

A Fisherman's Guide to Selling Seafood in Maine

Introduction

This guide documents the key licenses necessary in different sales scenarios for fishermen in the state of Maine. It is organized by different example scenarios for direct sales by fishermen. While it is meant to be comprehensive and cover a broad range of scenarios, every person's situation has different details, and **it is important to contact the appropriate agencies with questions about your specific situation.**

Additionally, this guide is broadly focused on sales of fish and crustaceans. Shellfish (other than lobster/crab), particularly clams, mussels, and oysters, have stricter rules and requirements for sales licensing. We touch on those rules and licenses in a shellfish-specific section at the end of the report.

There are several agencies that are involved in licensing sales of seafood: the state Department of Marine Resources (DMR), the state Department of Agriculture, Conservation, and Forestry (DACF), and depending on the situation, NOAA Fisheries and the Food and Drug Administration (FDA) at the federal level.

With all of these licenses, there are typically lines drawn between retail and wholesale sales. The term **retail** generally means selling directly to the consumer; in other words, selling directly to the person who will eat that seafood. Retail sales can mean a fisherman selling directly to a consumer from a truck on the roadside, or from a farmers' market. Separately, a restaurant or a small fish market would also be categorized as retail establishments, because they sell directly to consumers.

In the context of this document, the term **wholesale** broadly refers to selling to another business, *not* directly to a consumer. Wholesale sales can mean selling *to* a retail establishment like a restaurant or a grocery store, or it can mean selling to another wholesale operation like a processor or distributor.

State agency staff are a great starting point for initial discussions about any type of direct marketing described in this guide. They encourage businesses to contact them directly for guidance and clarification of the rules. At DMR, contact [Marine Patrol](#) – as the branch of the agency that enforces these rules, they can explain what you can and cannot do. At DACF, contact the [Quality Assurance department](#). The state agency staff can also direct you to any federal points of contact if necessary.

This guide was published in December 2018 by the Gulf of Maine Research Institute. Contact Kyle Foley at GMRI with questions: kfoley@gmri.org or 207-228-1670.

Table of Contents

Chapter 1: Want to sell fish directly to consumers from a boat, vehicle, or farmers' market?	3
Section A. DMR Requirements	3
A1: If a fisherman wants to sell their own whole fish and/or live lobster/crab	3
A2: If a fisherman wants a family member or other staff person to sell their fish/lobster/crab	4
A3: If a fisherman wants to sell fish/lobster/crab <i>harvested by other commercial fishermen</i>	4
A4: Retail Seafood license from DMR	4
Section B. DACF Requirements	5
B1: Selling from a vessel	5
B2: Selling from a vehicle or at a farmers' market	5
B3: Mobile Vendor License from DACF	5
B4: Selling from a home residence	5
B5: Retail Food Establishment license from DACF	6
Chapter 2: Want to truck fish whole to restaurants, schools, retail stores, or processors/distributors? 7	
Section A. DMR Requirements	7
A1: If a fisherman wants to sell their own whole fish/live lobster or crab.....	7
A2: If a fisherman wants a family member or other staff person to sell their fish/lobster/crab	7
A3: If a fisherman wants to sell fish/lobster/crab <i>harvested by other commercial fishermen</i>	7
A4: Wholesale Seafood license from DMR	8
Section B: DACF	8
Chapter 3: Want to fillet or process fish?	9
A. DMR Requirements	9
A1: Lobster exemption.....	9
B. DACF Requirements	9
B1: Processing definition	9
B2: Retail Food Establishment license from DACF.....	10
B3: Commercial Food Processor license from DACF.....	10
B4: Notes on HACCP.....	10
Chapter 4: Federal Dealer's Permit	12
Chapter 5: Shellfish other than lobster/crab	13
A1: Selling directly to consumers.....	13
A2: Selling directly to restaurants or other retail establishments.....	13

Chapter 1: Want to sell fish directly to consumers from a boat, from a vehicle, or at a farmers' market?

In section A below are DMR's license requirements for selling directly to consumers. Food safety requirements from DACF are covered in section B of this chapter. Please note that there are additional reporting requirements from NOAA Fisheries if the species being bought and sold is a federally-managed species. See chapter 4 on the Federal Dealer's Permit later in this guide for more details. All of the other state-focused rules in this section still apply to federally-managed species.

