

Stephanie Otts (00:02):

Great. Good afternoon everyone. Thanks for joining us for the first webinar in the National Sea Grant Law Center's 2025 webinar series. My name is Stephanie Otts. I'm the director of the National Sea Grant Law Center, and we're so glad that you're joining us here today to hear about our work on direct seafood sales to compare state approaches. As we get started, for those of you who may not be familiar with the National Sea Grant Law Center, we are one of the 34 Sea Grant programs around the country. We were established in 2002 and were housed at the University of Mississippi School of Law and we're unique in the network in that we are not a state-based program, but rather we were established to provide legal research, education and outreach services to the entire network of Sea Grant program and their constituents. So if you're curious about what we do and the other work that we have, encourage you to visit our website and scroll around.

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Just a few brief housekeeping as we get started. We do have everyone on mute right now to cut down on background noise. You are welcome to place questions in the chat at any time. If we still have a small group at the end and we will have time for questions and you may be able to come off a mute at that point to ask your questions, but if I see the questions as I go, I'll do my best to answer them. We are recording the webinar and it will be posted on our website for later viewing. So if you need to leave early or if you have colleagues that missed it, we will be letting you know when that recording is available to watch. And if you have a technical question or an issue, you can private chat Lauren Fremin, our project coordinator.

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All right. As I get started, I just want to acknowledge our project partner in this work, which is the Local Catch Network. And so the National Sea Grant Law Center has been doing this research with the guidance from the local catch network about what information would be useful and would support the work of their organization and their membership. And the National Sea Grant Law Center has collaborated with a Local Catch Network on a variety of things over the years. I actually can't believe how long it's been since we've kind of started working with them, but way back in 2012 when they were preparing for one of their first summits, we worked with them to develop a resource guide for community supported fisheries. And then we later re-envisioned that document to be a little broader to start looking at direct marketing in general. And so we've always enjoyed attending the local catch network summits, and as we started thinking about what work might be most useful in the commercial fishing sector, we then started talking about how states are regulating direct seafood sales.

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Now, before I dig into that research, want to share a little bit about the Law Center's guiding approach to these type of projects, which some of you may be familiar with if you've worked with the law center in other topical areas. But I think it's an important frame for then how we actually approached the research with respect to direct seafood sales. So probably in the last 15 years through work with a number of Western states on an invasive species issue, the Law Center has started to refer to our work on these issues as building policy consensus. And by that we mean working with partners to gather information and provide it in such a way that it can lay the foundation for developing policy consensus among those managers about where they would like their policy to go or what they would like it to look like. And so it starts by compiling information on individual state legal frameworks. We're seeking to gain an understanding of the similarities, differences, and gaps among those state frameworks so that you get a good sense of what the current legal landscape is around a particular issue. Then we work to facilitate conversations like through webinars like these and by releasing our research findings. And then ultimately in some projects, we then go a step further and develop tools for policy reform, so to help fill those identified gaps that have come out of those conversations.

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And so the first step, as I mentioned, is an inventory and comparison of what's happening in the states. So to do that, we conduct legal research to identify all the relevant laws and regulations for whatever issue we're looking at. Then we think about what are the key elements of the legal elements at issue that we would want to inventory. So what particular aspects of those laws and regulations are we interested in looking at and comparing across states. The inventory laws are then analyzed for the presence or absence of those key elements. And then we always strive to distribute draft findings to agencies to review. It's always important to ground truth what we're finding and make sure that we haven't missed anything or mischaracterized a particular law.

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Once we've done that comparative analysis, then we try hard to visualize it. So these are just some examples of infographics that the National Sea Grant Law Center has done that just try to visually illustrate what we have found in particular projects. So there's a lot of maps tables, different ways that we have been testing out, sharing legal research so that it is more accessible to non-attorneys or even attorneys that are not working in that particular legal area. So a lot of these compilations are very dense. They can involve dozens if not more of pieces of legislation or regulations. And so think it's always useful to condense as much as we can.

