
Connecting Local Seafood & Consumers: **DIRECT MARKETING 101**



CONNECTING LOCAL SEAFOOD AND CONSUMERS: DIRECT MARKETING 101

NATIONAL SEA GRANT LAW CENTER

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I. INTRODUCTION

Welcome to *Connecting Local Seafood and Consumers: Direct Marketing 101*. This publication builds upon an earlier resource guide, *Starting and Maintaining Community Supported Fishery (CSF) Programs*, published by the National Sea Grant Law Center (NSGLC) in 2012 in association with the “National Summit on Community Supported Fisheries” held in Portsmouth, New Hampshire. In 2016, the organizers of the “Local Seafood Summit: Moving Community Supported Fisheries and Values-Based Fishing Businesses Forward” approached the NSGLC to update the 2012 guide. With funding from Concerned Citizens of Montauk and the National Fish and Wildlife Foundation’s Fisheries Innovation Fund, the NSGLC broadened the scope of the guide beyond CSFs to include other alternative seafood marketing strategies. This guide complements and builds upon the Market Your Catch website, an online resource developed by California Sea Grant with participation from other Sea Grant programs, fishermen, buyers and others on the U.S. east and west coasts.

Fishermen have become increasingly interested in considering alternatives to traditional seafood marketing and distribution chains as regulatory standards have become more strict and competition with aquaculture products has increased. In the traditional seafood distribution chain, commercial fishermen land their catch in a port and then sell it to a processor or distributor. Fishermen are usually paid per pound with the price fluctuating depending on the species and season. Fishermen who sell unprocessed seafood are often under time constraints to move the product quickly before it spoils. During peak fishing season they may also need to quickly return to sea.

Seafood products often move from initial processors and distributors through a complicated global supply chain. Many species (e.g., squid, Alaskan Pollock) are exported overseas for further processing, with some of the resulting product then imported back into the United States for retail sale in grocery stores and restaurants. Everyone from the processor through the end distributor receives a portion of the profit in exchange for performing key functions or adding value to the product. The more hands the seafood passes through between fishermen and end consumers, the less money fishermen receive.

In recent years, a number of alternative marketing strategies have emerged to help fishermen earn an increased profit, and provide the buyer with competitive pricing and fresh fish. These strategies position individual fishermen, fishing cooperatives, and community organizations to act as fish

dealers and processors, enabling them to obtain an increased share of profits through direct sales and other alternative marketing arrangements.

Many fishermen combine a variety of traditional and alternative marketing strategies. A fisherman, for instance, may sell some of his catch off-the-boat, at a farmers' market, or through a CSF. At times, due to harvest volume or personal relationships, that same fisherman may also sell all or a portion of his catch to a seafood processor. By participating in a variety of markets, a fisherman can diversify income sources.

Alternative marketing strategies often mean more work for the fishermen because they must develop a good business plan, secure the necessary business licenses, manage the finances and paperwork, advertise the product, and recruit and retain customers. This increased effort, however, can result in higher profit margins because fishermen are able to capture a greater portion of the sales price. Minimizing the stops seafood makes between the boat and the plate can provide customers with a fresher product, a more direct connection with their seafood providers, and additional knowledge about the product, such as how the fish was caught, handled, stored, and processed.

This guide is meant to serve as a tool for fishermen looking to diversify the traditional model of seafood sales by highlighting some unique legal considerations involved with alternative marketing strategies. It provides an overview of the legal issues associated with several direct or alternative marketing strategies including off-the-boat sales, farmers' markets, community and restaurant supported fisheries, boat-to-institution sales, online sales, food hubs, and buying clubs. For more information about these types of alternative marketing arrangements and seafood marketing in general, visit the Market Your Catch website at <http://marketyourcatch.msi.ucsb.edu>.

II. MARKETING STRATEGIES

Consumer demand for locally produced food is growing. Although it is difficult to define “local food” with precision, consumers are increasingly interested in purchasing food produced within close proximity to their homes as evidenced by the recent growth of farmers markets, Community Supported Agriculture (CSAs), and other agricultural direct marketing programs. In coastal communities, seafood has always been a local source of food and it is important that seafood continue to be included in local and regional food distribution networks.

Many seafood consumers value a transparent chain-of-custody from boat to fork, increased access to premium, locally caught seafood, and assurances that fishermen receive a fair price for their catch. These consumers are seeking a seafood distribution chain that engages fishermen and community members in a more robust, viable, local food system, and provides a framework through which fishermen and customers alike can more directly steward marine resources. Alternative marketing strategies are one way fishermen can tap into the local food market.

A. Off-the-Boat Sales

Direct marketing is nothing new to fishermen. Long before technology connected the world, fishermen sold their catch fresh off their boats. Off-the-boat sales continue to provide an important revenue stream for many fishermen today.

An off-the-boat sale is exactly what it sounds like – the sale of fish directly from the boat on which it was caught. Off-the-boat sales occur on the dock or pier where the boat is moored, and supply is often limited to what is in the fisherman’s hold that day. Off-the-boat sales are attractive for consumers seeking the freshest seafood available or trying to directly connect with their food sources.

Fishermen wishing to sell their catch directly to consumers often need to obtain an additional license or permit from the state authorizing them to engage in retail sales. These licenses and permits go by many different names. Louisiana requires a “Fresh Products License.” A “Retail Boat Seafood Dealer Permit” is needed in Massachusetts. In Alaska, it’s called a “Catcher/Seller Permit.” Before engaging in off-the-boat sales, fishermen should check with their licensing agency to determine how off-the-boat sales are regulated in their state.

