

A Fisherman's Guide to Selling Seafood in Massachusetts

Introduction

This guide documents the key licenses necessary in different sales scenarios for fishermen in the state of Massachusetts. 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 direct sales of fish and crustaceans. Shellfish (other than lobster/crab), particularly clams, mussels, and oysters, have stricter rules and requirements for licensing. We touch on those rules and licenses in a shellfish-specific section at the end of the report.

There are several agencies that can be involved in licensing: the state Division of Marine Fisheries (DMF), the state Department of Public Health (DPH), 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 [DMF](#), ask for the Permitting and Statistics Program. At DPH, contact the [Food Protection Program](#). The state agency staff can also direct you to any federal points of contact if that becomes necessary.

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Chapter 1: Want to sell directly from a boat, at the dock?

Below are the state's requirements for selling directly to consumers from a vessel. Please note that there are additional reporting requirements from NOAA Fisheries if the species being bought and sold is a federally-managed species, even if it is a fisherman "buying" and then selling their own fish to consumers. See chapter 6 on the Federal Dealer's Permit later in this guide for more details. All of the state-focused permitting rules in this section apply to federally-managed species.

A. DMF Requirements

A1. If a fisherman wants to sell whole fish and/or live lobster/crab (NOT including any other shellfish) directly to consumers from a vessel:

This requires a **Retail Boat Seafood Dealer** permit. Requirements and rules for this permit are:

- Fishermen can sell whole fish, live lobster and crab that *s/he harvested* with their own commercial fishing permit directly to consumers from their boat. This permit does *not* include selling other shellfish besides live lobster/crab.
- Fishermen can **transport live lobster/crab** caught under their own commercial fishing permit in order to sell to a retail operation or to the public directly. This means a fisherman can transport live lobster/crab to a restaurant, supermarket, or other retail establishment without a refrigerated vehicle, under this permit. This permit does *not* allow transport of any other types of fish or shellfish.
- Whole fish can be headed/gutted on a vessel, but cannot be filleted. The Massachusetts Department of Public Health does not allow filleting fish on vessels in general, unless it's for personal consumption. This permit does not allow for any processing or filleting of fish. See chapter 5 on filleting fish for more information.
- According to DMF, there is flexibility regarding who is allowed to make the sales from the vessel (or vehicle, for lobster/crab). DMF is willing to work with a fishing business to make sure a family member or crew member can sell from the boat, rather than it being limited **ONLY** to the person whose name is on the commercial fishing permit. One option is to put a business name on the Retail Boat Seafood Dealer permit application, so that it covers whoever works for the fishing business.

A2. Process for obtaining this permit and reporting:

- Fill out a dealer permit application, found on this page: <https://www.mass.gov/service-details/seafood-dealer-permits>
- The annual permit fee is currently \$65 for a Massachusetts resident, and \$130 for a non-resident.
- Primary buyers are those dealers who purchase directly from fishermen. A fisherman is considered a primary buyer of their own catch with this permit, and must fill out the primary buyer application (included in the full application at the link above).
- A health inspection is **NOT** required. File a boat waiver (contained within the dealer permit application) in lieu of a health inspection. The waiver specifically states that a fisherman won't do any processing or reshipping, and that there are no buildings, processing plants or other facilities involved that would require an inspection.

- Reporting to DMF is required weekly for primary buyers. As a reminder, a fisherman is considered the “primary buyer” of their own catch when his/her business is selling that catch to the public. Lobstermen with state permits only submit harvester reports only. Primary buyers must report: all species purchased directly from fishermen, ports of landings, price information, and permit ID numbers for fishermen. Reporting can be submitted electronically or by mail/fax. More information and resources can be found here: <https://www.mass.gov/service-details/seafood-dealer-reporting>

Chapter 2: Want to sell fish at local farmers' markets or from a vehicle?

In section A below are DMF's permit requirements for selling directly to consumers from a farmers' market or directly from a vehicle. Food safety and public health requirements are covered in section B of this chapter. Please note that there may be additional reporting requirements from NOAA Fisheries if the species being bought and sold is a federally-managed species. See chapter 6 on the Federal Dealer's Permit later in this guide for more details. All of the state-focused permitting rules in this section apply to federally-managed species.

