May 7, 2020

The Honorable Marco Rubio  
Chairman  
Small Business Committee  
U.S. Senate  
Washington, DC 20510

The Honorable Ben Cardin  
Ranking Member  
Small Business Committee  
U.S. Senate  
Washington, DC 20510

Dear Chairman Rubio and Ranking Member Cardin:

We write today on behalf of our 18 member organizations and thousands of fishermen from Alaska to Maine. We are proud stewards and harvesters of America’s seafood, our nation’s strategic protein reserve and a critical component of our country’s food security, especially during this time. As our fishing businesses reel in the midst of the COVID-19 pandemic, we respectfully ask you to address the need to allow fishing businesses to include payments to fishing vessel crewmembers reported as fishing boat proceeds on Form 1099-MISC as eligible payroll costs under the Paycheck Protection Program (PPP).

We are grateful for the hard work and leadership you have both shown in developing programs to keep the nation’s small business community afloat and able to weather this pandemic, fishing businesses included. We believe it was an oversight that fishing vessel crewmember wages cannot be considered in the fishing business’s PPP loan application as submitted by the vessel owner or captain, and hope it can be easily fixed as Treasury completes their final rule for the PPP.

Our businesses have been deemed essential to the food security of the nation and we are proud to go to sea especially in this time of need. However, we have seen drastic price reductions for much of our fresh product and we are landing a fraction of what we normally land this time of year because there is simply no market in which to sell fresh fish. We believe the purpose and intent of the Paycheck Protection Program is to help protect small businesses, including commercial fishing businesses. But as it stands now, that does not hold true and fishing businesses and crewmembers are unable to effectively access full PPP benefits.
Allowing a fishing business to include crewmember 1099 income on its PPP loan application will reduce administrative burden and allow crewmembers and fishing businesses to realize the full benefits of this program. One fishing vessel operating as a small business could have anywhere from two to over 20 crewmembers for the relevant PPP loan time period. Many of those crewmembers may not have existing business bank accounts at lending institutions, and many banks are currently overwhelmed and limiting PPP loans to only existing business customers. Enabling a fishing business to include crewmembers will allow PPP benefits to flow to the appropriate people and reduce the number of applications lenders will have to process.

The IRS Fishing Audit Technique Guide (Revised 2011) notes that under standard common law rules, individuals who work on fishing vessels as crewmembers are considered employees except under IRC § 3121(b)(20) where these crewmembers are considered self-employed for the purposes of health insurance, pension plans, and employment taxes. Indeed, this is evident as crewmembers purchase their own health insurance, set up their own retirement accounts, and must report any fishing boat proceeds on their 1099-MISC form in box 5.

In order for our businesses to find relief and access immediately available capital to help us continue to pay our full crew their wages, we ask for your help to work with the Treasury Department to allow fishing businesses to report fishing boat proceeds (crewmember wages) on Form 1099-MISC as eligible payroll costs under the Payroll Protection Program. We ask that you pursue the necessary rulemaking changes or if necessary, legislative changes to Section 1102 of the CARES Act, to address this problem for our Nation’s commercial fishing businesses.

We appreciate your leadership and work to address this issue and we stand ready to help your efforts in any way.

Respectfully,

Robert Dooley
President

Leigh Habegger
Executive Director

Alaska Bering Sea Crabbers • Alaska Whitefish Trawlers Association • Cape Cod Commercial Fishermen’s Alliance • Cordova District Fishermen United • Fishermen’s Marketing Association • Fishing Vessel Owners’ Association • Fort Bragg Groundfish Association • Georges Bank Cod Fixed Gear Sector • Gulf Fishermen’s Association • Gulf of Mexico Reef Fish Shareholders’ Alliance • Maine Coast Fishermen’s Association • Midwater Trawlers Cooperative • New Hampshire Community Seafood • North Pacific Fishers Organizations • Purse Seine Vessel Owners’ Association • Rhode Island Commercial Fishermen’s Association • South Atlantic Fishermen’s Association • United Catcher Boats