

Appendix 1.3U.S.A. FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976
AND ITS RESEARCH REQUIREMENTS

by

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1. INTRODUCTION

The Fishery Conservation and Management Act (FCMA) promulgated by the United States of America in 1976 changed the perception of the role that the U.S.A. should play in the utilization of the fishery resources found within 200 mi of U.S. shores. There is currently a general mood and movement in the U.S.A. to take a more active role in the harvesting of these resources and to enact management regimes which would incorporate maximum domestic harvesting within an "optimum" yield framework.

The following section provides a brief summary of the FCMA followed by some general comments relating to fisheries research under the FCMA.

2. FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 (From U.S. Department of Commerce, 1979:xv-xvi)

The Fishery Conservation and Management Act of 1976 (FCMA), Public Law 94-265, signed on 13 April 1976, provides for the conservation and exclusive management of all fishery resources within the U.S. fishery conservation zone (FCZ), except highly migratory species of tuna. It also provides for exclusive management authority over Continental Shelf fishery resources and over anadromous species beyond the U.S. FCZ, except during the time they are found within any foreign nation's territorial sea or fishery conservation zone (or the equivalent), to the extent that such sea or zone is recognized by the United States.

The U.S. FCZ extends from the seaward boundaries of the territorial sea (3 n mi from shore for all but two states) to 200 n mi from shore. The seaward boundaries of Texas and the Gulf Coast of Florida are 3 marine leagues (9 n mi).

2.1 Governing International Fishery Agreements

Under the FCMA, the U.S. Department of State, with cooperation from the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce, negotiates a Governing International Fishery Agreement (GIFA) with foreign countries wishing to fish within the U.S. FCZ. After the GIFA is signed it is transmitted by the President to the Congress for review.

2.2 Foreign Fishing Permit

After a GIFA is in force, the foreign nation submits a vessel permit application for each vessel to the U.S. Department of State. The U.S. Department of State provides copies of the application to the Congress, the U.S. Coast Guard, the appropriate Regional Fishery Management Council and a copy with recommendations to the Assistant Administrator for Fisheries of NMFS. NMFS also receives recommendations from the Regional Fishery Management Councils and the U.S. Coast Guard.

The Assistant Administrator for Fisheries of NMFS reviews all recommendations pertinent to the application and, after consultation with the U.S. Department of State and the U.S.

Coast Guard, may approve the application. The conditions and restrictions on the approval of the application, and the request for fees, are sent to the foreign nation through the U.S. Department of State.

Vessel permits are prepared by NMFS and transmitted through the Department of State to the foreign nation.

2.3 Fees

Foreign nations (except Canada) engaged in fisheries subject to U.S. jurisdiction are charged permit fees, a poundage fee, a foreign fee surcharge, and an observer fee.

The permit fees are annual charges of U.S.\$ 1 per gross registered ton for each vessel engaged in fishing; U.S.\$ 0.50 per gross registered ton for each vessel engaged in processing fish (not to exceed U.S.\$ 2 500 per vessel); U.S.\$ 200 for each ship assisting other vessels in harvesting or processing; and U.S.\$ 200 for each vessel in a nonretention fishery.

The poundage fee is computed by taking 3.5 percent of the dockside (ex-vessel) price of fish that are allocated annually to each foreign nation. The value of the fish is based on the dockside price received by U.S. fishermen. For species not landed in the United States, an appropriate foreign dockside price is used. Upon application by a foreign nation at the end of the year, a refund is made for the unused allocations.

Beginning in 1979, there will be a surcharge of up to 20 percent on each nation's permit fee and poundage fee, but not on the observer fee. The surcharge is used to capitalize a fund to compensate U.S. fishermen operating in the U.S. FCZ whose vessels are lost or damaged because of foreign vessel activities, or whose fishing gear is lost or damaged by any foreign or domestic vessel or by "Acts of God". The surcharge is in two instalments. The first instalment is 10 percent, and is payable when the permit fee and poundage fee are paid. The amount of the second instalment will be reduced or waived if actual claims experience indicates that the total of claims against the fund is not as high as estimated.

The observer fee covers U.S. costs including salary, per diem, transportation, and overheads for U.S. observers on board foreign vessels. The fee is computed on the basis of actual observer trips.

2.4 Foreign Allocations

The total allowable level of foreign fishing (TALFF), if any, for any fishery subject to the exclusive fishery management authority of the United States, is that portion of the optimum yield (OY) of such fishery that will not be harvested by vessels of the United States.

Each assessment of OY and each assessment of the anticipated U.S. harvest will be reviewed during each fishing season. Adjustments to TALFFs will be made based on updated information relating to status of stocks, estimated and actual performance of domestic and foreign fleets, and other relevant factors.

2.5 Preliminary Fishery Management Plans (FMPs)

If a foreign nation that has entered into a Governing International Fishery Agreement (GIFA) with the United States applies for permission to fish within the U.S. FCZ, the Secretary of Commerce is empowered to prepare and implement a FMP. FMPs apply only to foreign fishermen, and generally remain in effect until an FMP, prepared by the appropriate Regional Fishery Management Council, goes into effect. As of 20 March 1979, the following FMPs were in effect:

Atlantic FMPs

Atlantic Billfishes and Sharks (43 FR 3818, 27 January 1978)
 Hake Fisheries of the Northwestern Atlantic (42 FR 10146, 18 February 1977)