Portsmouth Lobster Company president
Damon Frampton is a commercial
fisherman selling live lobsters off his
boat in Portsmouth, New Hampshire.
facebook.com/portsmouthlobster

Most states limit off-the-boat sales to “whole” fish – that is, fish that have undergone minimum handling and processing. Gilling, gutting, bleeding, and scaling are generally allowed, although some states require it be done at sea prior to offloading. States that allow off-the-boat sales of processed fish often require fishermen to utilize proper facilities, equipment, supplies, and personnel when processing the fish. In Oregon, for example, fishermen who sell processed fish (such as cooked crab or filleted tuna) from their boat need a “Food Processor’s License” and a sanitation inspection by the Oregon Department of Agriculture.

HYPOTHETICAL

Michael is a commercial fisherman who has traditionally sold the entirety of his catch to the local processor. Michael enjoys talking to members of the public when he is unloading his catch, and people have started to ask whether they can purchase his fish. He’d like to start selling his catch off his boat. What are some things Michael should keep in mind before participating in off-the-boat sales?

- **What are the proper licenses?**

In addition to his valid commercial fishing license, Michael may need to obtain additional licenses from the state to engage in retail sales from his boat. It is important to note that in most states only the individual holding the license can sell to customers.

- **How will he prepare and sell the fish to customers?**

Depending on Michael’s fishing operation, his fish may be flash-frozen at sea or completely unprocessed. Michael will need to adhere to any processing or handling limitations in his license.

- **Are there any local harbor rules?**

Michael must be mindful of the rules and regulations in the local harbor. The harbor, for instance, may prohibit sales after sunset. For safety reasons, some harbors may not allow sales from individual slips. Michael should check to see if the harbor has designated areas for off-the-boat sales.

- **If the harbor does not have designated areas, where will he meet his customers?**

Is there enough room where he docks? Customers will be coming to Michael’s boat to buy his catch. He will need to make sure he has adequate dock space to safely interact with customers and to conduct sales.

- **How will he accept payment?**

Michael will also need to consider how he will accept payment from customers. He may need to keep cash on hand to make change and register for some form of electronic payment processing service, such as Square, to accept credit card payments.

B. Fishermen and Farmers' Markets

In addition to off-the-boat sales, fishermen have traditionally sold their catch at local markets. Fish markets, historically dedicated to the wholesale trade between fishermen and fish merchants, could be found in every commercial fishing port. Wholesale fish markets remain important players in the seafood distribution chain. Some, like Fulton Fish Market in New York and Pike Place Market in Seattle, are world famous.

As farmers' markets have grown in popularity and vendors have expanded beyond local fruits and vegetables, retail opportunities have opened up for fishermen. Farmers' markets are physical locations where vendors of a variety of food products come together on a regular schedule to sell directly to customers. Farmers' markets are a convenient way for consumers to interact with local producers and buy fresh produce, fruit, meat, dairy, and other locally produced food products. A local fisherman with fresh wild fish is a popular vendor at many farmers' markets around the country.

Some communities have dedicated fishermen's markets where only seafood is sold. California's "Pacific to Plate" legislation (AB 226), enacted in 2015, allows commercial fishermen to organize a market under a single permit in a manner similar to certified farmers' markets. The legislation also permits vendors to clean their fish for direct sale.

Similar to off-the-boat sales, fishermen wishing to participate in a fishermen's or farmers' market will need to check with their state to obtain necessary licenses or permits to engage in retail sales. In some states, the requirements for off-the-boat and market sales are the same. In others, there may be specific licenses for market sales. Texas, for instance, requires a "Farmer Markets Food Establishment Permit." In Oregon, farmers' market sales require the fisherman to become a licensed wholesale fish dealer, which would also allow him to sell fish from other fishermen in addition to his own catch. There may also be local licensing requirements. Arlington, Virginia, for example, requires a local "Farmers Market License."

As with off-the-boat sales, fishermen need to check with their licensing agency to verify what type of processing, if any, is permitted under their retail licenses. There is usually a distinction between raw fish that is only gutted/gilled and fish that is cooked, dried, smoked, pickled, or otherwise processed. Fishermen wishing to sell processed or value-added fish products, such as spreads, will undoubtedly need to obtain additional licenses particularly to address public health and seafood safety requirements.

• The Fish Monger's Wife was founded by Amber Mae Peterson and is located in Muskegon, Michigan. The company produces and sells smoked Great Lakes white fish and other fish products from over 18 fishermen at the Muskegon Farmers Market.

• www.thefishmongerswife.net

• Tuna Harbor Dockside Market is an open-air seafood market located in the Port of San Diego, California currently offering six vendor booths with up to 20 varieties of fish.

• <http://thdocksidemarket.com/new>

In addition to federal, state, and local retail seafood licensing, farmers' and fishermen's markets are subject to state and local health department regulation and inspection. Many states have refrigeration requirements for seafood sales. Others may require packaging or labeling. For example, the Baldwin County Health Department requires all seafood sold at the Farmers' and Fishermen's Market in Foley, Alabama to be pre-packaged.

Fishermen also may need to develop a HACCP plan. HACCP, which stands for "Hazard Analysis and Critical Control Point," is a planning process that promotes food safety by identifying the "risk" points as seafood moves from the vessel to the consumer and sets limits that will prevent, eliminate, or reduce food safety risks in processed food products. Federal law requires wholesale processors of fish and fish products to develop and implement HACCP plans for their operations. Fishermen selling unprocessed product at a fishermen's or farmers' market are unlikely to trigger the federal HACCP requirements. Some state and local departments of health may, however, impose HACCP obligations even when not required by federal law. Additional information about the FDA regulations and HACCP plans are available at: <http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/Seafood/FishandFisheriesProductsHazardsandControlsGuide/default.htm>.

HYPOTHETICAL

In addition to selling off-the-boat, Michael and his wife wish to sell some of his catch at the local Saturday morning farmers' market. What questions should they ask before heading to market?

