Fisheries when allocating Sec. 12005 funding among state, territorial, and tribal spend plans.

All sectors:

- Applicants should apply using gross revenues.
- Revenues generated from fishing trips for or the sale of freshwater species do not qualify as eligible revenues.
- Eligible revenues are those generated from fishing trips or the sale of fish and shellfish. Income earned through other activities of the business, such as income earned through leasing of real estate, does not qualify as eligible revenue.
- Retail sales are excluded from eligible revenues per NOAA Fisheries guidance. Sales authorized by the Washington limited fish seller endorsement and recorded on fish and shellfish receiving tickets may be included.

Commercial Fishing:

Based on the residency adjustment, Commercial Fishing sector applicants should include all of their eligible fishing revenues no matter the location of harvest.

Commercial fishing applicants who applied for certain revenue losses under a different Sec. 12005 spend plan (e.g., losses from the California Dungeness crab fishery) will be required to indicate so on the application. Those who applied for and received assistance under the California spend plan or any other spend plan where applicants attested that they were only seeking funds from that spend plan are not eligible to receive payments at this time. The reason is that applicants are subject to the requirements specified when they applied for those funds. Such applicants may still submit their applications and the state will continue to work with NOAA Fisheries on the question.

If the applicant did claim revenues under another spend plan and remains eligible to receive assistance under the Washington spend plan, any payments received under other state plans must be identified on the application will be deducted from the payments from this spend plan. The application instructions will include details on how to deduct payments received from another spend plan.

Charter Sector:

Eligible revenues for Charter Sector applicants include those from trips made under the respective license types in Table 1. Washington residents that operate charter businesses in Alaska should apply under the Alaska spend plan.

Aquaculture Sector businesses should only include revenues earned from sales made from hatchery and growing operations located in the state. The exception, as noted in Table 1, is for out-of-state hatchery operations run by Washington based businesses and which were not covered by another Sec. 12005 spend plan.

Seafood Sector:

For the Seafood Sector, eligible revenues are those earned from transactions authorized by a Washington fish dealer license or WA Limited fish seller endorsement. Revenues earned from out-of-state facilities do not qualify as eligible revenues. For example, revenue from facilities located in Alaska would fall under the Alaska spend plan even if owned by a Washington based business.

ELIGIBLE TIME PERIOD AND CALCULATING AVERAGE REVENUES

The spend plan covers eligible losses incurred between January 1 and July 31, 2020. Applicants may claim losses for the full period or for any partial, consecutive period within it of 28 days or more.

Applicants must identify their loss window period and the gross revenues earned during that time. Applicants must also report their prior 5-year average gross revenues for the corresponding window period during 2015-2019. For example, if a partial window period of Jan. 15 - Mar. 15 2020 is claimed, the applicant would combine all eligible gross revenues earned between Jan. 15 - Mar. 15 from 2015 to 2019 and divide by five to get the average. The reduction in gross revenues incurred during the loss period must be greater than 35% of the 2015-2019 average. Applicants may adjust their revenues to constant dollars using the Consumer Price Index, per the instructions given with the application.

Applicants who experienced a federally designated fishery disaster, 2015-2019

Applicants who experienced a federally designated fishery disaster during 2015-2019, and the disaster year(s) make the difference between meeting the greater than 35% threshold and not, then the applicant may substitute the next earliest non-disaster year(s) into the five-year average calculation. The State is not currently aware that such situations exist. However, with the large number of commercial fisheries potentially eligible for assistance under the Washington spend plan and many businesses with diverse fishing portfolios, the possibility cannot be ruled out. The burden is on applicants to demonstrate that including disaster years in their 2015-2019 gross revenue average would keep them from exceeding the greater than 35% loss threshold.

Applicants without a full five years of revenue history 2015-2019

Applicants without a full five years with which to calculate their 2015-2019 average should use as many years as they have within that timeframe to calculate their individualized averages. Using the extreme case, if a business only had revenues in 2019, then 2020 revenues should be compared against revenues from 2019. Applicants who use this approach will have their claims evaluated against those from comparable applicants that based their claims on the full 2015-2019 average. Comparable applicants are those who earned revenues in the same sectors and using the same licenses or permits and the same fishery or line of business. Applications will collect information used to identify comparable applicants. Applicants with less than five years of 2015-2019 history will be limited to the median payment made to comparable applicants. If there are fewer than three comparable applicants receiving payment, the claim will be denied.