A. DMF Requirements

There is not a very clear path among the existing state permits for harvesters interested in selling at farmers' markets, and DMF is aware of this. They are working to create a new permit that would clearly outline what is required to sell at farmers' markets, in terms of allowed products and required inspections. This will hopefully be done within the next one to two years. There is also currently a pilot program being conducted to allow shellfish to be sold at farmers' markets.

A1. If a fisherman wants to sell at a farmers' market:

Currently, to sell at a farmers' market, the best fits are the retail dealer permits, specifically: the **Retail Seafood Dealer permit**, or the **Retail Seafood Truck Dealer permit**.

The **Retail Seafood Dealer** permit allows for the following:

- To sell raw fish (frozen or unfrozen), shellfish and lobsters at one retail location.
- To sell fish whole. The intent of this permit is to allow a harvester to sell *their own* fish or lobster/crab. If a fisherman were to buy whole fish from other harvesters, s/he would fall into one of the Wholesale permit categories.
- To buy fish filleted from a Wholesale Seafood or Wholesale Seafood Truck Dealer (see chapter 4 and chapter 5 for details on those permits).
- Shellfish (other than lobster/crab) must be purchased from a Wholesale Seafood Dealer or a Wholesale Seafood Truck Dealer. You cannot purchase shellfish (other than lobster/crab) directly from a harvester. You cannot shuck, re-label or repack shellfish. *(Contact DPH and DMF for more information about selling shellfish at farmers' markets, as the agencies are working to pilot some new efforts on this front.)*
- This permit does not allow for any filleting or processing of seafood, although there is the possibility to apply for a waiver to do some light processing at a retail market. That requires going through the Department of Public Health (DPH) to request and be approved for such a waiver.
- A separate Retail Seafood Dealer permit is required for each separate retail (e.g. farmers' market) location, so multiple permits must be applied for in order to sell at multiple locations. It is possible to work with a Local Board of Health (LBOH) to be approved for multiple market locations/dates for one season.

A2. If a fisherman wants to sell directly to consumers from a vehicle:

For harvesters interested in selling directly from a vehicle (e.g. selling from a truck on the side of the road) or selling directly from a vehicle at a farmers' market, the Retail Seafood Truck Dealer permit is necessary.

The **Retail Seafood Truck Dealer** permit allows for the following:

- To sell fish or live lobster/crab directly to consumers *from a mobile unit* (does not include other shellfish).
- Can cover multiple locations (like multiple farmers' markets), given approval of an LBOH.
- Cannot process, fillet, shuck, etc.
- A Hawkers and Peddlers permit might also be required. Find out what individual towns require where you will be selling. If this permit is necessary, contact the state Division of Standards at 617-727-3480 with questions, and find the application here: <https://www.mass.gov/how-to/hawker-and-peddler-application>

To sum up, if you want to transport fish in a private vehicle and sell at a booth at a market, you need the Retail Seafood Dealer Permit and you need one for each location. If you are able to sell directly from a truck, the Retail Seafood Truck Dealer permit allows you to set up on the side of the road somewhere or to sell at multiple locations directly from the truck under just one permit. This can make it simpler, from a permitting perspective, if you want to sell at multiple markets or locations.

A3. Process for obtaining the Retail Seafood Dealer and Retail Seafood Truck Dealer permits and reporting:

- Prior to submitting a dealer permit application, a health inspection is required for food safety purposes (see section B below).
- Fill out a dealer permit application, found on this page: <https://www.mass.gov/service-details/seafood-dealer-permits>
- The annual permit fee is currently \$65 for a Massachusetts resident, and \$130 for a non-resident.
- A harvester is considered the primary buyer of their own catch with this permit and must fill out the primary buyer application (included in the full application at the link above).
- In order to be a primary buyer and to be inspected, a place of business must be listed on the application that is *not* a vessel and *not* a residence.
- Reporting to DMF is required weekly for primary buyers. As a reminder, fishermen are considered the "primary buyers" of their own catch when their business is selling that catch to the public. Lobstermen with state permits only, who are operating under the authority of a Retail Boat Seafood Dealer permit, submit harvester reports only. Primary buyers must report: all species purchased directly from fishermen, ports of landings, price information, and permit ID numbers for fishermen. Reporting can be submitted electronically or by mail/fax. More information and resources can be found here: <https://www.mass.gov/service-details/seafood-dealer-reporting>