- **Does Michael's existing licenses cover farmers' market sales?**

The license Michael obtained to engage in off-the-boat sales may allow him to sell directly to consumers at other locations. His license, however, may only allow him to sell at the dock. If that's the case, Michael may need to obtain an additional license to engage in retail sales at the farmers' market.

- **What state and local health laws and regulations apply to the farmers' market?**

Michael should check with the farmers' market organizers to determine if there are any state or local health requirements for seafood sales. He should also inquire about the time frame for any necessary inspections so he has plenty of time to prepare his space and equipment before he starts selling his catch at the farmers' market.

- **What are the farmers' markets rules for vendors?**

Vendor rules and requirements vary from market to market. There may be fees to rent space, insurance requirements, and limitations on the types of products Michael can sell. Some farmers' markets, for instance, restrict sales to food produced within a certain geographic area.

After a couple of weeks at the farmers' market, Michael's friends start encouraging his wife to sell her famous crab dip which has been the star of many community picnics. What questions should they ask before adding crab dip to their stand?

- **Does Michael's wife need a separate permit or license to produce and distribute the crab dip?**

Foods produced in the kitchen of a private home, often referred to as "cottage foods," are subject to state regulation. State laws governing the sale of cottage food at farmers' markets vary widely. Most states, however, limit cottage food sales to "non potentially hazardous foods," such as baked goods, jams, and candy. Fish and shellfish are potentially hazardous and thus may be subject to more stringent regulations. Michael's wife may need to submit her kitchen for inspection or make the crab dip at an approved processing facility. They may also need to obtain business and food safety licenses, such as a food handler's permit.

- **Is a HACCP plan required?**

Although Michael and his wife will be processing the crab into crab dip, farmers' market sales are retail sales. Because they are selling directly to the end consumer, and not wholesale, a HACCP plan is unlikely to be required by federal law. Their state or local government, however, may have separate food safety requirements. Michael and his wife will need to check with state and local health officials regarding food safety requirements.

- **How will the crab dip be labeled?**

Almost all states have labeling requirements for processed foods, even those produced in a home kitchen. Labels are usually required to identify, among other things, the name and address of the producer, common name of the product, ingredients, net weight, and processing date. Michael's wife will need to make sure she complies with her state's labeling requirements.

C. Community Supported Fisheries

Community Supported Agriculture (CSA) programs originated in the United States in the 1980s as a northeastern grassroots effort by consumers to buy local, seasonal food directly from a regional farmer. CSAs generally promote the production of high quality food items and risk-sharing between the farmer and CSA members. Interested consumers purchase a share at the start of the season, which entitles the customer to membership in the CSA and regular deliveries of produce, or other farm goods, throughout the production season. The farmer receives a cash investment at the start of the season, which allows him to cover upfront costs. CSAs also help insulate farmers against catastrophic events such as crop failure. Through this contractual relationship, the two parties obtain mutual support to achieve their goals related to fresh local food.

Walking Fish is a CSF founded in 2009 by a group of Duke University graduate students. Walking Fish focuses on connecting local fishermen to local markets in Durham and Raleigh, North Carolina.

<http://walking-fish.org>

Skipper Otto's was the first CSF in Canada. Located in Vancouver, Skipper Otto's sells whole salmon, sashimi grade salmon fillets, a variety of smoked, candied, and canned salmon products, sashimi grade tuna loins, halibut, lingcod, and black cod fillets, side-stripe prawns, pink shrimp, Dungeness crab, king crab, and Pacific oysters. Skipper Otto's also maintains a seafood equipment library that allows members to preserve and process their own seafood.

<http://skipperotto.com>

Community Supported Fishery (CSF) programs are modeled after CSAs. CSFs may be run by an individual fisherman, a group of fishermen organized as a cooperative or in some other way, or a local community organization. CSFs can be structured as non-profit or for-profit businesses. CSF members, also called shareholders, provide fishermen with financial support by paying in advance of the season in exchange for a weekly share of seafood caught during the season. By receiving payment upfront instead of post-harvest, fishermen know what they are going to earn, providing them with a less risky means to invest in their operations (e.g., through the purchase of new gear, additional quota, or infrastructure). CSFs can be seasonal or year-round. They may offer a delivery option or pick-up at retail locations or farmers' markets.

As with off-the-boat and farmers' market sales, the regulation of CSFs will vary depending on whether they are selling unprocessed (e.g., whole fish), processed (e.g., fish fillets), or value-added products (e.g., smoked fish or sushi). The permitting and licensing requirements also may vary depending on whether the CSF holds product before selling it and whether the CSF members will pick up their shares or the CSF will deliver their shares to them. In Massachusetts, for instance, a CSF that distributes shares from a retail location is required to obtain a "Retail Seafood Dealer Permit" and local board of health food permit. If the CSF delivers the seafood share directly to the consumers, the CSF must have a separate "Retail Seafood Truck Dealer Permit." Since the regulations for CSFs are state-specific, CSFs need to consider how they will distribute CSF shares and then check with their local regulatory agencies to determine what permits and licenses are required.

HYPOTHETICAL

In addition to selling off-the-boat and at farmers' markets, Michael is intrigued by the idea of a CSF. He is always short on cash at the beginning of the season, and it would really help to have some of his upfront costs covered by shareholders. What should Michael think about before launching a CSF?

- **Are additional licenses or permits needed?**

Michael's existing licenses for the off-the-boat and farmers' market sales may allow him to engage in seafood sales through a CSF. Michael, however, may need to obtain additional state and local licenses, such as a retail seafood dealer's license, especially if he plans to sell other fishermen's catch in addition to his own. Michael may also need to obtain a separate business license for the CSF.

