

This document was created by the Massachusetts Division of Marine Fisheries to answer questions raised by Fishing Partnership Support Services. If you have additional questions, contact an FPSS Navigator today!

Frequently Asked Questions (FAQs) for CARES Act Commercial Sector Application

Eligibility Criteria and Self Certification

Question 1: May commercial harvesters also receive CARES Act Fisheries Relief from another sector program (e.g., aquaculture, for-hire, seafood process)?

Yes. Commercial harvesters may be eligible for funding through any of the four CARES Act Fisheries Relief programs (i.e., commercial sector, for-hire sector, aquaculture sector, seafood processing sector). However, the sum of all combined monies received from any CARES Act Fisheries Relief program, as well as all other CARES Act funding (e.g., PPP, SBA Loan, Unemployment) cannot make the harvester more than whole for the 2020 calendar year.

Question 2: What does “more than whole” mean?

More than whole means all the CARES Act relief received (e.g., fisheries relief funding, PPP, SBA Loan, Unemployment) combined with all traditional revenue from 2020 is greater than traditional revenue in an average year:

$$\begin{aligned} & 2020 \text{ Traditional Revenue} + \text{CARES Act funds received} \\ & > \text{Average Annual Traditional Revenue from 2015 - 2019} \end{aligned}$$

Only CARES Act relief that does not need to be paid back should be considered. If the money is to be paid back, then it is not factored into this equation. Traditional revenue refers to wages or income, including unemployment assistance (vs. food donations, loans or other non-traditional sources of income). Income from other non-fishing jobs taken up during the COVID pandemic does not count towards this determination.

Question 3: How does a commercial harvester calculate the 35% lost revenue threshold calculated? And why is this needed?

Under the federal CARES Act, individuals may only qualify for CARES Act Fisheries Relief funding if they can show a 35% loss in revenue in 2020 compared to average annual revenue for the preceding baseline years of 2015 – 2019. The commercial sector application indicates a March 10 – July 31 time period to measure this lost revenue. Section 3 of the commercial application details how to calculate if the 35% lost revenue threshold is met:

The above figures may be calculated by adding together your revenues from March 10 to July 31 for each calendar year from 2015 – 2019 and then dividing this sum by the total number of years when revenue occurred. This gives you the Average March 10 – July 31 Revenue for this period. Add together revenues from March 10, 2020 through July 31, 2020 to sum your March 10 – July 31, 2020 Revenue. Subtract your Average March 10 – July 31 Revenue from your March 10 – July 31, 2020 Revenue for revenue lost. Divide revenue lost by your Average

March 10 – July 31 and multiply that figure by 100 to determine percent lost. If this reflects income lost, it will be a negative number.

Percent Lost = ((“March 10 – July 31, 2020 Revenue” – “Average March 10 – July 31 Revenue”) ÷ “Average March 10 – July 31 Revenue”) x 100

Please note that revenue is measured by gross revenue and sales, not adjusted revenue. Unemployment assistance and income from other non-fishing jobs during the COVID pandemic do not count as part of determining the 35% lost revenue threshold.

Question 4: The 2015 – 2019 baseline for calculating the 35% lost revenue threshold may not be representative of true lost earnings in 2020 due to changes in business practice or hardship. In calculating the lost revenue, can a commercial harvester use a period other than 2015 – 2019 as the baseline?

There are a number of legitimate reasons why a commercial harvester may have reduced revenues in a certain year that are not reflective of their typical fisheries related income. This includes, but is not limited to personal health issues, vessel issues, or changes in business operations (e.g., scaling up of a business from prior levels to current levels or fishery closures). If such instances impact the ability for a commercial harvester to demonstrate 35% lost revenue, DMF encourages them to submit all applicable records to document the change in activity and Section 3 of the commercial sector relief application provides space for applicants to detail why a different average should be used to calculate 35% lost revenue threshold. However, the CARES Act provides stringent guidelines for those instances when a state can justify excluding certain years or using a different 5-year average in this calculation. As a result, using alternative time periods for qualification may be limited.

Question 5: Can losses incurred by a commercial harvester in August 2020 be used in determining whether or not a commercial harvester has reached the 35% lost revenue threshold?

No. DMF and the Commercial Sector Working Group determined the eligibility period would be inclusive of March 10 – July 31, 2020. Any revenue loss occurring after July 31, 2020 may not be used in this calculation.

Question 6: Are the date ranges to calculate the 35% lost revenue threshold different by sector (Commercial Harvester, Aquaculture, Dealer, For-Hire)?

Yes. The date ranges used to calculate the 35% lost revenue threshold are slightly different across all sectors. These date ranges are based on input provided by that sector’s working group. The date range adopted by the Commercial Sector Working Group was March 10 – July 31. It is the longest qualification period across the sectors and maximizes the number of potential eligible applicants.

Question 7: The self-certification section states, “other financial assistance received will not be used to support or fund any portion of the scope of work incorporated into the CARES Act assistance”. What does this mean?

In a nutshell, this language is meant to notify CARES Act Fisheries Relief applicants that they are not allowed to “double-dip” on federal relief (CARES Act or otherwise). Section 12005 of the CARES Act established funding for direct payments of fisheries relief through state spend plans. However, other federal assistance is also available (e.g., USDA purchase program for haddock). In general, applicants are not precluded from receiving aid from multiple CARES Act relief programs, however, there are several conditions that must be met in order to receive funding from multiple programs:

1. If product was purchased by the USDA or other Federal entities, that revenue should be included as part of the calculation to determine whether the 35% lost revenue threshold for the CARES Act Fisheries Relief program was met.
2. Harvesters who are applying for CARES Act Fisheries Relief funding can apply for other Federal assistance under the CARES Act or other Federal programs, but not to address the same impacts resulting from COVID-19. For example, fishery participants could seek assistance to cover lost revenues from multiple programs, but if one program covers all lost revenue, they should not apply to another program to cover those same losses.
3. Finally, entities receiving Federal assistance for COVID-19 impacts through multiple avenues, including Section 12005 of the CARES Act, cannot receive assistance above their total average annual revenue (i.e., made more than whole).