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And finally, we're probably in the invasive species world where the National Sea Grant Law Center is likely most well-known for the model legal framework that we worked with the Western Regional panel on aquatic nuisance species to develop. And so this is just an example of some tools that can be developed to help move policy reform forward. So we developed a piece of legislation, a model regulation, and then a model memorandum of understanding to help states work together. And so states, once they identify a particular policy gap in their watercraft inspection and decontamination program, have these reports available where they can go and have model language that they could then take to their agencies or their legislature to potentially enact to address the issues in their states. And since these tools came out, there has been a lot of activity across the country using these resources to adopt or amend laws and regulations to move their programs forward.

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And so with that background, that's kind of the approach that we had as a foundation as we moved into this direct seafood sales project. I want to be very clear from at this point that who our intended audience was for this project. So there has been a lot of work within the Sea Grant network and other organizations around direct sales for seafood or direct marketing for seafood, and those are primarily targeted at the commercial fishers or others who are engaged in the sale of seafood. We did not want to redo that work, and we didn't think that the National Sea Grant Law Center was in the best position to provide that type of direct outreach to industry members. Our strength lies in developing tools and resources for policymakers, state managers, others that are involved in managing the programs. And so the intended audience for this work is at that level, it's state legislators and their staff regulators in the agencies that are responsible for issuing permits or licenses related to direct seafood sales, and then groups or organizations that are interested in reform policy reform such as the local catch network. And so if you look at the final report that we issued, which I'll talk about in a minute, it doesn't have fine details about how you apply for a license or what you would need to apply for a license. And so this is a higher level analysis.

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So when we got started, we knew that this would be a challenging research project to work on. The biggest issue related to direct seafood sales policy is the diversity of what we're talking about, right? When you say direct seafood sales, that could mean a lot of things. So it's not just selling your catch off the boat, you may be trying to sell it off the farm if you're an aquaculture license holder or maybe you're selling at a farmer's market, maybe you're running a community supported fishery, maybe you've got a food truck. And so there's a lot of different potential regulations and licenses that can come into play, and

the industry looks very different in different regions of the country. And so it was pretty challenging to try to come up with a analytical framework that would enable us to compare these policies across states.

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The geographic scope is all of the coastal states, both the Marine and the Great Lakes. And so I know sometimes when we're talking about fisheries and seafood, the Great Lakes isn't included, but we really wanted to look at the whole country. And there are local catch network members in the Great Lakes that are directly selling their catch. And of course our Sea Grant network includes colleagues in the Great Lakes. And so our comparative analysis report does include both the marine coastal states and the Great Lakes. Now you'll see when I start to talk about the findings, there are some things that are a little hard to compare directly between the marine and the coastal state, such as shellfish regulations because they're not growing oysters in the Great Lakes, but the big broad picture I think is similar.

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All right, so what did we look at? So in this research project, we looked at the laws and regulations for each of those 30 states governing off the boat or off the farm sales. We looked at what licenses were needed to sell seafood at retail directly to the customer. We looked a little bit at wholesale seafood licenses. We did do that research, but we ended up not really digging into that as much in the final report because it turned out that that's actually a whole separate conversation along this continuum of direct seafood sales. So the report does not include things like institutional sales to schools or that purchaser there, but in some states, wholesale does touch on retail sales as well. So we did include that in our research. We looked at food establishment licenses, so for restaurants, grocery stores, markets as well as food truck and farmer market sales.

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We did include several things in our research. One, we did not look at harvesting regulations. And so our research kind of starts at the assumption that the fisher or the aquaculture farmer has the appropriate licenses to fish or conduct that aquaculture operation. So we were looking at this from the perspective of everything is already caught and harvested. Now what do you need to sell it? We also did not look at shellfish sanitation requirements. Those are consistent across the country because of the model shellfish ordinance that all of the states follow. And we didn't want to have that information repeated for all of the coastal marine states. And so we did not look at that for the purposes of this report. We did not look at municipal ordinances and codes. It is almost an impossible task to do a comprehensive inventory of all municipality ordinances that could apply to direct seafood sales.

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That's just not something that was within the scope of this project. So we were looking at state level law and regulation; and we also didn't look at value added products with this project. We have been in discussions with the local catch network. We know that a lot of seafood is sold directly as a value added product, and that's an important research gap that should be looked at. But again, for making this project as manageable and understandable as possible, we needed to put some limits on it, and that was one of the limits that we did put on it. So before getting into the specific findings, I did want to say that even as we were starting to do our research, we had some initial takeaways that was informing how the project moved forward. As I mentioned, there is quite a bit of variation in industry size across the country, and that somewhat informs the licensing framework that is in place in the states.