- **Can he offer enough product variety?**

If Michael only has a license to catch one species of fish, he may not have enough product to make a CSF work. Michael may be able to succeed by specializing and offering a single highly valued product. As an alternative, Michael may consider partnering with other fishermen to offer more variety. Such partnerships, however, can trigger additional permitting requirements and raise anti-trust concerns (*see Anti-Trust section below on page 18*).

- **Where and how will the CSF distribute the shares to customers?**

Michael needs to consider how he will deliver shares to his customers. He may need a refrigerated truck or van to legally transport shares to customers. To avoid additional licensing requirements, Michael may wish to coordinate pick-ups at a seafood market or other retail establishment with the proper licenses.

D. Restaurant Supported Fisheries

Restaurants in coastal communities often seek to capitalize on the availability of local seafood. As restaurant patrons have become more interested in the local food movement, chefs and restaurateurs are responding to consumer demand by buying locally harvested seafood. Restaurants are selling the fishermen's stories as well as the fish. While individual fishermen can and do sell to restaurants, chefs often buy seafood in larger quantities than a single fisherman can provide. Busy chefs may not have the time to foster business relationships with multiple fishermen in order to obtain the desired volume.

Restaurant Supported Fisheries (RSFs) are an adaptation of the CSF model to address the needs of chefs and restaurants. RSFs are often operated as part of a CSF or partner with a CSF, as the operational, regulatory, distribution, and marketing frameworks are similar. Dock to Dish, a network of RSFs across North and Central America, provides chefs with direct access to fresh seafood harvested by small-scale fishermen in their local area. Dock to Dish restaurant members receive between 50 and 75 pounds of whole fish per week during the season. This is a significantly higher volume than that offered for individual (2 pounds per week) and family (4 pounds per week) memberships.

Many states distinguish restaurant sales from general sales to consumers. RSFs are therefore often required to have a wholesale license or permit. This is in contrast to a CSF, which is usually required to obtain a retail seafood license since they are selling directly to the end consumer. In Michigan, a RSF must obtain a "Fish Wholesaler's License." In New York, a "Food Fish and Crustacea Dealers and Shippers" permit is required. In Louisiana, it's a "Wholesale/Retail Seafood Dealer" license. Additional transportation permits or licenses may also be required.

• Dock to Dish specializes in selling whole, unprocessed, fresh seafood to local chefs. There are Dock to Dish RSFs in New York, Los Angeles, British Columbia, and Costa Rica.
<https://docktodish.com>

HYPOTHETICAL

After Michael starts to think about it, he's worried that he doesn't have enough product or the capacity to run a CSF on his own. He's learned that a local community group recently formed a CSF focused on educating the community about the benefits of supporting the local seafood industry. The community group also operates a RSF. He's considering selling some of his catch to them. What should he think about before doing so?

- **Will the CSF and RSF take his entire catch or will he need to maintain other methods of distribution?**
Depending on the number of CSF and RSF members, Michael may be able to sell all of his catch to the community group. Michael, however, may wish to continue his off-the-boat and farmers' market sales. Michael should carefully consider how much of his catch he wishes to distribute through the CSF and RSF and make sure the community group can meet those expectations.
- **Does he need special licenses or permits to sell his catch to the CSF or RSF?**
Off-the-boat or farmers' market sales typically involve selling directly to the end consumer, where sales to a community group creates an extra layer in the seafood distribution chain. If the community group is licensed as a seafood dealer, Michael may not need any separate licenses or permits to sell his catch to them.
- **How will Michael get his fish to the community group?**
Will they be able to pick it up from him at the dock, or is he responsible for transporting it to them? Michael will need to consider the transportation issues to determine if he needs a transportation permit and what type of vehicle would be appropriate for his seafood delivery.
- **What level of processing will he engage in for these types of sales?**
If Michael decides to sell processed fish or value added products, he will need to make sure he is complying with the necessary permits and licenses.

The Sitka Conservation Society is a founding partner and the coordinator of the Sitka "Fish to Schools" program. The Society partners with local school districts, food service organizations, fishermen, and seafood processors to offer local seafood twice a month to students in six Sitka schools.

www.sitkawild.org/fish_to_schools

E. Boat-to-Institution Sales

Boat-to-institution sales have emerged more recently as an alternative marketing strategy. As consumers of food in institutional settings have increased their requests for locally sourced food, some institutions have begun to look for opportunities to purchase from local producers.

Institutional sales can be challenging for local food producers. Institutions, such as schools and hospitals, require large quantities of food that can be difficult for small-scale producers to provide. Most institutions purchase in bulk from large food distributors through federal or state procurement contracts. Procurement contracts are governed by federal or state law, and stipulate the quantity, quality, and price of goods sold via a bidding process.

Federal and state law may limit institutions to purchasing goods only from approved vendors with procurement contracts.

Each institution will have its own process for purchasing food products. Fishermen interested in engaging in institutional sales should contact individual institutions to obtain information on the procurement process and current policies. Some institutions may have flexibility to buy direct from a local producer.

If it is not feasible to sell direct, fishermen may be able to partner with a seafood wholesaler that already has procurement contracts to source local seafood products to institutions. Red's Best, for example, is a Boston-based seafood wholesaler that aggregates seafood from small community-based fishing boats. Red's Best and other like-minded seafood wholesalers can buy directly from individual fishermen, preserve the chain of custody, and help market the fishermen's stories to institutional clients.

HYPOTHETICAL

Michael's brother is the principal of the local high school and they talk a lot about how unaware the students are about where their food comes from and how disconnected they are from its source. Michael would love to do business with the local school district. What does Michael need to consider?