Section A. DMR Requirements

A1: If a fisherman wants to sell whole fish and/or live lobster/crab that s/he harvested him/herself:

Fishermen are allowed to sell and transport whole fish *they harvested* with their own commercial fishing license directly to consumers with no additional dealer license necessary from DMR. This allows for sales from a boat (at the dock), from a vehicle (e.g. selling from a truck on the side of the road), or at a farmers' market.

From a vessel, fishermen can also box up whole fish they have harvested with their own commercial fishing license and send it by mail (e.g. FedEx, UPS) directly to consumers anywhere in the U.S., with no additional license if the fish is going directly from the boat into a box. Crossing state lines means entering interstate commerce, which is not allowed with only a commercial fishing license. If the fish is going to be held at a facility for storage or packaged up in a facility, then other DACF licenses, like a Food Storage license, would be required for the facility and associated activities, to ensure good food safety (see chapter 3).

These rules apply specifically to the person who holds the commercial fishing license in their name. There is an exception made for crew – if a captain has a “commercial fishing license with crew” and a crew member has the actual license on their person, they are allowed to sell the fish with no other type of license from DMR.

Note: Fishermen are NOT allowed to fillet fish on a vessel or in a home kitchen (unless it is for the personal consumption of the captain and crew, and only up to 25 pounds). In order to fillet fish, other types of licenses and an indoor facility are required – see chapter 3 later in this guide for more information.

Inspections: If DMR Marine Patrol sees someone selling fish to consumers from a vessel, from a roadside stand, or at a farmers' market, they may ask to see a license, and in those situations, a commercial fishing license suffices if a fisherman is selling their own legally harvested whole fish/live lobster/crab.

A2: If a fisherman wants a family member or other staff person to sell their fish/lobster/crab:

If a fisherman has a family member or a (non-crew) staff person selling their fish for them off the boat, from a vehicle, or at a farmers' market, that family member or staff person must obtain a **Retail Seafood license** from DMR (description in section A4 below).

A3: If a fisherman wants to sell fish/lobster/crab *harvested by other commercial fishermen** (in addition to their own fish):

If a fisherman wants to also sell *other commercial harvesters' fish* (in addition to their own fish) from a boat, from a vehicle, or at a farmers' market, it would require obtaining a **Retail Seafood license** from DMR.

*Exception: If the seafood from other harvesters has already been processed *and* packaged by a Wholesale Seafood dealer, then the Retail Seafood license is NOT required.

A4: Retail Seafood license from DMR:

The **Retail Seafood license** allows you to buy, transport, sell, or serve seafood. Specifically, it allows a person/business to:

- Sell seafood directly to the final consumer (the person who will actually consume the seafood). For example, selling to people from a truck, a roadside stand, or at a farmers' market is considered selling to the final consumer. Selling to a restaurant chef, a hotel kitchen, or school is NOT considered selling to the final consumer; that requires a Wholesale Seafood license, which is covered in chapter 2, section A4.
- Sell from one fixed location or one vehicle.
- Buy directly from harvesters (with the exception of shellfish other than lobster/crab).
- Buy shellfish other than lobster/crabs from a Wholesale Seafood dealer.
- If selling from a fixed location, it allows use of a vehicle to go pick up product from a harvester or a dealer without a supplemental license for the vehicle. You must go directly to pick up the product and directly back to the retail location.
- "Serve seafood" in the definition of this license means "preparation of a marine organism for retail sale or consumption." Shucking is not allowed. Filleting can fit into this definition, but it also requires the appropriate license from DACF (see chapter 3 of this guide).

Process for obtaining this license and reporting:

- This license costs \$100 annually (as of April 1, 2018). The same application is used by DMR for any type of retail or wholesale dealer license, and it can be found on this page: <https://www.maine.gov/dmr/commercial-fishing/licenses/index.html>
- DMR (Marine Patrol) has the right to do random inspections of the retail location or vehicle.
- This license requires reporting monthly to DMR if buying any seafood directly from harvesters. Buying directly from harvesters means there is a primary buyer permit attached to your license, which requires reporting. The following details must be included in a report: species purchased, harvesters (including vessel names), how many pounds purchased, average price that month for each species, what the harvester was paid, port where the harvester landed the product, gear

type used. Reporting can be submitted electronically or by mail, and reporting forms can be found here: <https://www.maine.gov/dmr/commercial-fishing/landings/reporting-forms.html>

Section B. DACF Requirements

B1: Selling from a vessel

There is no additional license necessary from DACF if a fisherman is selling directly to consumers *from a vessel*.