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So the history of commercial fishing in a particular state does inform kind of what their existing legal framework looks like and maybe how complicated it is depending on how many sectors a state has or how active of a fishing industry they have. There's a lot of potential variation in agencies, especially in the food establishment regulation, which we'll talk about. So that makes research challenging, because you're not just looking at the Department of Marine Resources. There are several agencies potentially involved.

There's also a lot of diversity in how states are licensing this retail and a wholesale fish sellers and dealers, which I'll talk about a little more. We were surprised there is a lot more consistency on the state level in food establishment licensing. And that is because there is some umbrella regulation coming from the federal government through the Food and Drug Administration, which makes at a very high level, the states more consistent in how they approach restaurant and grocery store sales. But once you start digging in below the state level, then it gets very complex really quickly in food establishment licensing.

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So now probably what people are most interested in are the initial findings. And so our report, which I do have a QR code that you can use to get to the report, and Lauren has also dropped a link to the report in the chat, but we have three primary categories that we looked at for our findings. We looked at commercial fishing licenses, then we looked at aquaculture licenses and then food establishment licenses. So this seems like the best framework that we could use to compare what states were doing. And so for each of those three categories, we wanted to see what does this landscape look like across the country for how direct seafood sales are handled within those categories. So the first one that we looked at were commercial fishing licenses. And so we found that 12 states authorize holders of commercial fishing licenses to sell their catch directly to the consumer under those licenses.

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So meaning, they did not need an additional license from the agency that issued the phishing license to sell their catch directly. And those are the states in green. So you could say there is some regional focus there. You've got mostly New England and the Great Lakes that is allowing direct sales under their commercial fishing licenses. Eight states authorize direct seafood sales through an additional license, meaning that they have developed a specific permit or license that a commercial fisher can purchase to be able to sell directly. And then the remaining states, which are those ones in that red brown color, require all seafood sales to go through a licensed seafood dealer. So it doesn't matter that you have a commercial fishing license, you would still have to get a seafood dealer permit. Now, the caveat I want to mention with respect to commercial fishing licenses is we're talking about the sale primarily of finfish or non molluscan shellfish. With this, all states require wild harvested shellfish to be sold through licensed dealers. Again, that's because of the interstate shellfish sanitation commission and the model ordinance and the need to ensure that molluscan shellfish are distributed in such a way that is not endangering health. So the map on the slide, if you were just looking at shellfish, all the states would be the same color.

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And so we wanted to dig deeper into these eight states that do have a specific license for direct seafood sales. So this table identifies the states that have a direct sales license along with what they're called. And so states have many different names for them. Louisiana and Mississippi refer to them as fresh products licenses, but Oregon and Washington have limited fish seller permits or endorsements. And so there's a range of potential models out there for states that are looking at maybe adding something that would help facilitate direct sales. What I thought the most interesting finding from our research was the range of fees that were associated with these direct sales licenses. In some states like Alaska, they're not very expensive, \$25. Rhode Island also has a \$25 fee if you're just selling from the dock. But in other states, Oregon and Washington, it's over a hundred dollars for the direct sales license.

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And so we started wondering how that compares to a traditional seafood dealer license. Are these direct sale license frameworks helping the fishers save money or be more? And so what we found is that yes, in a state like these eight that have a direct sales license, the cost of a dealer license is more than the cost of the direct sales license. So in Louisiana, for instance, a seafood dealer license is a couple hundred dollars compared to \$61 for the direct sales license. But in some states that don't have a direct sales permit or license, the fee for their seafood dealer license isn't that expensive, right? So Florida has a fairly low cost

seafood dealer license fee. And so there is a real range of cost associated with these permits and licenses. And whether or not the availability of a direct sales license is going to work for a commercial fisher would really depend on their business model.