- **Who purchases food for the local school district?**

An individual school may not purchase its food directly. Purchasing decisions may be made at the district or state level. Michael's brother may be able to connect him with the person in charge of food procurement and distribution for the school district. In addition to gathering information about how food purchases are made, Michael will want to inquire about the quantity and frequency requirements that he would need to meet.

- **Who may the school buy food from?**

State law may place restrictions on whom a state entity can purchase food from. Michael may need to submit an application to become an approved vendor or enter into a purchasing contract with the state. It may be easier for Michael to sell to a wholesaler with an existing contract with the school.

F. Online Marketing and Sales

In today's online world, customers expect businesses to have a website. The local phone book and newspaper are no longer the first place consumers turn when seeking to purchase goods and services. Consumers now primarily rely on the internet and online search engines to find what they are looking for.

Port Clyde Fresh Catch of Port Clyde, Maine operates a Community Supported Fish Drop. Customers can decide what to purchase on a weekly basis from a list of offerings based on what the cooperative's boats are catching. Orders can be placed by phone, email, or online.

www.portclydefreshcatch.com

A company's website might be used simply as a communication tool to provide information on the company's mission and products, location, hours of operation, and points of contact. But, websites can also provide a platform from which to conduct online sales.

Fishermen engaging in online sales need to be mindful of a number of regulatory issues. A fisherman's retail license typically only allows sales within the state. For sales across state lines, additional permits or licenses may be required. For instance, in Louisiana, a fisherman needs a "Fresh Products License" to sell to consumers within the state but a "Wholesale/Retail Seafood Dealers License" when selling across state lines. In addition to licenses and permits, fishermen selling across state lines must register their seafood storage facility with the U.S. Food and Drug Administration. The Food Modernization Act requires that the registration be updated on a regular basis. A fisherman may also be required to have a HACCP plan.

In conducting online sales, a business may collect and retain sensitive personal information such as customers' names, mailing addresses, and credit card information. Protecting customers' privacy is not only a good business practice, but, depending on the type of data collected, may also be required pursuant to federal and state privacy laws.

Fishermen engaging in online sales may also need to collect sales tax. Collecting taxes on sales at a physical location, such as a store or market, is fairly simple. Businesses simply charge customers the sales tax required by the state and city in which the store is located. Collecting sales tax on online sales is more complicated, especially if the business is selling products across state lines. First, not every state has a sales tax and some states have exceptions for necessities, such as food. Second, only businesses with a physical presence in a state, such as a store or an office, are required to collect sales taxes from customers in that state. The criterion for determining whether a business has a presence is different for each state. A fisherman should contact state revenue agencies for guidance before engaging in online sales.

HYPOTHETICAL

Michael has been getting a lot of questions from customers asking if he has specific species and quantities of fish. Since he is pretty busy during the day, he does not always have a chance to respond right away. Michael decides he needs a website so that customers can learn about him, his company, and place orders online. What does Michael need to consider before engaging in online sales?

- **Does Michael's retail license cover online sales?**

The license Michael obtained to engage in off-the-boat sales may allow him to sell online to consumers within his home state. To engage in online sales across state lines, Michael may need to obtain additional licenses. Michael will also need to register his seafood facility with the FDA and may need to develop and maintain a HACCP plan.

- **How will Michael deliver the fish?**

To simplify things, Michael may require customers to pick up their orders at a specified time and place, like the farmers' market. If Michael's customers are spread over a wide geographic area, he may need to ship orders. Michael will need to be aware of and comply with federal regulations governing the shipment of perishable items, as well as any carrier restrictions.

- **How will he collect payment for the fish?**

If Michael is processing online payments he will need to ensure customer privacy and protect the credit card information of his customers. Michael may decide to set up a merchant account with a third party, like PayPal, for e-commerce payment processing to streamline the invoicing, encryption of financial data, and record-keeping. Michael will also want to ensure he is collecting any applicable sales tax.

An emerging opportunity for online sales is mobile market purchases, which allows fishermen to utilize the internet to sell directly to consumers through applications that are downloaded onto cellphones or other mobile devices. Two applications, FishLine and Fresher, are examples that allow fishermen to enter the quantity and species of fish they have available for sale, the price, and their dockside location for pickup. Customers log into the application and browse to see what is available near them. Customers can then go find their chosen fishermen at the dock or market to buy the fish. The use of mobile applications to facilitate sales taps into a market of users that want to combine instant information with local purchases.

Fishermen engaging in online application driven sales need to be aware that regulatory requirements still apply. Fishermen will still need a retail license to sell the fish. Depending on the local rules, sales through a mobile application may be classified as an off-the-boat sale or retail market sale. The licensing requirements, therefore, may vary by state. A fisherman should also consider how he wants to accept payment and be mindful of any processing or handling limitations in his license.

••• FishLine is a mobile app that supports fishing communities by providing information about fresh, local, sustainable seafood to markets, restaurants and consumers in real-time.

••• <http://fishlineapp.com>

••• Fresher is a seafood marketplace that allows users who download the app to view what is being caught in real-time and where, at what price, and when the fish is going to be sold. It allows purchasers to pick up and pay for the fresh seafood right from the fisherman off the boat.

••• <http://home.fresher.io>

HYPOTHETICAL

Michael has a lot of loyal customers who want to know what he is selling on a given day. They want to make sure that Michael has their desired fish for sale before driving to the dock. Answering calls while at sea can be dangerous and time consuming for Michael, so he is considering using a mobile application like Fresher or FishLine to advertise what he has for sale. What does Michael need to know before trying to use a mobile application to facilitate online sales?