Applicants for which 2020 was their first year in business

The state heard feedback from multiple people in the Commercial Fishing sector that 2020 was the first year they were able to run their own operations. This includes individuals with years of experience in the fisheries as crew. The state recognizes the challenges new entrants face and believes that such individuals and businesses are deserving and in need of assistance.

Applicants in this situation will have their 2020 revenues evaluated against those of comparable applicants and 2015-2019 revenues from the relevant fishery or line of business. The applicant must have fished or operated in 2020. For the Commercial Fishing sector, fish ticket revenues will be used to calculate the distribution of average ex-vessel revenues 2015-2019 and 2020 associated with the license or permit types and fisheries if possible. The percentile of the applicant's 2020 revenues will be matched to the percentile from the 2015-2019 distribution. For example, if the applicants 2020 revenues corresponded to the 75th percentile (i.e. 25% of participants earned more and 75% earned less than the revenues), then the 75th percentile value from the 2015-2019 revenues would be used to calculate whether the greater than 35% threshold is met and determine the size of the loss. For sectors where revenue data is not readily available to PSMFC, the distributions will be calculated from the revenue information provided by comparable applicants. If there are not enough comparable applicants with which to calculate percentiles, the median value will be used as the proxy. If there are not three or more comparable applicants receiving payment under the spend plan, the application will be denied.

Applicants who did not operate during the claim period

Some businesses did not operate at times of year when they typically would have either because of regulatory closures resulting from the pandemic or because of a choice to not operate out of concern over the health or financial risks created by the pandemic. Such businesses will show a 100% loss compared to their 2015-2019 average gross revenues during the relevant time period. Regulatory closures put into place for conservation and management reasons unrelated to the pandemic do not qualify and must be factored out.

The state also recognizes that businesses did not fish or operate will not have incurred the same level of variable operating costs as those that did. Moreover, businesses that operated in 2020 often experienced increased operating costs. This spend plan does not take increased costs into account because eligibility is based on gross revenues. Because of avoided costs, businesses claiming losses for a timeframe where they did not fish or operate will have their original claims reduced in the following manner:

- Charter Sector: claims will be reduced by 40% for businesses that did not fish during January-July 2020 unless the applicant elects and self-certifies that payments will be shared with crew or charter offices or both. If such an election and self-certification is made, the claim will only be reduced by 20%.
- Commercial Fishing: applicants will have their claims reduced by 55% if they did not participate in the relevant fishery or fisheries January-July 2020 unless they elect to and self-certify that payments will be shared with crew. If such an election and self-certification is made, the claim will only be reduced by 20%.
- Seafood Sectors: if the business did not make payments to harvesters or otherwise purchase fish and shellfish during January-July 2020 the claim will be reduced by 75%. This percentage is based on the percentage of gross revenues going to pay for fish and shellfish products. Because such payments go to other businesses that are potentially eligible for assistance under this spend plan, there is no election and self-certification option offered for this sector.
- Aquaculture: no reductions will be made. Because of the different cost structure and conditions in this sector, the state did not see the same fairness considerations that existed in the other sectors.

These reductions for avoided costs will be made by PSMFC when processing the claims and will be applied before any marginal rate or proportional scaling reductions are made.

The difference in the avoided cost percentages are based on estimates of the percentage of gross revenues that go to pay for variable costs in each sector. Variable costs are those that vary with participation and would have been avoided by not fishing or operating. Fixed costs in contrast, like moorage and loan payments, are incurred whether the business operated or not. Further definition of variable costs will be included in the instructions or supplemental materials. If applicants can demonstrate that their 2015-2019 average variable costs differ from the estimated percentages, they may use their specific averages in place of those listed above.

CONSIDERING REVENUES EARNED OUTSIDE OF THE LOSS PERIOD AND ACCOUNTING FOR OTHER FORMS OF ASSISTANCE

Federal rules state that the sum of all CARES Act funding, any additional COVID-19 related federal financial assistance, and traditional revenue, including state unemployment, received cannot exceed the claimant's annual average gross revenues from 2015-2019. In other words, those receiving payments cannot be made "more than whole".

Feedback received by the state during development of this plan revealed confusion among potential applicants about the "no more than whole" requirement and how it relates to the greater than 35% loss threshold. This spend plan covers losses incurred between January and July 2020 and allows claim periods within that period as small as 28 consecutive days. Some applicants will have fishery related revenues in 2020 that fall within their claimed loss period and a portion that does not.