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Are they only desiring to sell in one state? If they want to sell in multiple states and then they need to get licenses in all of those states, those costs are going to add up very quickly. So for a commercial fisher in New England, that could be a very different calculation than someone in California only intending to sell in California. So you could think of a lot of different scenarios from this, but I think it is important to recognize that there's a range in fees associated with the direct sales license, and they're not all low cost.

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So then we turn to aquaculture and the picture looks a little bit different with respect to aquaculture. Again, starting with shellfish, the legal landscape for shellfish is different. And so we found all but one coastal marine state prohibited the direct sale of farmed marine shellfish. So we're talking about molluscan shellfish. So there's a lot of consistency across the country with that. Maine is really interesting in that Maine has a law that allows a licensed aquaculture holder to sell their farm shellfish from their home in the retail trade. And they can't necessarily sell it from their farm, but they can sell it from their home. But that was the only one that we found that wasn't in line with needing your shellfish to go through a licensed dealer for that. Minnesota and Illinois are shaded green only because there does appear to be language on the books in those states that would allow the sale of shellfish, but it wasn't really clear to us not being in those states and knowing whether or not wild, fresh, whether they're harvesting freshwater mussels and if anyone would really eat them.

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So we don't know or think that there's really shellfish and circulation in those states, but the language does appear to allow it. More interesting to us was respect to direct seafood sales and finfish aquaculture licenses. And so here there is a lot of consistency across the country. 23 states allow the direct sale of finfish under their commercial aquaculture license, meaning aquaculture farmers do not have to get additional licenses from the agency issuing the aquaculture license to sell their catch. And across the country, 19 states are consistent in their legal approach to commercial fishing and aquaculture, meaning that in those 19 states, if a commercial fishing license holder needs an additional permit to sell, then the commercial aquaculture permit holder needs an additional license or vice versa. But 11 states are inconsistent, and that primarily means that a holder of a commercial fishing license needs to get an additional permit to direct sell their catch, whereas someone growing that in an aquaculture facility would not need it.

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And so depending on the species and what's happening in your state, that law may put a commercial fisher at an economic disadvantage to someone growing that species in aquaculture. In many states that might be hypothetical right now because there's not a lot of finfish aquaculture happening, but there are emerging industries like stripe bass in North Carolina. And so these questions are going to continue to come up about how things are regulated, but it's likely that we see this more permissive nature with aquaculture licenses because there's not the need to track the harvest of the stock the way there is in wild fisheries, right? In aquaculture, you are harvesting stock that you have grown yourself, right? You're not taking a resource from a wild stock of fish that the management agencies need to be aware of and to track. And so there's a different policy and management context around aquaculture, which likely contributes to the difference in how they're handling direct sales.

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And then the final element we looked at was food establishment licensing. And this is one, they're all over the map. And so as I mentioned before, every state is going to require a permit or license for individuals

who are selling food. We have to ensure that our food supply is safe. And there's a lot of regulations on the books that are managing individuals and businesses that are selling food for human consumption. There is though a split in the management agencies kind of in how they do that. And so in some states, the ones in green, a single state agency, usually the State Department of Health is responsible for licensing all food establishments, and that includes retail establishments like restaurants and, well, I guess grocery stores are retail too. But the legal framework primarily groups food establishments into two categories. One - businesses that are selling food ready to eat to consumers.

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So you got your food trucks, your restaurants. And then, food businesses that are selling something that would be prepared later. So your markets and your grocery stores, and it's not always clean, that breakdown. But when we see in Maine and Virginia where you have multiple state agencies involved or in the red states, that's because they've split the licensing of restaurants and grocery stores between two different agencies. And the common split is that restaurants are regulated by the State Department of Health and markets and grocery stores may be regulated by the Department of Agriculture or a Department of Food and Markets or something like that. The other split that we see in states is whether they've delegated responsibility for licensing food establishment to the local level. And so it's common across the country for local governments to be responsible for the licensing and enforcement of food establishment rules.

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And so someone engaging in direct seafood sales that needs to get a food establishment license, say for a farmer market stall, would maybe have to deal with multiple local jurisdictions if they're selling in more than one county or city. It would be easier to have that type of operation in one of the green states like Delaware, Hawaii, Michigan, where the food establishments are regulated at the state level and you only need one license. And so we were trying to illustrate in this chart how you can go from a more simple legal framework in the green states to a very complicated or complex food establishment licensing in the red states, right? So Connecticut, Florida, Georgia, Minnesota, New York, Ohio and Oregon have multiple state agencies responsible for regulating food establishments and they have local delegation. So it's just someone engaging in direct seafood sales is likely going to interact with a lot more government entities than someone in one of the green states.