B. Public Health Requirements

B1. Retail food permit from Local Boards of Health (LBOHs)

Also required to sell at farmers' markets is a **retail food permit from the LBOH** in each town, and paying any associated fee to the town(s). Local Boards of Health (LBOHs) have primary responsibility for the enforcement of the state sanitary code at farmers' markets. There can be varying familiarity with the DMF retail permits from the LBOHs around the state, which results in variations on what they allow at their towns' farmers' markets.

The retail food permit gives a business the right to sell food in that town. The towns base their forms for this permit on state food code law, but the forms can vary by town. See individual LBOHs for information.

B2. Health inspection requirements:

- For the **Retail Seafood Dealer** permit, an inspection from the state Food Protection Program (through the Department of Public Health) is required. There must be a non-residential place of business for DPH to inspect, and it cannot be a vessel.
- For the **Retail Seafood Truck Dealer** permit, an inspection of the vehicle that will be permitted is required from the LBOH in each town where you would like to set up and sell from a vehicle. While an inspection is required in each town, the permit covers any Massachusetts town in which you pass an inspection.

With both of these permits:

- There must be a non-residential place of business for DPH or the LBOH to inspect, and it cannot be a vessel.
- It is required to use EITHER mechanical refrigeration (e.g. a refrigerated truck) OR "ice from an approved source to maintain the product at an ambient temperature of 45 degrees Fahrenheit or below." (See the Massachusetts regulations here: https://www.mass.gov/files/documents/2016/11/xw/105cmr500_89780_20448.pdf)

B3. Challenges with being inspected to sell at farmers' markets:

The biggest challenges with the Retail Seafood Dealer and Retail Seafood Truck Dealer permits are that they were not originally designed to apply to farmers' markets, and the requirement for a place of business that can be inspected is a barrier. This is less of an issue for live lobster/crabs, but for a harvester selling quota-managed species and/or selling processed fish, the state wants to be able to inspect a place of business where records of purchases and sales can be kept. In particular:

- Retail Seafood Dealer permit inspection: This inspection is in a gray zone when it comes to farmers' markets, since it was designed with a fixed, brick and mortar retail location in mind. For this reason, DMF and DPH are looking into creating a more specific retail permit for farmers' markets. The Retail Seafood Dealer permit *does* allow you to transport fish to a retail location (like a farmers' market) in a private vehicle, but the DPH is looking for a fixed place of business

to inspect. The farmers' market booth does not always meet the requirement, depending on the inspector.

- Retail Seafood Truck Dealer permit inspection: Ideally for this permit, an LBOH would inspect the vehicle. Yet this permit can face similar challenges when it comes to inspections, since some LBOHs consider the actual place of business to be the booth at a farmers' market and not the vehicle. However, there is no protocol for the LBOH to follow to inspect a farmers' market booth, which leaves this in a gray area if the LBOH refuses to inspect the booth or the vehicle.
- NOTE: The DPH and the LBOHs will not inspect a vessel as the place of business.

C. 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 3: Want to truck fish whole to a dealer?

With a commercial fishing permit, harvesters are allowed to take *only their own fish* and drive it to any *primary buyer* in Massachusetts to sell to them. This does not require a refrigerated truck. Harvesters are allowed to transport their own fish in their own vehicle.

Chapter 4: Want to truck fish to customers like restaurants, schools, retail stores, OR want to truck your fish *and* other people's fish to dealers?

In section A below are DMF's license requirements for selling wholesale by vehicle; details on DPH's jurisdiction over selling wholesale by vehicle 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 6 on the Federal Dealer's Permit later in this guide for more details. All of the state-focused permitting rules in this section apply to federally-managed species.