For purposes of evaluating the greater than 35% loss threshold, applicants should only consider revenues earned during the claimed loss period and compare those against their averages for the same period during 2015-2019. In contrast, when evaluating being made "more than whole," applicants must include all revenues earned and all forms of federal assistance received in 2020 as prescribed in the application materials.

All in all, it is permissible for the sum of 2020 revenues and assistance to bring the business above the 35% loss threshold as long as the business remains at or below its 2015-2019 average gross revenues.

More detail on how to account for other forms of federal assistance may be provided with the application instructions.

APPLICATION DOCUMENTATION AND REQUIREMENTS

Application materials will include a check list, application worksheet and self-certification and assurances form, application form, and W-9 Form. Applications will provide the documentation and certification necessary to demonstrate revenue loss related to COVID-19 within the requirements of Sec. 12005 of the CARES Act, federal fund direct-payment rules, and Washington's spend plan. Application documentation and certification includes the following for each business applicant.

- Certification that the applicant's business is an eligible fishery-related Washington business, and that the applicant or another representative of the business will not apply for Sec. 12005 CARES Act funding relief from any other state, territory or tribe for the same revenue losses claimed in the Washington application.
- Identification of timeframe used for losses in 2020 (January 1 through July 31 options only) and comparison years.
- Documentation of gross revenues across all fisheries participated in during the selected timeframe for 2020 and comparison years.
- Certification that COVID-related losses in 2020 exceeded 35% of the average for comparison years. Certification of total loss difference in gross revenue attributable to COVID-19 between selected timeframe for 2020 and average gross revenue for the same timeframe across all fisheries during comparison years.
- Certification that if applicant receives any additional COVID-19 related federal financial assistance and/or is able to collect traditional revenue, the sum of all funds will not exceed the applicant's average annual revenue earned across the previous 5 years. If applicant's total annual revenue for 2020, including Sec. 12005 CARES Act relief, exceeds the total average annual revenue for the comparison years, the applicant must reimburse the federal government through PSMFC for the surplus up to the amount received for CARES Act relief.
- Certification requirements for federal direct payments.

STATE SPEND PLAN TRIBAL PARTICIPATION

The State of Washington and the treaty tribes have agreed to set aside $11.0 million of Washington's allocation to assist tribes with economic revenue losses and negative impacts to subsistence, cultural and ceremonial fisheries resulting from the pandemic consistent with section 12005(b)(1) & (2) of the CARES Act.[3] This arrangement allows tribes to utilize separate spend plans for each individual tribe. These spend plans will provide tribes the opportunity, as sovereign governments, to develop and implement programs and disbursement processes that best meet their communities' needs. Tribal spend plans will adhere to CARES Act section 12005 criteria and NOAA's current guidance to tribes on section 12005 spend plan development. Both Washington's and the tribes' spend plans are consistent with federal requirements, including that eligible economic revenue losses must exceed 35% when compared to the previous 5-year average. Both Washington's and the tribal spend plans provide fishery assistance for losses that occurred between January 1, 2020 through July 31, 2020. Tribal spend plans will be approved by NOAA. The Tribe must elect whether they will use PSMFC for funds dispersal, or request to disburse funds themselves via a subaward from PSMFC.

Further details on the methodology used to subaward the $11.0 million set aside between eligible tribes will be submitted directly by Northwest Indian Fisheries Commission, on behalf of the treaty tribes, to NOAA in an addendum.

Tribal members who operate a business under a Washington license or permit may apply to receive eligible assistance under the non-tribal Washington allocation according to the procedures outlined in the Washington Spend Plan, but only if the eligible losses were incurred while operating under the Washington license and were not otherwise accounted for in a tribal spend plan.

Although not anticipated, should any of the $39.0 million in state funds remain unobligated after the distribution period closes, both tribal and non-tribal entities will be able to seek additional funds so long as they meet the eligibility criteria per the State's agreement with the treaty tribes. Should this occur, an addendum will be provided to NOAA outlining the details of how the remaining funds will be distributed.

[3] Assistance to tribes for section 12005(b)(2) impacts in no way quantifies, places a value on, or otherwise attempts to define in any manner tribal ceremonial and subsistence fisheries.