



## MEMORANDUM

November 5, 2021

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Willie Adams, Vice President  
Hon. John Burton  
Hon. Gail Gilman  
Hon. Doreen Woo Ho

**FROM:** Elaine Forbes  
Executive Director

**SUBJECT:** Request authorization to: (1) make permanent a program for retail fish sales from boats at San Francisco Fisherman's Wharf, and (2) include a one-year pilot program allowing the sale of live Dungeness Crab

**DIRECTOR'S RECOMMENDATION:** Approve the Attached Resolution No. 21-48

This topic was presented as an informational item at the October 26, 2021, Port Commission meeting and is now before the Port Commission for approval.

### EXECUTIVE SUMMARY

Port staff proposes to make permanent a Port Commission-approved program which allows 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 continue this program, which is permitted at many other California harbors. To develop the initial pilot program, Port staff consulted with other harbors that permit retail fish sales, and State and local regulators to formulate guidelines that allow retail sales in support of the fishing industry, while at the same time protecting the health and safety of the public and addressing tenant concerns.

In addition to the proposed permanent program, Port staff proposes to authorize a one-year pilot program that would allow the retail sale of live Dungeness Crab off the boats.

**THIS PRINT COVERS CALENDAR ITEM NO. 7B**

## **BACKGROUND**

The retail fish sales pilot program was the result of several public meetings, including two Port Commission meetings in July and September 2017, and an update in 2019. The Port Commission authorized a retail fish sales pilot program to expand commercial opportunities for fishers and to provide more customer experiences at the Wharf. The

role of the Port in this pilot program was clarified to permit the fish sales, but not regulate them. Regulation is the responsibility of state and local officials: California Department of Fish and Wildlife; California Department of Food and Agriculture, Division of Measurement Standards; San Francisco Department of Public Health, Weights and Measures Program; San Francisco Department of Environment. If the Port were to become aware of any complaints or violations, the appropriate regulatory agency would be notified. To date, no violations have been reported.

The fish sold to retail customers is the same quality product as is sold to wholesalers. All fish sales are recorded with the California Department of Fish and Wildlife in accordance with department regulations, the quantity and price are determined by the fishers and consumers. Fishers are responsible for their own advertising and business promotion.

Retail fish sales are currently limited to salmon, tuna, rock fish, halibut, and bycatch. Live crab sales were excluded so as not to interfere with established crab-stand business at Fisherman's Wharf. The fish sales program is intended to help commercial fishers, but not harm other parts of the fishing industry (such as fish processors). The commercial fishers that have participated in the program improved access to local harvest and had little to no impact to other stakeholders as there is no other retail opportunity for uncooked seafood sales authorized at the Wharf.

The fishing industry has been a mainstay of the San Francisco and Fisherman's Wharf economy since the Gold Rush era. Commercial fishing is one of the Port's and City's most important maritime industries. The closure of restaurants due to the COVID-19 pandemic and departure of tourists from Fisherman's Wharf devastated San Francisco's fishing industry in 2020. The Pier 45 fire in May of 2020 destroyed approximately 8,000 crab traps and other fishing gear stored inside further crippling an already struggling industry.

## **ADDRESSING CONCERNS**

At the January 2019 meeting, the Port Commission expressed support for this program that would allow the public to purchase whole fish directly from commercial fishing boats. At the October 26, 2021, meeting, Port staff noted concerns from the Port Commission and public comment. Port staff has investigated these issues and address them below.

The Port proposes to make the "Retail Fish Sales Pilot Program" permanent as the trial period of one year proved successful. Port Staff proposes authorizing retail sale of live

Dungeness Crab for a one-year pilot program. The one-year pilot will allow Port staff to track progress of the “Crab Program” and report back to the Port Commission on the merits of the program. Metrics will continue to include the number of participants (boats), public support (customers), presence or absence of problems, adequacy of permit fee, feedback from fishers, consumers, processors, and other interested-parties.

The Port’s role is to permit retail fish and live crab sales and ensure the wharf and land area is safe for retail sales. However, the Port would not regulate retail sales. 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 (*i.e.*, restaurants ). To date no violations have been reported.

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 currently not allowed to participate in the retail fish sales program. Port Staff will investigate future potential to include transient boats in the retail fish sales program and/or live crab sales and would return to the Commission for approval of any change applicable to fishing boats that do not have a permanent berth in Fisherman’s Wharf Harbor.

The fish that would be sold retail would be the same product that is sold to wholesalers. The commercial 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 must be 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, and at what price. It is up to the fishers and buyers to set the fair market value.

Individual fishers may promote sales through social media, including preordering fish online. The Port is only permitting fishers for retail sales, fishers must determine whether and how to participate in retail sales.