A. DMF Requirements

Trucking to these locations requires a **Wholesale Seafood Truck Dealer** permit. This permit is appropriate for harvesters who do not want to process their own fish, but want to be able to transport it to customers like restaurants or other types of retail establishments. This permit is also appropriate for harvesters who want to transport their own fish *and* fish from other harvesters to another Wholesale Seafood Dealer or to a restaurant or retail establishment.

This permit is specifically for the purpose of transporting to another buyer in the supply chain, NOT for direct sale to consumers.

The **Wholesale Seafood Truck Dealer** permit allows you to:

- Acquire, handle, distribute, ship or sell raw fish ONLY from a vehicle.
- Cannot process (fillet or otherwise), re-label, repack, or store seafood with this permit.
- Cannot purchase shellfish directly from harvesters or shuck any shellfish.

B. DPH Requirements

- Required to have a mechanically refrigerated truck.
- Prior to submitting a dealer permit application, a health inspection of the vehicle from the state Food Protection Program (through DPH) is required.
 - NOTE: If transporting whole fish (other than lobster/crab), DPH will want to know who is going to process it: another dealer? A chef at a restaurant? A retail market? Conversely, if transporting fish that has already been filleted/processed, DPH will want to know where it was processed and see records.
 - In order to have filleted that product yourself, a facility and a Wholesale Seafood Dealer permit are required (see chapter 5).

C. Process for obtaining this permit

- Prior to submitting the dealer permit application, fill out an inspection request form, and mail/fax it to DPH (see the end of the dealer application form for the inspection request). Once the inspection is successfully completed, the dealer will receive an inspection report that must be submitted to DMF along with the dealer application.
- The dealer permit application can be found on this page: <https://www.mass.gov/service-details/seafood-dealer-permits>
- The annual permit fee is currently \$130 for a Massachusetts resident, and \$260 for a non-resident.

D. Reporting

Reporting to DMF is required weekly for primary buyers. As a reminder, fishermen can be considered the “primary buyers” of their own catch when they are also selling that catch either directly to the public or to retail establishments – see the situations below to determine if you have to report as a primary buyer. Lobstermen with state permits only, who are operating under a Retail Boat Seafood Dealer permit, are an exception – they only have to submit harvester reports. Primary buyers must report: all species purchased directly from fishermen, ports of landings, price information, and permit ID numbers for fishermen. Reporting can be submitted electronically or by mail/fax. More information and resources can be found here: <https://www.mass.gov/service-details/seafood-dealer-reporting>

- If you are a fisherman who is also *purchasing fish from other harvesters*, you will fill out the Primary Buyer application, which is within the dealer permit application.
- If you are a fisherman *trucking your own fish to another dealer*, then that dealer is considered the primary buyer in the situation, and they have to do the primary buyer reporting to DMF.
- If you are a fisherman *trucking your fish to a restaurant, retail market, or some other retail establishment* that will sell the product directly to consumers, there are options: you can act as the primary buyer of your own fish and then you must do the reporting, or the retail establishment can be licensed to be a primary buyer and they can do the reporting. For example, there are restaurants on Cape Cod that have become licensed as Wholesale Dealers in order to more easily and directly purchase product from local fishermen, and those restaurants report to DMF as dealers.

Chapter 5: Want to fillet your fish?

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

A. DMF Requirements

Filleting or processing fish in Massachusetts requires a **Wholesale Seafood Dealer** permit from DMF.

A1. Wholesale Seafood Dealer permit

The **Wholesale Seafood Dealer** permit allows you to:

- Acquire, handle, store, distribute, process, fillet, ship or sell raw fish and/or shellfish, frozen or unfrozen, in bulk or for resale.
- Sell retail (direct to consumers) from the same fixed location as your wholesale facility.

