

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE REPORT ON THE THIRD-PARTY SALE OF RECREATIONAL FISH WASTE

Introduction

As stated in the Supplemental NMFS Report 1, WDFW is in agreement that more time to discuss solutions to the issue of recreational fish waste would be beneficial. We thank the Council for the attention given to it. The issue remains important to the state. We are hopeful that the additional time will still allow a solution to be implemented on a similar timeline to what would be expected if the Council were to make its final recommendation here.

We express some concern that things may become more complicated than needed. The discussions with NMFS and the states over the summer have us asking whether changes to federal regulations are even necessary. For Washington, the issue pertains to fish carcasses that have been abandoned or surrendered by anglers, as described below. We believe all that may be needed is to differentiate third party sale of such abandoned or surrendered fish waste from the type of activity the Council originally intended to prevent with the existing regulation. If the regulatory change is too challenging, we wonder if this differentiation could be accomplished through an interpretive statement.

Recap of the issue

To facilitate the catch accounting and biological sampling necessary for stock assessment, Washington anglers are required to retain the carcass if they fillet a fish at sea. Ports prohibit anglers from discarding fish waste in harbors and marinas because of water quality and marine mammal nuisance issues. WDFW's interest is in helping ports and local governments come up with solutions for this waste management issue.

The activities in question

Acknowledging the different situations involved in each state, we want to make clear the narrow set of activities that we are focused on in Washington. First, none of the situations involve anglers receiving compensation. Rather they all involve situations where anglers surrender or abandon the fish carcasses, for example:

- Anglers take their fish to a business for filleting and packaging and only wish to keep the fillets.
- Anglers fishing on a charter boat have their fish filleted at sea and leave the carcass with the charter boat.
- In Westport, charter boats deliver carcasses to a barge so that the WDFW Recreational Groundfish Sampling Program can take samples.

The issue in question involves what may be done with those abandoned fish carcasses. Another possibility of course is that the carcasses are thrown into a dumpster and hauled away to the landfill. In many places, this is done by a private company that receives a fee for that service. In Washington, local processors may instead wish to enter contracts to haul away the carcasses and

turn them into something of value such as fish meal, fertilizer, or bait. The fact that they would be receiving compensation for the value added has raised the question of whether it amounts to the sale of recreationally caught groundfish. We have recognized it as a gray area and the uncertainty has limited what should be considered a beneficial activity in the state.

Policy considerations and questions for analysis

We understand that there may be some question about what would need to be analyzed to support a Council recommendation on this issue and its review by NMFS.

While not having tracked down the original rationale behind the Council's existing regulation, maintaining a distinction between commercial and recreational fishing is longstanding in fisheries management. Section 3(37) of the MSA defines recreational fishing as "fishing for sport or pleasure". And as noted below, Washington state law would add "for personal use" as a key characteristic of recreational fishing. The prohibition on sale or barter is logically connected to the desire to keep the reasons why people go fishing separate. Some conservation or at least allocative concerns might also arise if fishing effort increases because anglers expect to receive something of value for their catch.

We suggest that two main evaluation factors would best shape the Council's evaluation of the request. First is the question of whether an exemption to the existing regulation could be expected to change incentives and, in turn, angler behavior that would alter the nature of recreational fishing or lead to changes in fishing effort and catch. Second is to then weigh any risk of such change in angler behavior against the waste management benefits the exemption would produce for ports and local governments. The economic activity produced by the third-party activity may also be a consideration, yet as touched on below we expect it to be minor compared to economic contributions of commercial fish processing in the state.

On the first evaluation factor, anglers receive no compensation under what we are contemplating. Again, we are talking about fish carcasses that anglers surrender or abandon. It is difficult to imagine why angler behavior would change if the third parties are able to receive payment for their services. Likewise, we do not see reason to believe that the angler fishing experience would be changed by the activity.

Even if the Council were to repeal or remove its regulation, Washington state law maintains the distinction between commercial and recreational fishing. State statute defines it as personal use fishing, with personal use defined as "for the private use of the individual taking the fish or shellfish and not for sale or barter".¹ In addition, state statute and regulations also expressly contemplate anglers retaining the edible portions of the fish.² We do not anticipate that "backdoor" commercial activity would occur, but if it did, it would be a citable offense.

¹ [RCW 77.08.010](#)(50).

² [RCW 77.08.010](#)(70) defines "to waste" or "to be wasted" as "allow[ing] any edible portion of any . . . food fish . . . to be rendered unfit for human consumption, or to fail to retrieve edible portions of such . . . food fish . . . from the field." State regulation then makes it "unlawful to take, fish for or possess food fish or shellfish taken for personal use with the intent of wasting or destroying such food fish or shellfish." [WAC 220-310-060](#).

We also emphasize the third parties conducting the activities in question are not engaged in the act of recreational fishing. This is also true for charter boats. They provide the service of taking people personal use fishing. They are not conducting the act of recreational fishing themselves.³

Lastly, to help put the issue into perspective Washington anglers retained 292 mt of groundfish per year on average, 2021-2025. This is just 0.8 percent the size of the 35,327 mt average commercial groundfish landed each year over that same timeframe. Most of the recreational groundfish catch is rockfish. Rockfish earned an average ex-vessel price of \$438 per mt, a price that includes the value of the fillet.⁴ So we are talking about something likely much less than \$130,000 of annual revenue. The 2021-2025 average ex-vessel revenue for commercial groundfish was \$11.9 million. Even if the carcass of every single recreationally caught groundfish were available to a commercial processor the additional revenue and resulting incentive would be minimal.

Conclusion

We respect the need for additional discussions and to arrive at a solution that works for each state. For Washington, we believe all that would be needed is an exception stating that compensation received by third parties for disposal or conversion of fish parts surrendered, abandoned, or donated by anglers does not amount to the sale of recreationally caught fish. This is the approach we would lean towards if able to address the situation through state regulation. It is not a redefinition of recreational fishing but instead a clarification that the specific type of activity is distinct from what the Council intends to discourage with the existing regulation.

We believe it would be relatively straightforward to craft regulatory language to this effect. Again though, is this more an issue of interpretation—the activities we are asking about may already be thought to be lawful—then an interpretive statement from the Council or appropriate entity may be enough to create the desired legal certainty.

³ The licenses needed to run a charter boat are classified as commercial fishing licenses, and state law defines a charter boat as “A vessel from which persons may, for a fee, fish for food fish or shellfish for personal use.” [RCW 77.65.150\(4\)\(a\)](#).

⁴ The ex-vessel value does not capture the value that processors earn. The [NWFSC FishEye Purchase Production App](#) reports an average markup value for rockfish of 2.0 over 2021-2024. We expect that the markup value for fishmeal would be lower.