

## MEMORANDUM

September 8, 2017

**TO:** MEMBERS, PORT COMMISSION  
Hon. Willie Adams, President  
Hon. Kimberly Brandon, Vice President  
Hon. Leslie Katz  
Hon. Doreen Woo Ho

**FROM:** Elaine Forbes  
Executive Director

**SUBJECT:** Request authorization to allow a one-year pilot program for retail fish sales from boats at Fisherman's Wharf

**DIRECTOR'S RECOMMENDATION:** Approve the Attached Resolution

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This topic was presented as an informational item at the July 11, 2017 Port Commission meeting and is now before the Port Commission for approval.

See this link for the prior staff report:

<http://sfport.com/sites/default/files/Item%2011A%20Retail%20Fish%20Sales%20R.pdf>

### EXECUTIVE SUMMARY

Port staff is proposing to revive a Port Commission-approved program which was in place from 1999-2000. This program allowed commercial fishing boats at Fisherman's Wharf Harbor to sell fish retail from their berths directly to consumers. This proposal is in response to numerous requests the Port has received from fishers and interested parties to resume this practice, which is permitted at many other California harbors. To establish best practices, Port staff consulted these harbors and State and local regulators to formulate guidelines that would allow this activity in support of the fishing industry, while at the same time protecting the health and safety of the public and addressing tenant concerns.

### ADDRESSING CONCERNS

At the July 11, 2017 meeting, the Port Commission expressed support for this program that would allow the public to purchase whole fish directly from commercial fishing boats, but also raised some questions about how the program would work. Port staff investigated these issues and will address them below.

**THIS PRINT COVERS CALENDAR ITEM NO. 11A**

First of all, the Port's approach will be to revise this retail fish sales proposal from a "Policy" to a "Pilot Program" for a trial period of one year. This will allow Port staff to track progress and report back to the Port Commission on the merits of the program. Metrics will include the number of participants (boats), public support (customers), absence of problems, adequacy of permit fee, feedback from fishers and consumers, etc.

The Pilot Program language has been modified from the original draft to eliminate the need for continuous Port staff oversight; rather, the Port's role is to permit retail fish sales, but not regulate them. Regulation is the responsibility of State and local officials, as described below. The Port will investigate if complaints are received and, if violations are occurring, will notify the appropriate regulators. This would include complaints regarding the improper handling or storage of fish, unpermitted sales, or sales to other than end-consumers (e.g. restaurants).

There are 43 licensed commercial fishing boats with a permanent berth in Fisherman's Wharf Harbor; this is the current maximum number of participants in the program. More boats could be added as candidates if they take advantage of the benefit of becoming permanently berthed at Fisherman's Wharf. Transient boats are not allowed to participate in the retail fish sales Pilot Program.

The fish that would be sold retail would be the same product that is sold to wholesalers. The fishers, who work in a dangerous environment while fishing, are motivated to bring a high-quality product to market and build lasting relationships with all buyers, whether wholesale or retail.

All fish sales by commercial fishers are recorded on California Fish and Wildlife receipts in accordance with all regulations. It is the decision of the licensed fishers to determine how to sell their product, in what quantity and at what price. It is up to the fishers and buyers to set the fair market value.

As for promoting sales through social media, including preordering fish online, this is up to the individual fishers. The Port is providing them with the opportunity for retail sales, how they leverage it is their business decision.

For the purposes of the retail fish sales permit, fish shall be defined as salmon, tuna, rock fish, halibut, and bycatch. Crab is excluded so as not to interfere with the established crab-stand businesses at Fisherman's Wharf on Taylor and Jefferson Streets. The fish sales program is intended to help commercial fishers, but not harm other parts of the fishing industry (e.g. fish processors).

The wharves where retail fish would be sold, during daylight hours only, are already public access areas. Major refurbishment of Wharf J-3, including new gates and railings, was completed in 2016. No customers shall be allowed on the vessels selling fish. All shore attachments, protrusions or equipment that could injure a customer or create a trip hazard shall be safely covered or removed.

The proposed Pilot Program would not involve a change in use or require any physical changes of facilities, and is therefore not a project that requires environmental review under the California Environmental Quality Act (CEQA).

## **ROLE OF REGULATORS**

At a public meeting held at the Port offices on June 2, 2017, State and local regulators explained various requirements, including licensing, tally reports, weighing procedures, scale accuracy verification, sanitary inspections, packaging, recycling, and composting. The boat operators must comply in all these areas to qualify for permits to participate in retail fish sales.