B2: Selling from a vehicle or at a farmers' market

To sell *from a vehicle or at a farmers' market* requires a **Mobile Vendor license** from DACF. This applies whether it is the fisherman him/herself, crew member, family member, or staff who is doing the selling, and it also applies whether the fish/lobster/crab was harvested by their own fishing business or harvested by others. Even when buying packaged fish from a Wholesale Seafood dealer, a Mobile Vendor license is still required when selling that packaged fish from a vehicle or at a farmers' market.

B3: Mobile Vendor License from DACF

The **Mobile Vendor license** requirements are:

- If selling fish by the pound, you need a Class III scale sealed and certified by DACF.
- Vendors must keep seafood at 41°F or below; a cooler is acceptable, as long as there is a thermometer to keep track of the temperature.
- If using a scale and/or handling raw fish, you must have some type of sanitizer (i.e. to keep a scale clean), as well as gloves or tongs to handle the fish with. You must also have a hot water supply for hand washing. For example, you can use an insulated sports drink cooler with a flip top spigot, soap, paper towels, and a waste receptacle. At a farmers' market, it is permissible to share a handwashing station with neighboring vendors.
- This license costs \$20 if you have 10 or fewer employees. To apply for this license, fill out a Food and Fuel license application (Mobile Vendor is in Section 3), found here: https://www.maine.gov/dacf/qar/permits_and_licenses/application_forms.shtml
- An inspection is required in order to obtain this license. DACF will reach out once they receive an application about scheduling an inspection, and they recommend submitting the application 30 days prior to when one wants to start selling the product. For the inspection, they will look at the vehicle if that's what is being licensed, and they will primarily be looking for clean coolers and general good hygiene practices. They will also test the scale if one is being used. Once licensed, Mobile Vendors are also subject to random inspection by DACF to ensure you are meeting the cold holding and sanitary requirements, although this is unlikely to happen more than once every year or two.

B4: Selling from a home residence

If fishermen to sell *from their house* (e.g. freezer on the porch, or out of a garage), then that fixed location is considered a retail establishment by DACF and requires a **Retail Food Establishment license**. *(Please note: despite the similar language, this is different than the Retail Seafood license described in*

the section A4 above.) An exception to this requirement is if a fisherman is selling their own lobster – then no license is required other than the commercial fishing license.

B5: Retail Food Establishment license from DACF

- This license costs \$20 annually if you have 10 or fewer employees. To apply for this license, fill out a Food and Fuel license application (Mobile Vendor is in Section 3), found here: https://www.maine.gov/dacf/qar/permits_and_licenses/application_forms.shtml
- An inspection is required in order to obtain this license. DACF will reach out once they receive an application about scheduling an inspection, and they recommend submitting the application 30 days prior to when one wants to start selling the product. It's also possible to schedule a preliminary inspection, at no charge, where an inspector can advise on what will be needed to pass the inspection. Once licensed, Retail Food Establishments are also subject to random inspection by DACF to ensure you are meeting the cooling and sanitary requirements, although this is unlikely to happen more than once every year or two.
 - For an inspection of a porch, garage, or roadside stand in front of a home residence, DACF will limit the scope of the inspection to that porch or garage, and will primarily be looking to see that the seafood is being kept in a cooler/refrigerator at 41°F or below, and also looking to ensure there are sanitary conditions (e.g. no rodent infestation, no contaminants near the seafood).
- The establishment must meet the requirements of the Maine Food Code if any raw product is being handled.
- If selling from a home residence, filleting is not allowed, nor is any other type of processing of seafood. However, if selling from a commercial facility with this license (e.g. a fish market), filleting is allowed.
- This license is exempt from the requirement to have a seafood HACCP (Hazard Analysis and Critical Control Point) plan.