- **Does Michael’s retail license authorize him to sell online and through FishLine or Fresher?**
Michael’s retail market license that he obtained for his farmers’ market sales may allow him to sell through FishLine or Fresher if he continues to accept payments either at the dock or the farmers’ market. If Michael begins collecting payment online, however, he may need additional licenses.
- **Where will he meet customers?**
Michael can choose where he meets his customers. Depending on the day, he may want to meet customers at the dock or at the farmers’ market. Michael will need to comply with all the rules and regulations that accompany sales at these various locations.
- **How will he prepare and sell the fish to customers?**
As with all alternative marketing strategies, some customers using FishLine and Fresher may prefer or request processed seafood. Michael will need to adhere to any processing or handling limitations in his existing license.

4 P Foods is a “farm to consumer food hub” in the Washington D.C. area that is looking to add ethical and sustainable seafood to its offerings.

<http://4pfoods.com>

G. Food Hubs

Food hubs are physical locations that are usually run by an organization that aggregates, markets, and distributes local food in a central location. Often, a food hub emerges because of a lack of access to regional high quality food. As the popularity of food hubs grows and the product market expands beyond fruits and vegetables, retail opportunities are increasingly becoming available to fishermen. Since bringing fish to food hubs is a relatively new concept, fishermen wanting to participate in this strategy should focus on connecting with existing food hub organizations to ensure market interest.

Food hubs often function like wholesale intermediaries, and similar to CSF sales, fishermen wishing to sell fish to a food hub will need to check with their state to obtain necessary licenses or permits to engage in retail sales. In some states a retail seafood dealer’s license may be adequate, but some states may require a wholesale dealer’s license.

HYPOTHETICAL

Michael's sister is a farmer in a rural community located about two hours inland. They talk a lot about how the food she grows gets shipped outside the community and how many local residents do not have access to high quality regional food and never any local fish. His sister has started a food hub and wants Michael to supply the fish. What does Michael need to know before he sells his fish to the food hub?

- **Does he need special licenses or permits to sell his catch to a food hub?**

If the food hub is licensed as a seafood dealer, Michael may not need any separate licenses or permits to sell his catch to them. Such sales would be similar to traditional sales to a seafood processor or wholesaler. If the food hub is not a licensed seafood dealer, Michael should check with state regulatory agencies to determine whether sales to a food hub are covered by his existing fishing license and permit for retail sales.

- **Can he offer enough product and variety?**

If Michael only has a license to catch one species of fish, he may not have enough product or variety to fulfill the needs of the food hub. He will also need to determine what portion of his catch they can consistently purchase.

- **What level of processing is required for food hub sales?**

Food hubs used to primarily dealing with fresh fruits and vegetables may not have the proper facilities for handling and storing whole, unprocessed fish. Some food hubs may request packaged or processed seafood. If Michael decides to sell processed fish or value added products, he will need to make sure he is complying with all applicable health, safety, and labeling requirements.

- **How will Michael get his catch to the food hub?**

Will they be able to pick it up dockside, or is Michael responsible for transporting it to them? He will need to determine if he needs a transportation permit and what type of vehicle would be appropriate for his seafood delivery.

H. Buying Clubs

Buying clubs are also emerging as an alternative market to provide access to high quality fish that consumers may not have access to in their traditional food markets. Buying clubs may be founded by a fisherman who sells his catch in wholesale units or started by consumers that approach different fishermen requesting a discount for wholesale purchases. The clubs often consist of friends and family who join together to purchase seafood in bulk for individual consumption. Many buying clubs have minimum quantity purchasing requirements per buying club members. Members, for instance, may be required to purchase 100 pounds at a time. Sales to consumers that

Wild for Salmon is a seafood-buying club located in Bloomsburg, Pennsylvania. Membership is free and the minimum order is 100 pounds. Wild for Salmon offers over 30 species of wild sustainable seafood products, including salmon, halibut, black cod, shrimp, and crab.

<https://wildforsalmon.com>

approach the fishermen for bulk orders function like other retail sales, and have similar legal requirements. Fishermen need to be conscientious about selling across state lines and comply with any applicable requirements as discussed above in the section on online sales.

Fishermen looking to start a buying club need to decide if they have enough fish to supply the group. If they need to supplement their own catch with additional fish, the fisherman may need special permits to buy and then sell the additional fish. The buying club may also require a separate business license. Again, a buying club that distributes across state lines needs to follow all applicable federal and state regulations.

HYPOTHETICAL

Michael has had a successful fishing season and is considering what to do with his surplus fish. His farmers' market stand was popular with tourists who really enjoyed eating fresh caught fish. Several couples went home and showed their friends and family his website and Michael has recently been approached by several groups asking if he would ship bulk orders to them throughout the country. What does Michael need to know before setting up a buying club?

- **Does Michael's retail license authorize him to start and sell through a buyer's club?**

If Michael is just selling his own unprocessed catch he may be able to sell under his retail license although he may need additional or different licenses to sell online or across state lines. Additionally, Michael may need to obtain a separate business license for the buying club.

- **How will he store and ship the fish?**

The shipment of perishable foods in bulk present logistical challenges. Michael will need adequate storage facilities for his catch before it can be shipped. He will need to register his seafood storage facility with the U.S. Food and Drug Administration and keep the registration regularly updated. Michael may also need to work with a freight company to transport his shipment.

III. GENERAL BUSINESS TIPS AND RESOURCES

No matter which marketing strategy a fisherman chooses, he will be running a business. Anyone considering launching a new business, or significantly changing their existing business, has a lot to think about. This section provides information on some of the general legal issues all business owners must take into consideration, such as choosing the right business structure, complying with regulations, and mitigating risks.

A. Community Research

The first step to launching a new business is conducting market research. A business will only succeed if there is a demand for the product the business is selling. Consumers seeking to tap into local food systems value things like who is growing or catching the food, how far it travelled, where the money goes, the health of the land and the ocean, and the wider community benefit. Although consumer demand for sustainable seafood is rising, many consumers are not aware that there are other ways to buy seafood than in a grocery store or restaurant. Starting a local seafood company in a community can provide purchasing options and help meet consumer demand for local and sustainable seafood. Every community is different, though, and demand will be higher in some and nonexistent in others.