A2. Process for obtaining this permit and reporting:

- Fill out a dealer permit application, found on this page: <https://www.mass.gov/service-details/seafood-dealer-permits>. Prior to submitting the dealer application, a health inspection is required (see section B below).
- The annual permit fee is currently \$130 for a Massachusetts resident, and \$260 for a non-resident.
- Reporting to DMF is required weekly for primary buyers. As a reminder, fishermen are considered the “primary buyers” of their own catch when their business is selling that catch to the public. Primary buyers must report: all species purchased directly from fishermen, ports of landings, price information, and permit ID numbers for fishermen. Reporting can be submitted electronically or by mail/fax. More information and resources can be found here: <https://www.mass.gov/service-details/seafood-dealer-reporting>

B. DPH Requirements

- Prior to submitting your dealer permit application, you need a health inspection of your facility from the state Food Protection Program (through the Department of Public Health). You have to fill out an inspection request form, and mail/fax it to DPH (see the end of the dealer application form for the inspection request). Once the inspection is completed, the dealer will receive an inspection report that must be submitted to DMF along with the dealer application.
- The Wholesale Seafood Dealer permit also requires that you have a HACCP (Hazard Analysis and Critical Control Points) plan.

In order to obtain this permit, there must be a commercial facility to inspect and to create a HACCP plan for.

Processing seafood does not require other permits from DPH, since they jointly issue the dealer permit with DMF and they do the inspections.

The only case where further DPH permits are required is to process seafood into value-added products. That requires becoming licensed for “food processing and/or distribution at wholesale” through DPH and complying with the state’s Good Manufacturing Practices for Food. This license costs \$300 per facility. There are details on DPH’s requirements and the license application here: <https://www.mass.gov/guides/starting-a-wholesale-food-business>

C. 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 HACCP 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 Massachusetts 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 DPH at 617-983-6712.

More information on HACCP can be found here on the FDA’s site: <https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ucm569796.htm>

Chapter 6: Federal Dealer's Permit

This guide is largely focused on the permits from state agencies like DMF and DPH, 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 fishermen want to sell their own (federally managed) fish directly to the public, then they essentially have to become a dealer to "sell" the fish to themselves. 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 7: Selling 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. Massachusetts 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 Food Protection Program at DPH for more information: 617-983-6712.

- You need to have the Wholesale Seafood Dealer permit if you want to purchase shellfish from a harvester directly.
- You can purchase shellfish from a Wholesale Dealer or Wholesale Truck Dealer, and then sell that shellfish with the Retail Seafood Dealer Permit. That allows you to sell raw fish (frozen or unfrozen), shellfish and lobsters at one retail location – you need to separately permit each retail location where you want to sell these products. You cannot shuck, re-label, or re-pack any shellfish with the Retail Seafood Dealer permit.
- If you have a Wholesale Seafood Truck Dealer permit, you can sell shellfish, but you cannot purchase it directly from a harvester. You have to purchase from a business with the Wholesale Seafood Dealer permit. You cannot shuck, repack, relabel, or store. Also, you can only sell from the truck.
- There is an exception for bay scallops when it comes to allowing a commercial harvester to shuck their product. See DPH's procedures and guidelines here: <https://www.mass.gov/files/documents/2017/05/zp/bay-scallop-harv-proc-insp-form.pdf>
- Finally, there is a pilot program being conducted to test selling shellfish at farmers' markets. DPH and DMF agreed on a joint policy to allow Wholesale shellfish dealers to get a Retail Seafood Dealer permit and allow the sale at farmers' markets. They also need the Retail Food permit from each LBOH where they want to operate.

Appendix: Dealer Permit Matrix

The matrix below depicts some of the differences between the permits and what activities you can undertake with each of them.

	Need Local Board of Health inspection	Need state Food Protection Program inspection (DPH)	Allows you to fillet/process fish	Allows you to sell fish and live lobster/crabs to the public	Allows you to sell <u>shellfish</u> other than lobster/crabs	Refrigerated truck required to transport fish and shellfish other than lobster/crabs
Retail Boat Seafood Dealer				X**		
Retail Seafood Dealer		X	X*	X	X***	
Retail Seafood Truck Dealer	X			X		
Wholesale Seafood Dealer		X	X	X	X	X
Wholesale Seafood Truck Dealer		X			X***	X

*Cannot fillet or process any seafood, although there is the possibility to apply for waiver to do some light processing at a retail market. Go through DPH to request and be approved for such a waiver.

**Can only sell fish harvested under your own commercial fishing permit. Cannot sell fish harvested by other fishermen.

***Can sell shellfish, but you cannot purchase directly from a harvester with this license. Must purchase from someone with a wholesale dealer permit.