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And so those were kind of general findings just to say, if you're looking across the country, what is happening with direct seafood sales? And we see that we have a number of states that have developed licensing frameworks for direct seafood sales that may be models for other states to look at, but some states also just enable direct seafood sales through their commercial fishing licenses. And so we wanted to leave the report with a number of questions that policymakers should be thinking about or engaging with if there is interest in their state to take a look at whether they're enabling direct seafood sales for the industry. So your first question is a more basic one. Does the state have a licensing framework for direct sales? If it does, is it streamlined and efficient? Right? There may be ways to streamline your licenses if you're requiring commercial fishers to get more than one so that it's more efficient.

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If you don't have a direct sales licensing framework, is there an opportunity to develop one? Would you want to develop one? And certainly you could look to the eight states that have one and reach out to colleagues in those states to see if it's working and whether it's something that should be adopted. I think taking a look at the licensing fees and seeing if they're appropriate for the scale of business and the agency administrative cost, right? There's a cost with regulating anything and issuing new licenses. So if you are going to develop a direct seafood sales licensing framework, you would need some fee to cover the cost of the agency implementing that program. But is the fee appropriate for the size of the businesses that will be engaging in direct seafood sales? One thing we found in our research around fees that no state

has a sliding scale for, everybody has to pay a hundred dollars regardless of how big their harvest is in a given year.

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So maybe that's something states would want to look at. Absolutely have to address reporting requirements if you are working on making a change with respect to direct seafood sales from the commercial wild caught fisheries, because it is important to continue to have the most accurate information about the harvest that you can and where those products are going. And then a big area for regulation is food establishment regulations. Are there mechanisms in place to streamline processes for vendors that are operating in more than one location? And in the report we mentioned that there's been a lot of effort on the state level in the last 10 years or so about food establishment reform for cottage food industries that have really simplified the processes and made some improvements there. And those efforts could provide models or inform conversations around, well, how might we reform this to work better with direct seafood sales? So with that can open it up for questions, see if I can get the chat back up so I can see with that. And yeah, so I'll give everyone a minute to kind of think, I know we throw a lot at you, but I'm happy to take questions that anyone might have.

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Well, I don't see any bouncing dots. Oh, wait - "did we look into the differences of what the licenses allow?" I might need a little more information about that question. Oh, we did look at the kind of broadly what the laws and the regulations were permitting, but generally speaking, the state law and regulation will just say you are able to sell your catch under this license; "hold seafood overnight?" - so that is likely not going to show up in the actual law or regulations. So those type of requirements are often embedded in the actual permit or license conditions. And yeah, I should have mentioned at the beginning, we did not gather the actual permits that commercial fishers had, so that may be like a follow-up type of research project that's needed. So we didn't get into those fine details of that. Yeah. So another question came in - "Are any of these allowable states for direct sales only since 2020 and subject to expire in the future, if not renewed?" So I believe that Rhode Island was the only state that took significant action to change their laws with respect to deal with covid. I would definitely have to look back. I don't believe that the Rhode Island framework is subject to expire. I think that was a permanent change they made. Of course, the agency could always revisit that, but I'm not aware of any that had a specific expiration date.

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Yeah. Okay. Thanks. Yeah, thanks. We had a participant in the chat in Rhode Island - It became permanent license; it was temporary at first during Covid. So yeah, and Rhode Island is often the state highlighted as one to talk to if your state is looking at making changes because they have a recent experience doing that. All right. Well, I want to thank everyone again for joining us. If you are reading through the report later after this webinar and have questions, you can reach out to me at any time. We're happy to continue the conversation and we are looking at what some follow-up research needs are. So definitely share them with us. Or if you're a member of the Local Catch Network, you can share those with Josh Stoll as well. And we'll let you know when the recording is available. And we hope you'll join us for our next webinar coming up in the next couple of months. Thank you.