In some locations, fishermen may have to work to generate consumer demand by educating the community on the benefits of purchasing local seafood. Even in areas where demand is high, building a customer base can be challenging. Formal and informal surveys of community members are a good place to start to gauge community interest in local seafood. Through surveys distributed by mail or conducted at public events, fishermen can assess community members' knowledge of local seafood varieties, willingness to purchase unprocessed seafood (i.e., whole fish), and level of interest in buying direct from the fishermen.

B. Business Structure

One of the initial decisions a business owner must make relates to the legal structure of the business. This decision is very important and should not be made without conducting the proper research and obtaining legal advice, as business structure affects taxes and personal liability for business obligations. A good starting place for such research is the U.S. Small Business Administration (<http://www.sba.gov>). Alaska Sea Grant's Fish Biz Project also provides valuable information on financial and business tools (<http://fishbiz.seagrants.uaf.edu>).

• Ask Your Target Market provides online
• research and survey tools for businesses
• of all sizes. Users can use the free AYTM
• survey tool to send market surveys to
• email lists or post to blogs, websites or
• Facebook pages.
• <https://aytm.com>

There is a range of business structures to choose from. Brief overviews of some of the most common options are provided below.

Siren SeaSA, a CSF in San Francisco, is owned and operated solely by its founder Anna Larsen, as a sole proprietorship.

Sole proprietorship: Under a sole proprietorship, one person owns all of the assets and is personally liable for the business's obligations. Forming a sole proprietorship is relatively simple and straightforward compared to other business structures.

Walking Fish is located in North Carolina and is a Fisherman's Cooperative.

Cooperative: A cooperative is a business owned and controlled by the people who use its services. They finance and operate the business or service for their mutual benefit. Cooperatives do not pay federal income tax as a business entity; rather, members pay taxes on what they earn through the cooperative when they file their personal incomes taxes.

ANTI-TRUST ISSUES

Fishermen should be aware of federal and state anti-trust laws that prohibit certain anti-competitive activity, such as competitors agreeing on what price to charge. Fishermen seeking to join forces to engage in alternative marketing strategies need to be careful not to run afoul of anti-trust laws. The Fisherman's Collective Marketing Act of 1934 allows fishermen to jointly harvest, market, and price products under the umbrella of a fishery cooperative. Fisheries cooperatives formed pursuant to the act are exempt from some federal and state anti-trust laws. Not every activity will qualify for an exemption, however, so fishermen should seek legal guidance before engaging in collective marketing. In addition, the inclusion of non-fishing industry members, such as processors or dealers, in a trade association may void the anti-trust protections. For more information, download "Enabling Marketing in Groundfish Sectors: a Manual for Navigating Issues" available online at www.gmri.org/sites/default/files/resource/sector_marketing_and_antitrust_manual_071112_copy.pdf

Partnership: Under a partnership, management decisions are shared by partners and each partner is fully responsible for the business's debts and for actions of all partners. Each partner includes their share of the partnership's income or loss on their personal tax return. Partnerships are easier to form than corporations, but similar to sole proprietorships, partners are personally liable for business debts and decisions made by other partners.

Corporation: A corporation is an independent legal entity owned by shareholders. The corporation itself, not the shareholders, is held legally liable for its debts and decisions. Corporations file taxes separate from the owners, which only pay individual taxes on corporate profits paid to them in the form of salaries or dividends.

Corporations can take many different forms. In selecting a corporate structure, it is important to consider the tax implications of the structure and the extent to which it matches the social and economic objectives of the business.

Limited Liability Corporation: An LLC is a hybrid-type of legal structure that provides the liability features of a corporation with the tax and operational benefits of a partnership. The most significant advantage of an LLC is limited liability – LLC members are protected from personal liability for certain (though not all) business obligations.

- Thimble Island Ocean Farm is run by Bren Smith and is a Limited Liability Corporation.

Nonprofit (501(c)(3)) Corporation: Nonprofit corporations are a special type of corporation that are granted tax-exempt status because they are organized and operated exclusively for a charitable, religious, educational, or other exempt purpose. Nonprofit corporations may not operate for the benefit of private individuals. For example, earnings may not be distributed to private shareholders and individuals.

- Tuna Harbor Dockside Market is located in the Port of San Diego, California and is a LLC and 501(c)(3) nonprofit.

Subchapter S Corporation (S-Corp): S corporations are corporations that elect to pass corporate income, losses, deductions, and credits through to their shareholders for federal tax purposes. S-Corp shareholders are taxed much like partners and sole proprietors (income is reported on personal returns). Shareholders that actively participate in the business are treated as employees and are therefore subject to payroll withholding requirements.

- The Midcoast Fishermen's Cooperative operates Port Clyde Fresh Catch, a CSF structured as an S-Corp.

B-Corp: Thirty states and the District of Columbia authorize B Corporations. This structure protects a corporation's mission or vision. Reporting requirements vary by state. More information can be found at <http://benefitcorp.net>.

C. Business Licensing and Recordkeeping

Running a profitable business requires obtaining and maintaining specific licenses and permits. These requirements vary depending on state and local laws and the business structure. Typically, forming a business requires filling required business and tax paperwork, establishing a board of directors or naming a CEO, and maintaining records like meeting minutes and receipts. Each state has a Secretary of State office that can provide information on what forms may be required. Advice from an attorney, tax professional, or insurance agent is invaluable in business formation and operational decisions. Professional specialists can work with fishermen to ensure that the business model meets the fisherman's goals and visions, to protect assets, minimize risk, and advocate for the fisherman's continued and future success.