- California Department of Fish and Wildlife (CDFW): In order for commercial fishers to sell product off their boats directly to consumers, the fisher must possess a CDFW fisherman's retail license, which must be posted on the boat while making sales, and fill out a tally sheet of every fish sold and attach it to the landing receipt for the day. Website: <https://www.wildlife.ca.gov/Fishing>
- California Department of Food and Agriculture, Division of Measurement Standards: The purpose of a weighmaster certificate is to document the weight especially when either the buyer or seller is not present during the transaction. The weighmaster enforcement program assures that commercial transactions based on quantities certified on a weighmaster certificate are accurate. The weighmaster certificate authenticates the weight of the sale and is the legal document used for a transaction between buyer and seller. If a fisher sells his catch to a consumer at an agreed-upon weight on the scale, a weighmaster license is not needed, as both parties (buyer and seller) are present and there is an exemption for retail. Website: <https://www.cdffa.ca.gov/dms/>
- San Francisco Department of Public Health, Weights and Measures Program: The San Francisco Department of Public Health (DPH) represents the local part of the California Department of Food and Agriculture. The Weights and Measure program protects the consumer not only on the accuracy of the scales, but on how the product is sold to the customer. Inspections are conducted regularly to ensure sellers are selling only the fish and what is eaten (i.e. no ice on the scale). The scales used must be registered and certified with DPH. Website: <https://www.sfdph.org/dph/EH/WeightsMeasures>
- San Francisco Department of the Environment: Fishers must comply with City ordinances related to packaging their product. Plastic bags, which are prohibited at retail stores, are permitted for fish sales off a boat, but Styrofoam is not allowed for packaging fish. The fishing industry is required to comply with the City's composting and recycling ordinances. Website: <https://sfenvironment.org>

## **FEEDBACK**

At the public meeting on June 2 and the Port Commission meeting on July 11, several commercial fishers expressed their opinion that allowing retail fish sales would be helpful for their businesses, and they encouraged the Port to go forward with this program.

Other stakeholders, principally the Port's fish processing tenants, objected to the possibility that fishing boats might be allowed to sell their product "wholesale" to restaurants and third-party (non-Port tenant) fish companies over the Port of San Francisco docks and thereby bypass the strict environmental, health, safety, and insurance regulations with which they (the processors) must comply. Fishers selling "retail" directly to the consumer did not appear to be a serious concern.

Regional fishing harbors – Pillar Point (Half Moon Bay) and Spud Point (Bodega Bay) – have managed retail fish sale programs for many years, in conjunction with supervision from fish and wildlife, agriculture, and health officials. These harbors reported no major incidents and see the program as a benefit to the fishers, marinas, and consumers.

## **FINANCIAL IMPACTS**

The annual retail fish sales permit fee will be \$225, which is comparable with the fees assessed at other regional fishing harbors, and it is intended to cover Port administrative costs in receiving documentation from the fishers and issuing permits to them. During the Pilot Program, the Port will track staff hours and monitor expenses. This fee may be adequate, based on proven experience of other harbors, but if not, options going forward would be to increase the fee or, with Port Commission approval, agree to subsidize the program for the ongoing benefit of the fishing industry.

## **STRATEGIC PLAN CONFORMITY**

The proposed Pilot Program for retail fish sales supports two key goals of the Port's 2016-2021 Strategic Plan:

- *Engagement:* Promote the richness the Port has to offer through education, marketing, and maintaining strong relationships with Port users and stakeholders.
- *Economic Vitality:* Attract and retain maritime and non-maritime commerce to contribute to the long-term viability of the Port and the City.

## **CONCLUSION**

The fish harvested by local commercial fishers is a wild, public resource, and San Franciscans have a right to these fish. Allowing retail fish sales will give fishers the opportunity to adapt to new markets and remain financially viable, especially in light of the historically low salmon catch the past two years, and the domoic acid crab closure in 2016. This program will also provide interested consumers with a farmers' market-type experience at Fisherman's Wharf and strengthen the relationship between fishers and the community.

Therefore, Port staff seeks Port Commission authorization to allow retail fish sales from boats at Fisherman's Wharf as described in the attached document, "Pilot Program for Retail Fish Sales from Commercial Fishing Vessels at Fisherman's Wharf Harbor," for a trial period of one year.

During this time, Port staff will track the program's progress with various metrics, as stated above, and report back to the Port Commission, in or around October 2018, to seek guidance as to any adjustments that may be necessary and whether to extend the program beyond the one-year trial period.

Prepared by: Michael Nerney,  
Maritime Marketing Manager

For: Peter Dailey,  
Deputy Director, Maritime

## **ATTACHMENT:**

- Pilot Program for Retail Fish Sales from Commercial Fishing Vessels at Fisherman's Wharf Harbor

## PORT OF SAN FRANCISCO

### **Pilot Program for Retail Fish Sales** **From Commercial Fishing Vessels at Fisherman's Wharf Harbor**

This program is intended to allow the retail sale of fish directly from fishers to the public in a safe, orderly manner, while minimizing the potential liability of the Port of San Francisco and protecting the local fishing industry. It allows retail sales only (no wholesaling or sales to restaurants or distributors).