Note on farmers' markets:

Farmers' markets vary in their requirements – some have requirements that all of the product sold by a market vendor must have been grown/caught by that member. Markets also have annual fees, and often require vendors to sign a contract agreeing to the market's rules. Check with the local market manager to find out the specifics for each market.

Chapter 2: Want to truck fish whole to customers like restaurants, schools, retail stores, or processors/distributors?

In section A below are DMR's license requirements for selling wholesale; details on DACF's jurisdiction over selling wholesale is in section B of this chapter.

Please also note that there are additional reporting requirements from NOAA Fisheries if the species being bought and sold is a federally-managed species. See chapter 4 on the Federal Dealer's Permit later in this guide for more details. All of the other state-focused rules in this section still apply to federally-managed species.

Section A. DMR Requirements

A1: If a fisherman wants to sell whole fish/live lobster or crab that s/he harvested him/herself:

Fishermen are allowed to sell and transport whole fish *they harvested* with their own commercial fishing license directly to restaurants, retail establishments, or to processors/distributors without an additional license from DMR.

These rules apply specifically to the person who holds the commercial fishing license in their name. There is an exception made for crew – if a captain has a “commercial fishing license with crew” and a crew member has the actual license on their person, they are allowed to sell the fish with no other type of license from DMR.

However, *the restaurant or retail establishment must have a Retail Seafood License* from DMR in order to buy directly from a harvester and then sell to the public. A *distributor or processor must have a Wholesale Seafood license* from DMR in order to buy directly from a harvester and then sell to other businesses (like restaurants or institutions).

A2: If a fisherman wants a family member or other staff person to sell their fish/lobster/crab:

If a fisherman has a family member or someone else selling their fish for them to a restaurant, retail establishment, or to a processor/distributor, that family member or staff person must obtain a **Wholesale Seafood license** from DMR (see section A4 below).

A3: If a fisherman wants to sell fish/lobster/crab *harvested by other commercial fishermen* (in addition to their own fish):

If a fisherman wants to also sell *other commercial harvesters' fish* (in addition to their own fish) to a restaurant, retail establishment, or to a processor/distributor, it would require obtaining a **Wholesale Seafood license** from DMR.

A4: Wholesale Seafood license from DMR

Note that there are two different types of this Wholesale Seafood license – you can apply for a **Wholesale Seafood license (no lobster)** or a **Wholesale Seafood license with lobster**. The costs are significantly different.

The **Wholesale Seafood license** allows you to:

- Sell seafood to establishments like restaurants, institutions, markets, and other wholesalers like processors or distributors.
- Buy directly from harvesters, including shellfish harvesters (note that buying shellfish other than lobster/crab requires additional steps and certification with the DMR Bureau of Public Health described in chapter 5).
- Process seafood (see definition in chapter 3, section B1).
- License one location (which can be a fixed location, or a vehicle, or vessel), and then it's possible to add supplemental licenses to cover (other) vehicles used to distribute product and/or additional facilities.

Process for obtaining this license and reporting:

- The two application options (wholesale with lobster and wholesale/no lobster) can be found on this page: <https://www.maine.gov/dmr/commercial-fishing/licenses/index.html>
- DMR (Marine Patrol) has the right to do random inspections of a vehicle or fixed location to ensure the correct license is in place.
- This license requires reporting monthly to DMR if buying any seafood directly from harvesters. Buying directly from harvesters means there is a primary buyer permit attached to your license, and that requires reporting. The following details must be included in a report: species purchased, from which harvesters (including vessel names), how many pounds purchased, average price that month for each species, what the harvester was paid, port where the harvester landed the product, gear type used. Reporting can be submitted electronically or by mail, and reporting forms can be found here: <https://www.maine.gov/dmr/commercial-fishing/landings/reporting-forms.html>
- The minimum annual cost for a Wholesale Seafood license (no lobster) is \$443, and the minimum annual cost for a Wholesale Seafood license (with lobster) is \$1,643. If you add supplemental licenses to cover vehicles or additional facilities for your business, there are additional fees, and they are outlined in the application.

Section B: DACF

This chapter does *not* include any requirements from DACF, as DACF does not license transportation of seafood unless it is for direct sales to consumers (see chapter 1), and this chapter is focused on fishermen selling to restaurants, retail, or other wholesalers. DACF knows that the restaurant, retail outlet, or processor is required to have certain licenses and inspections before the product ultimately gets to a consumer, which is why the transportation of product to those places is less of a concern. However, DACF *does* get involved when processing of seafood is happening, and their requirements on processing are covered in the chapter 3.