Finfish Caught Incidental to the Foreign Trawl Fisheries of the Northwestern Atlantic (42 FR 9950, 17 February 1977)
 Mackerel Fishery of the Northwestern Atlantic (42 FR 9552, 16 February 1977)
 Squid Fisheries of the Northwestern Atlantic (42 FR 9597, 16 February 1977)

Pacific FMPs

Sablefish Fishery of the Eastern Bering Sea and the Northeastern Pacific (42 FR 8534, 10 February 1977)
 Seamount Groundfish Fishery of the Pacific (42 FR 8568, 10 February 1977)
 Shrimp of the Eastern Bering Sea and Gulf of Alaska (42 FR 12386, 3 March 1977)
 Snail Fishery of the Eastern Bering Sea (42 FR 9334, 15 February 1977)
 Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific (42 FR 9298, 15 February 1977)
 Trawl Fisheries of Washington, Oregon, and California (42 FR 8578, 10 February 1977)

2.6 Fishery Management Plans (FMPs)

The FCMA requires that Regional Fishery Management Councils (and in certain cases, the Secretary of Commerce) prepare FMPs, and that the Secretary of Commerce approve and implement them. Each Council is authorized to prepare FMPs on fisheries within its geographical area of authority.

The Secretary of Commerce has the general responsibility under the Act to implement any FMP or amendment approved or prepared by the Secretary. The Secretary may promulgate such regulations as may be necessary to implement any approved FMP. Enforcement of the FCMA, including the provisions of approved management plans and regulations, is a joint responsibility of the Secretary of Commerce and the Secretary of the department in which the U.S. Coast Guard is operating.

Both foreign and domestic fishing is controlled under FMPs. Currently, foreign fishing is allowed in only two of the FMPs - Commercial Tanner Crab off the Coast of Alaska and Groundfish of the Gulf of Alaska.

As of 20 March 1979, the FMPs listed below were in force.

Atlantic FMPs

Atlantic Groundfish Plan for Haddock, Cod, and Yellowtail Flounder (42 FR 14002, 14 March 1977)
 Atlantic Herring Fishery of the Northwestern Atlantic (43 FR 60479, 28 December 1978)
 Stone Crab Fishery of the Gulf of Mexico (44 FR 18031, 26 March 1979)
 Surf Clam and Ocean Quahog Fisheries (42 FR 60439, 25 November 1977)

Pacific FMPs

Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California (42 FR 2442, 26 April 1977)
 Northern Anchovy Fishery (43 FR 31655, 21 July 1978)
 Groundfish of the Gulf of Alaska (43 FR 17242, 21 April 1978)
 Commercial Tanner Crab off the Coast of Alaska (43 FR 21175, 16 May 1978)

3. FISHERY RESEARCH ACTIVITIES

Prior to the passage of the Act in 1976, fisheries research effort in the U.S.A. was directed toward a wide range of fisheries problems, e.g., exploratory fishing, life history studies, monitoring of commercial fisheries, fishery technology, and fish-environment studies. Except in cases where fisheries laboratories worked on management problems as part of U.S.A. commitments as a member of an international organization, e.g., International Commission for Northwest Atlantic Fisheries, research on stock assessment and management by research units in the U.S.A. was minimal in the pre-FCMA period.

Passage of FCMA has forced a reassessment of the research role of these fisheries units. In order to meet the need for management of the fishery resources in the U.S. FCZ, fishery administrators have had to review data needs for existing commercial and recreational fisheries and for socio-economic research and fisheries development.

3.1 Current Commercial Fisheries

In 1977 the U.S.A. was faced with a high-priority need to determine the status of stocks of resources being harvested with the FCZ by foreign fishing vessels. This was necessary in order to establish catch limits for foreign fisheries operating within the 200-mi FCZ.

Many of the fisheries laboratories within the National Marine Fisheries Service thus had to reassess their research activities and in some cases to redirect effort toward stock assessment of fishery resources harvested by domestic and foreign fleets.

3.2 Recreational Fisheries

In the development of fishery management plans, researchers found a wide range in the quality and quantity of commercial catch statistics. In most instances some data are available. This was not true for recreational fishing data. With the exception of the situation in some areas, e.g., California, the recreational catch and effort statistics were generally lacking throughout the U.S.A. For most states, there is currently no reporting requirements for recreational fish catches.

The National Marine Fisheries Service conducted saltwater angling surveys in 1960, 1965 and 1970 through the auspices of the Bureau of the Census. Since the survey depended upon a 1-year recall period, the data incorporated substantial memory bias errors. To correct this shortcoming, NMFS in November 1978 began a marine recreational fisheries survey which includes a combined telephone and on-site intercept survey. Results of this 1-year survey will not be available until February 1980.

3.3 Socio-economic Research

Since management plans require determination of optimum yield which incorporates socio-economic considerations, there has been a major surge of research activities in the area of fishery socio-economics. Currently, a number of socio-economic studies are being undertaken in the U.S.A., especially in areas where fishery management plans are being developed.

3.4 Fisheries Development

One of the goals under the FCMA is to increase the U.S.A. share of the total allowable harvest of resources located within the FCZ. In 1979 the Administration enunciated a positive Federal policy on fisheries development to strengthen the fishing industry in the U.S.A. through a programme based on industry leadership and active Federal support. Currently details of implementing this fishery development programme are being developed. It is expected that Federal fisheries research units will be given the task of determining "first-out" assessments of resources under consideration in this programme to assist in fishery development and to formulate the basis for subsequent management decisions.

4. REFERENCE

U.S. Department of Commerce, Fisheries of the United States, 1978. Current fishery statistics No. 7800. U.S. Gov.Print.Off., Wash., D.C., 120 p.