Port staff does not propose creating separate permits for retail fish sales and live crab sales. The one-year pilot program would permit the sale of live crab under the same permit as retail fish sales. In other words, fishers with a retail fish sales permit would also be permitted to sell live crab.

As the retail fish sales program only includes non-cooked fish and live crab, there should be no impact to the established crab-stand businesses at Fisherman’s Wharf on Taylor and Jefferson Streets. The retail fish sales program and the one-year pilot program for sale of live crab are each intended to help commercial fishers, but not harm other parts of the fishing industry (e.g. fish processors). Based on the experience with

the retail fish sales pilot program, the ability of fishers to sell fish off the boat did not harm wholesale fish sales at Fisherman's Wharf.

The wharves where retail fish and live crab would be sold, during daylight hours only, are already public access areas. 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. During the pilot program, there were no health and safety issues reported. As stated previously, if health and safety issues are identified, the Port will investigate and, if violations occur, will promptly address shoreside violations and refer other violations to the appropriate regulator.

### **STAFF PROPOSAL FOR ACTION**

Based on the positive experience with the retail fish sales pilot program, Port staff recommends the Port Commission approves the attached Resolution, making the retail fish sales program permanent and authorizes a one-year pilot program to include live Dungeness Crab retail sales by permitted fishers and crabbers.

The proposed actions outlined above are brought forward to improve economic recovery of the Fisherman's Wharf community and the San Francisco commercial fishing industry. The permanent retail fish sales program and the one-year pilot authorizing sales of live Dungeness Crab is anticipated to attract more people to Fisherman's Wharf and contribute to the neighborhood's vitality.

### **STRATEGIC PLAN CONFORMITY**

The permanent Retail Fish Program for retail fish sales and one-year pilot program permitting sale of live Dungeness Crab supports two key goals of the Port's 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.

### **RECOMMENDATION AND NEXT STEPS**

Given the potential for economic opportunity and revitalization at Fisherman's Wharf, Port staff seeks authorization from the Port Commission to make the retail fish sales program permanent and to include a one-year pilot program permitting sale of live Dungeness Crab. If approved, Port staff will track the pilot crab sale program's progress with various metrics, as stated above, and report back to the Port Commission, in or

around October 2022, to seek guidance as to any adjustments that may be necessary and whether to extend the live crab sales program beyond the one-year trial period.

Prepared by: Dominic Moreno,  
Acting Maritime Operations Manager

For: Andre Coleman,  
Deputy Director, Maritime

**ATTACHMENT:**

- Program Rules for Retail Fish Sales from Commercial Fishing Vessels at Fisherman's Wharf Harbor (updated to include live crab sales under one-year pilot program)

## PORT OF SAN FRANCISCO

### **Program Rules 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, [live crab](#) and those fish that are a bycatch of the harvesting methods used to catch these fish.
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, [although the Harbormaster has the authority to make accommodations](#).
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 and live crab sold under this permit are to be sold whole (uncooked, 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 and live crab 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 and live crab 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 and live crab shall be sold only by, or under direct supervision of, the fisher who harvested the fish.
14. All fish and live crab 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. 21-48**

WHEREAS, California Statutes of 1968, Chapter 1333, commonly known as the “Burton Act;” and City Charter Section B3.581 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 permanent Program for Retail Fish Sales from Commercial Fishing Vessels at Fisherman’s Wharf Harbor (“Retail Fish Sales Program”) in order to: permit the retail 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; and

WHEREAS, Port staff has proposed a one-year pilot program to allow live Dungeness Crab sales as part of the Retail Fish Sales Program, under which a fisher or crabber with a valid Retail Fish Sales Program permit from the Port may also sell live Dungeness Crab, subject to all health and safety requirements promulgated by the State of California and other regulatory agencies. Now, therefore be it:

RESOLVED, That the San Francisco Port Commission hereby authorizes the permanent Retail Fish Sales Program in substantially the same form as described in the Staff Memorandum to which this Resolution is attached and as described the Program Rules also attached to the Staff Memorandum; and, be it further

RESOLVED, That the San Francisco Port Commission hereby authorizes a one-year pilot program to allow live Dungeness Crab sales as part of the Retail Fish Sales Program, under which a fisher or crabber with a valid Retail Fish Sales Program permit from the Port may also sell live Dungeness Crab, subject to all health and safety requirements promulgated by the State of California and other regulatory agencies; and, be it further

RESOLVED, That the Port Commission requests that Port staff track the implementation of the one-year pilot program authorizing retail sale of live Dungeness Crab with various metrics, and report back to the Port Commission, in or around



October 2022, 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 November 9, 2021.***

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Secretary