- Business education and mentoring is available through SCORE, a non-profit organization dedicated to helping small businesses.
- <https://www.score.org>

D. Risk Management

Running and maintaining any business involves risk. Business problems may be small, like an employee calling in sick, or large like a catastrophic event, but the impact of most problems can be minimized with proper planning. In addition to normal small business problems, fisheries come with a unique set of risks. For example, harvesting restrictions might prevent a fisherman from fulfilling a customer's order. Bad weather may keep the boat at the dock, or damage a fisherman's boat or gear. Consumers lacking knowledge of proper handling and storage of seafood may fall ill and blame the fishermen. There are a myriad of risks that might befall a fishing business. Fishermen can best address business risks by identifying possible events, implementing safeguards to prevent against business loss, and developing a plan in case a calamitous event happens. Insurance, for example, is often used as a risk mitigating strategy. Some lending authorities and large customers, like restaurants or institutions, may require a business to have adequate insurance coverage.

INSURE U – Get Smart About Insurance is a public education program created by the National Association of Insurance Commissioners to assist consumers with information about insurance issues. Insure U for Small Business tips, tools, and resources can help business owners choose the right plans to protect their investments.

www.insureuonline.org/smallbusiness

Since insurance costs and coverage vary by state and insurance agency, businesses should discuss options with a local insurance agent to determine what coverage is appropriate. An insurance agent can assess risks and the needs of a company and be a point of contact for questions or claims. The most common forms of business insurance include product liability and general liability insurance. Product liability insurance protects business against a financial loss if a product the business is selling causes harm while general liability provides coverage for accidents or injuries. Adequately assessing business needs is an important general liability insurance consideration. Insuring the fishing vessel may not be enough. A fishermen using a refrigerated truck to deliver fish to CSF members or other customers, for instance, may need to purchase an insurance policy for the truck as well.

Reimbursement from an insurance company can sometimes take a significant amount of time. A comprehensive business and risk management plan will retain working capital not only for expenses like insurance, but also unforeseen costs, such as necessary repairs while the business waits for the insurance claim to pay out.

E. Taxes

Businesses are responsible for paying a variety of federal, state, and local taxes. Taxes are calculated based on business type, product type and distribution, assets and liabilities, and a myriad of other adjustable terms. Hiring professionals like a certified public accountant or a tax attorney can help ensure compliance and that the business is claiming all available deductions and exemptions.

Depending on the type of business structure and its operations, a variety of taxes may need to be paid by the owner and the business. Such taxes might include income, self-employment, payroll, unemployment, and property. Seafood businesses that sell directly to consumers are often responsible for collecting the state and local sales tax. State and local rules are especially important to know when calculating sales tax because the rates, exemptions, and reporting rules are varied.

Federal taxation rules are complicated and subject to change. There are resources available, including a Fishing Tax Center hosted by the IRS: <https://www.irs.gov/businesses/small-businesses-self-employed/fishing-tax-center>

F. Labeling

Labeling is an essential tool in creating and maintaining a profitable business. Consumers value food accountability and a major selling point of local seafood is the knowledge of how, where and when a fish was caught, and who caught it. Fishermen that opt to use labels to capture market share should include this basic information. The U.S. Food and Drug Administration (FDA) oversees the proper labeling and packaging of food, and all packaging must adhere to federal and state labeling laws. FDA guidance regarding the labeling and sale of seafood is available at www.fda.gov/Food.

Federal law sets forth acceptable market names for seafood and prohibits food sellers from making false or misleading claims. For instance, while one benefit of alternative marketing strategies is that small-scale harvesting methods and direct seafood sales often have a smaller environmental footprint, fishermen need to be careful about making environmental claims in marketing materials because seafood eco-labeling is governed by a variety of governmental and non-governmental organizations.

Additionally, federal law requires retailers to identify the country of origin of the seafood products. Seafood businesses that are also retailers will need to make sure they are complying with federal regulations via placards, signs, or labels. In addition to federal rules, some states have country of origin labeling requirements that apply to retailers and fishermen. States also may have other nuanced labeling requirements and a fishing operation will want to be familiar with federal, state, and local regulations that pertain to their products.

Fishermen can also use product labels to communicate their business's "brand." Branding refers to the marketing practice of creating a name or image to identify and distinguish a product from others on the market.

• The Seafood List is FDA's Guide to
• Acceptable Market Names for Seafood
• sold in interstate commerce.

Branding usually starts with the development of a business logo and associated products such as websites and promotional materials. Branding can help local seafood businesses reach and retain customers by connecting the product with a variety of financial, environmental, and social benefits. A successful branding campaign can market the business on a local, regional, state, and national scale. Legal considerations include being mindful that any branding is subject to labeling regulations.

IV. FOR MORE INFORMATION

This publication is designed to provide an introduction to common and emerging alternative marketing strategies that fishermen can use to diversify the seafood market distribution chain. As mentioned throughout, federal, state, and local legal obligations and licensing requirements will vary by geographic location, type of seafood product, and marketing strategy. Fishermen considering engaging in any of these strategies will need to conduct detailed research to determine what path is right for them. This guide only scratches the surface.

Nonetheless, there are other resources fishermen can turn to for more information, including these websites:

Local Catch is a network of community supported fisheries and small scale harvesters. The Local Catch website provides resources, news updates, videos, articles, and all kinds of additional information in a variety of mediums: <http://www.localcatch.org>

Market Your Catch provides information and resources for fishermen and others considering whether to pursue alternative marketing strategies and, if so, how to get started or expand. <http://marketyourcatch.msi.ucsb.edu>

FishBiz provide information and resources about managing the business side of an Alaska commercial fishing operation. <http://fishbiz.seagrant.uaf.edu>