Chapter 3: Want to fillet or process fish?

Filleting or processing fish requires licenses from both DMR and DACF, and some of the regulations that apply are national in scope, via the Food and Drug Administration (FDA).

A. DMR Requirements

Filleting or processing fish in Maine requires a **Wholesale Seafood license** from DMR. See the rules for a Wholesale Seafood license in chapter 2, section A4.

A1: Lobster exemption

There is an exemption to the requirement for the Wholesale Seafood license for retail establishments. A restaurant or market that has a Retail Seafood license and is buying lobsters directly from harvesters is allowed to cook and pick lobsters in order to serve lobster rolls or other ready-to-eat products with lobster meat. They are exempt from the requirement for a Wholesale Seafood license.

A lobsterman is only allowed to sell lobsters live and whole with their commercial fishing license. If a lobsterman has a Retail Seafood license from DMR, and an indoor commercial facility, then they could qualify for this exemption, too.

The exemption does NOT allow for selling lobster meat in bulk. To do that requires the Lobster Meat dealer license from DMR (same application form as the Retail and Wholesale license application).

B. DACF Requirements

Processing fish (see definition in section B1 below) also requires either a **Retail Food Establishment license** or a **Commercial Food Processor license** from DACF. A primary difference between these two licenses is the end customer, which determines whether the sales are retail or wholesale:

- The Commercial Food Processor license is necessary if you are processing fish for wholesale sales (to restaurants, other retail establishments, or to other dealers).
- The Retail Food Establishment license is necessary if selling directly to consumers. Processing is allowed on the site of a retail establishment, if that fish will only be sold at that same retail location.

B1: Processing definition

Regulations from DACF do not specifically define what “processing” means (see chapter 343: Food Processing and Manufacturing:

https://www.maine.gov/dacf/qar/laws_and_rules/food_laws_rules.shtml).

Rather, DACF relies on the legal definition of “processing” (specific to seafood) from the FDA, which is: handling, storing, preparing, heading, eviscerating, shucking, freezing, changing into different market forms, manufacturing, preserving, packing, labeling, dockside unloading, or holding.

Processors engaging in interstate commerce fall under FDA jurisdiction and are required to operate under a HACCP (Hazard Analysis and Critical Control Point) plan. *However*, the law makes the following exemptions from the requirement for a seafood HACCP plan:

- When harvesting or transporting fish or fishery products, without otherwise engaging in processing.
- Practices such as heading, eviscerating, or freezing intended solely to prepare a fish for holding on board a harvest vessel.
- The operation of a retail establishment.

It is possible to have a relatively low-tech facility that's on a residential property; for example, a garage or outbuilding. The key is that it's a self-contained space and that it is separate from living spaces. It's important to consider what might be necessary to deal with seafood (like floor drains, walls that can be easily cleaned or that can get wet from hoses, etc), but it is possible to turn a variety of spaces into a commercial facility.

B2: Retail Food Establishment license from DACF

A **Retail Food Establishment license** does not require a Seafood HACCP plan, but you do have to meet the requirements of the Maine Food Code if you are handling any raw product. See chapter 1, section B5 for more details on the Retail Food Establishment license requirements.

B3: Commercial Food Processor license from DACF

License requirements:

- This license costs \$50 annually. To apply for this license, fill out a Food and Fuel license application (Mobile Vendor is in Section 3), found here: https://www.maine.gov/dacf/qar/permits_and_licenses/application_forms.shtml
- This license requires you to understand the hazards associated with your process and operate to control those hazards. If you are engaging in interstate commerce (receiving or shipping products outside the state), you must have a HACCP plan and are subject to inspections by both the state and the Food and Drug Administration (FDA) at the federal level.
- Note: often state inspectors are contracted by the FDA to do the federal inspections.

B4: Notes on HACCP

Federally, the law says that “every processor shall conduct, or have conducted for it, a hazard analysis to determine whether there are food safety hazards that are reasonably likely to occur for each kind of fish and fishery product processed by that processor and to identify the preventive measures that the processor can apply to control those hazards.”