1. For the purposes of the permit, fish shall be defined as salmon, tuna, rock fish, halibut, and those fish that are a bycatch of the harvesting methods used to catch these fish. This permit expressly does not include crab.
2. All participating owners/vessels must have a berth agreement, and their account must be in good standing with the Port of San Francisco.
3. Fish may be sold only from vessels with a preferential berth assignment as defined in the Port Tariff No. 5, Item No. 831, at the following berth locations: Wharves J-2, J-3, J-4, J-7, J-8, J-9, and Pier 47. Excluded: Wharf J-5 (Jefferson Street) and Hyde Street Harbor.
4. No sales shall take place outside of the berth locations specified in Item 3 above or elsewhere in the jurisdiction of the Port of San Francisco. There shall be no subletting of berths for the purpose of retail fish sales.
5. Prior to the commencement of any fish sales, vessel owners or operators must acquire all required permits, licenses, and liability insurance. Vessel owners or operators shall conform to all regulations and requirements, including those of California Department of Fish and Wildlife, California Department of Food and Agriculture, San Francisco Department of Public Health, San Francisco Department of Environment, and Port of San Francisco.
6. Vessels must have a Retail Fish Sales Permit, issued by the Port of San Francisco. The permit shall be displayed as designated by the Port during the time fish sales are conducted. Permits shall be issued annually, upon presentation of California Department of Fish and Wildlife Commercial Fisherman Retail License, San Francisco Environmental Health Weights & Measure seal, San Francisco Business Registration Certificate, and payment of \$225.00.
7. Retail fish sales shall occur between sunrise and sunset only.
8. No signs or posters may be fastened to any Port property, including railings and lampposts. Signage posted on the boat shall follow the guidelines established by the Port.

9. All fish sold under this permit are to be sold whole (whole fish, gilled and gutted only), and in accordance with all Health Code regulations.
10. Gilling and gutting of fish shall be done at sea prior to beginning sales and in accordance with all California Fish and Wildlife regulations.
11. All fish sold under this permit shall be recorded on proper California Fish and Wildlife receipts and shall be sold by duly licensed and permitted fishers in accordance with all California Fish and Wildlife regulations.
12. Fish sold shall be packed at the time of sale in a drip-proof bag of sufficient strength to support the weight of the fish.
13. Fish shall be sold only by, or under direct supervision of, the fisher who harvested the fish.
14. All fish sales must occur from the vessel. No selling stations will be allowed to be set up on or in any dock, wharf, parking area, or other structure.
15. No customers shall be allowed on the vessels selling fish. All shore attachments, protrusions or equipment that could injure a customer or create a trip hazard shall be safely covered or removed.
16. The vessel or business name shall be prominently placed and clearly visible to customers during sales activities so that the business or vessel is easily identifiable.
17. Discharge of fish carcasses, entrails, and other debris into harbor waters is prohibited. All refuse shall be placed in designated trash receptacles and shall not be left on a pier, wharf, sidewalk, street, or curb.
18. The Port of San Francisco reserves the right to revoke or suspend an individual Port Retail Sales Permit as the result of non-compliance with any of the provisions contained herein.
19. The Port of San Francisco reserves the right to discontinue the Retail Fish Sales Program at its sole discretion.

**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 17-39**

WHEREAS, California Statutes of 1968, Chapter 1333, commonly known as the “Burton Act,” and City Charter Section 3.581 empower the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate, and control the Port area of San Francisco; and

WHEREAS, The Burton Act mandates that said lands be managed to promote their use and development for trust purposes, and one of these trust purposes is fisheries; and

WHEREAS, Port staff has proposed a Pilot Program for Retail Fish Sales from Commercial Fishing Vessels at Fisherman’s Wharf Harbor (“Pilot Program for Retail Fish Sales”) in order to allow the sale of fish from vessels at Fisherman’s Wharf and provide for the orderly conduct of those sales; develop an additional market for commercial fishers; protect the health and safety of the general public; and enhance the experience of visitors to Fisherman’s Wharf, as described in greater detail in the Staff Memorandum to which this Resolution is attached; now, therefore be it

RESOLVED, That the San Francisco Port Commission hereby authorizes Port staff to implement the Pilot Program for Retail Fish Sales for a trial period of one year; and, be it further

RESOLVED, That the Port Commission requests that Port staff track the Pilot Program for Retail Fish Sales’ progress with various metrics, and report back to the Port Commission, in or around October 2018, to seek guidance as to any adjustments that may be necessary and whether to extend the program beyond the one-year trial period.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 12, 2017.***

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Secretary