Question 8: In the self-certification section, what does it mean to be “in good standing with the State and Federal government”?

This means that the commercial harvester does not owe taxes and is not currently subject to fisheries violations or permit sanctions.

Calculations & Data/Record Requests

Question 9: What is the process for a commercial harvester to request their catch reports?

There are four ways commercial harvesters who report by paper may obtain their catch reports from DMF. These options are described below, with options #1 and #2 being preferred.

1. The records can be provided electronically. This will require the harvester email DMF (dmf.stats@mass.gov) and present a photo of themselves and a valid photo ID to verify this against. This does not have to be a state issued ID, just a photo ID. If it is a state issued ID, license number or passport number can be redacted; DMF has access to the other information already (DOB, address). If the ID expired prior to January 1, 2020 it will not be considered valid. In the body of the email, the harvester should request the records they seek DMF provide. DMF will then return the requested documents via email.
2. DMF can help the harvester set up an electronic SAFIS account. This will allow them to pull their own data. Guidance documents found on the [Commercial CARES relief](#)

[website](#) have explicit instructions on how to do so. Individuals should email dmf.stats@mass.gov with a request for assistance creating the account.

3. Send a notarized request to the DMF Gloucester office (DMF Stats, 30 Emerson Avenue, Gloucester, MA 01930). Once processed, DMF will provide hard copies of the records.
4. Schedule an appointment to pick up copies at the New Bedford or Gloucester DMF field stations. Appointments will need to be made between 9AM and 3PM and will be contactless. This will involve dropping off a valid photo ID and the written request in the vestibule of the office, exiting the office, providing staff time to print the request, and returning to obtain the requested documents. If the ID expired prior to January 1, 2020 it will not be considered valid. This can be accommodated with a few hours of notice to allow for staff to process the documents and get them to field staff for distribution.

If the fisherman already reports electronically, please see the guidance documents mentioned in #2 for instructions on how to extract data directly from SAFIS. Further assistance can be requested by emailing DMF Statistics at dmf.stats@mass.gov or leaving a voicemail at 978-282-0308 x101. The harvester should leave their name, permit number, phone number, and a short message regarding their questions. Calls will be returned within one business day.

Question 10: How can a commercial harvester provide supporting documentation for dealer reporting errors if they do not have access to the information used to verify?

Supporting documentation is only required in the case of appeals. For appeals, commercial harvesters should provide the applicable tax return(s) and any other applicable revenue related records they may keep. If they seek to obtain records from their dealer(s) to determine if misreporting occurred, they should work directly with the dealer(s) to obtain the records. DMF cannot provide harvesters with these dealer records, as they are held strictly confidential under state law at G.L. c. 130 s. 21 and G.L. c. 4 s.7 (26)(a). For more details about appeals see the FAQs below.

Annual Revenue Calculations, Tiering, and Appeals

Question 11: How did DMF calculate annual revenue and revenue tiering for commercial harvesters?

DMF summed annual ex-vessel incomes for each individual permit number from 2017-2019 based on the revenue data submitted by dealers for Massachusetts landings. Every effort was made to assign income associated to unidentifiable permit numbers to the correct permit number for these calculations. Six revenue tiers were then generated with input from the Commercial Sector Working Group (for further details visit www.mass.gov/dmf/CARES).

Commercial harvesters were then placed in a tier based on the highest annual ex-vessel income for 2017 – 2019, as derived from dealer submitted data. If a permit transfer occurred during this period, landings attributable to the prior permit holder were not included in this calculation. Please note that no out-of-state transactions were included in these summations.

For those commercial harvesters holding multiple permits with DMF, special attention should be paid to the split of revenue among those permits, as dealers are known to incorrectly identify specific permits when many are held by the same individual/corporation. If a commercial harvester believes their tier placement is incorrect due any of these issues, an appeal should be filed and additional documentation provided, as described in Section 5 of the application.

Question 12: What did DMF do if the dealer did not report a price paid?

There were instances where dealers failed to report a price paid into SAFIS. In these instances, DMF used an average annual value for that species and market grade.

Question 13: What if the dealer reported that the permit was unknown? Did DMF try to match catch reports to the dealer reports?

DMF attempted to reconcile all reported transactions. There were instances where dealers reported unknown, out-of-date, or out-of-state permit numbers for Massachusetts landings. In those cases, DMF attempted to use all available information including permit history, other state permit records, and vessels to identify the correct permit number for a landing.

If a commercial harvester believes their tier placement is incorrect due to missing transactions, an appeal should be filed and additional documentation provided, as described in Section 5 of the application. Note that 1% or less of the value reported by dealers in each year were unable to be assigned to a permit holder.

Question 14: Did DMF's annual revenue calculations include retail boat sales from commercial harvesters?

If a commercial harvester's retail boat sales only included lobster and/or crab, and were not reported as dealer transactions via SAFIS, then that revenue was not included. This was because DMF did not receive revenue information about the retail boat sales, as they were not required to be reported by a dealer into SAFIS. However, the additional information can be provided in an appeal as described in Section 5 of the application. All other retail boat sales revenue should be included in the tiering calculation.

Question 15: What are examples of valid supporting documentation for an appeal?

Valid documentation should include annual tax returns, specifically the Schedule C form. Additional documents, such sales slips or business accounting records are also acceptable to verify sales, particularly those generated from retail boat related income.