A written plan is required by the FDA if engaging in interstate commerce, and detailed recordkeeping related to the preventive measures in a HACCP plan is required.

It is highly recommended to contact the state inspectors in Maine who carry out FDA inspections for help and advice in creating and using a HACCP plan. It is also highly recommended to take a course to understand and begin implementing HACCP plans at a facility. For more information on the requirements of these licenses, contact DACF at 207-287-3841.

More information on HACCP can be found here on the FDA's site:

<https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ucm569796.htm>

Chapter 4: Federal Dealer's Permit

This guide is largely focused on the licenses from state agencies like DMR and DACF, but please note that in all of the scenarios laid out here, it is *also* required to have a federal dealer's permit if buying fish directly from harvesters that was harvested with a federal commercial fishing permit (in other words, a federally managed species). A federal dealer's permit is required for each of those managed species. This permit requires weekly electronic trip-level reporting.

This is true whether a fisherman is "buying" their own fish, or a fisherman or dealer is buying someone else's fish. Federally, the law states that federally-managed species can *only* be sold to a federally permitted dealer. If a fisherman wants to sell their own (federally managed) fish directly to the public, then s/he essentially has to become a dealer to "sell" the fish to him/herself. Then the fisherman must report twice, once as a harvester and once as a dealer.

Applying for a federal dealer's permit is free. Information on how to apply (either online or by mail) for a federal dealer's permit in the Greater Atlantic Region is here:

<https://www.greateratlantic.fisheries.noaa.gov/aps/permits/dealer/index.html>

More detailed information about the reporting requirements can be found here:

<https://www.greateratlantic.fisheries.noaa.gov/aps/dealer/index.html>. Some of the information that must be reported includes: vessel name and permit number, vessel trip report serial number, amount of each species purchased, price, and the port where the fish was landed.

There are separate requirements for Atlantic bluefin tuna dealers. For record keeping and tracking purposes, each bluefin tuna dealer must affix a tag to each bluefin they purchase. This is a federal requirement. For more information about bluefin reporting, call the Greater Atlantic Regional Fisheries Office at 978-281-9140.

Chapter 5: Shellfish other than lobster/crab

The rules for selling shellfish like clams, oysters, mussels, and whole or roe-on scallops are stricter than other regulations, primarily because of higher food safety risks with shellfish. Maine uses the standards outlined in the [National Shellfish Sanitation Program \(NSSP\)](#), which is recognized by the FDA and the International Shellfish Sanitation Conference (ISSC). FDA recognizes the ISSC as the primary organization of state shellfish officials that provide guidance and update regulatory guidelines/procedures, with the goal of uniform standards being applied across all states. Harvesters interested in selling and shipping these types of shellfish must become certified dealers under the NSSP and must have a HACCP plan, which also requires having a commercial facility. There are specific guidelines from the NSSP for different categories of dealer activities related to shellfish (shipping, reshipping, shucking, packing, etc). Contact the Bureau of Public Health at DMR for more information: 207-592-8934.

A1: Selling directly to consumers

If a commercial shellfish farmer or fisherman would like to sell *directly to consumers*:

- The only way to sell product directly to consumers is *from your home residence* with your commercial harvester license. There are certain times of year when even this is prohibited, and you should contact the Bureau of Public Health at DMR to find out when.

A2: Selling directly to restaurants or other retail establishments

If a commercial shellfish harvester wants to sell *direct to restaurants or other retail establishments*, there are two options:

- The establishment (which must only sell that product directly to consumers, NOT to other establishments) must have an **Enhanced Retail Seafood license**.
 - In addition to the requirements for a Retail Seafood license, the Enhanced Retail Seafood license requires a facility inspection (of the fixed retail location) and shellfish-specific record-keeping requirements.
- OR alternatively, the harvester must become a **certified shellfish dealer** with a Wholesale Seafood license (see description in chapter 2, section A4). In addition to the requirements for becoming a Wholesale Seafood dealer, there will be inspections to ensure proper shellfish sanitation procedures and a HACCP plan are in place according to the NSSP mentioned above.

In the absence of these licenses or selling from a residence, a commercial shellfish harvester can only sell directly to Maine certified shellfish dealers.