

Resolving Fishery Conflicts in the U.S. Fishery Conservation Zone

ROLAND F. SMITH
and
WILLIAM B. HANNUM, JR.

*Office of Fisheries
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
Rockville, Maryland 20852*

Two years ago, one of us spoke to this group on the multiple-use conflicts between fishermen and other users of the ocean and briefly explored what the Federal role might be to resolve these conflicts between fishermen and other users of the ocean. As predicted in that paper, the Fishery Conservation and Management Act of 1976 (FCMA) has already reduced competition in our Fishery Conservation Zone (3 to 200 nautical miles) between foreign and U.S. fishermen.

In recent times, prior to the FCMA, over 2700 foreign ships were catching upwards of 3 million metric tons of fish off our coasts each year. Since March of 1977, we have authorized 632 foreign fishing vessels and 267 support vessels to operate in our fishery economic zone. Foreign vessels have been allocated about 2 million metric tons of fish which were considered surplus to what the United States needed to rebuild or maintain stocks and to meet the requirements of domestic commercial and recreational fishermen. To further reduce problems of conflict and competition, some foreign fisheries are confined to specific ocean areas (windows) and/or seasons. As a consequence of this new fishery management regime, U.S. fishermen are investing in new vessels and expanding their efforts to grounds and fisheries previously dominated by foreign vessels. We have evidence already that some of our overfished stocks may be starting to rebuild.

Under FCMA, eight Regional Fishery Management Councils have been established to prepare Fishery Management Plans (FMP's). Because only three plans have been completed to date, few of our domestic fishermen have been regulated. Nevertheless, one of the completed plans regulates the Pacific salmon troll fishery and has partially resolved a serious allocation problem between troll fishermen, recreational fishermen, and treaty Indians in Washington, Oregon, and California.

Additional FMP's, under development by the Councils, can be expected to reduce other multiple-use conflicts between groups of domestic fishermen. Such plans should call attention to conflicts between fishermen and other users of ocean space and resources and should stimulate positive actions to get them resolved.

At this point, one should note that the FCMA requires the Fishery Management Councils to consider the optimum yield (OY) of the resource in developing FMP's; this is a major principle of our new marine fisheries management regime. The Act defines optimum yield as the amount of fish that will provide the

greatest overall benefit to the Nation, with primary emphasis on food production and recreational fishing opportunities and secondly on the maximum sustainable yield as modified by relevant economic, social, or ecological factors. In other words, the need to restore or conserve a particular resource will be considered along with the needs of commercial, recreational, and consumer interests, and other affected groups.

A major area of contention, still not fully resolved, is the conflict between recreational fishermen and foreign tuna fishermen within our Fishery Conservation Zone. However, this problem is being addressed in part under the FCMA to reduce the incidental catch of billfishes, and through international conventions. Reductions in the commercial harvest of bluefin tuna have been accomplished in the International Convention for Conservation of Atlantic Tunas (ICCAT) to permit stocks to increase and provide better recreational fishing.

The problems of competition and conflict over tuna and other highly migratory species between commercial fishermen of the United States and other foreign countries is being addressed by the ICCAT, the Inter-American Tropical Tuna Commission (IATTC), and at the negotiations of the U.N. Law of the Sea Conference.

Since some of the fishery resources found off the coasts of Georgia and Florida and in the Gulf of Mexico migrate into the waters of other Caribbean countries, conflicts in allocation and management should be resolved through an international regime.

Prior to the establishment of FCMA, many marine fishery scientists and fishery administrators in our country were saying that conflicts between fishermen could be reduced under a management regime that would (1) deal with major social and economic issues, (2) allocate and control catch and effort, and (3) resolve issues among user groups. Such a management regime, they noted, also must have the authority to make timely management decisions to achieve conservation goals and should be a final authority in the resolution of management issues.

The FCMA has this kind of authority within the Fishery Conservation Zone (3-200 nautical miles), and for this reason we are encouraged about its future. However, the Congress did not give the federal government authority over our coastal states for fisheries harvested predominantly within our territorial waters (0-3 nautical miles). Consequently, if a state does not implement a fishery management plan prepared by a Regional Fishery Management Council and approved by the Secretary of Commerce, the federal government has no recourse.

This issue has potentially serious implications, for interstate resources constitute at least 50% of the domestic commercial harvest and, perhaps, an equal amount of the recreational catch. Examples of species involved are menhaden, the largest volume fisheries in the United States; striped bass, a major recreational and commercial species ranging from Maine to Washington state; and our most valuable fishery, shrimp, in the Gulf of Mexico and the South Atlantic.

In the past, lack of uniform management of interstate fisheries has caused industry conflicts and depleted resources; lack of uniformity in state laws has caused inequities and economic hardships to many groups of fishermen.

But this need not happen in the future. One solution may be through cooperative efforts of the Regional Fishery Management Councils and the states. Other options have been suggested, such as an amendment of the FCMA extending the authority of the Secretary to implement Council plans for interstate stocks, or the creation of a management entity under our Coastal Zone Management Act, which is also administered by NOAA, to help coordinate the states' management of their resources.

A number of coastal states are considering this latter option for management of state and interstate marine fishery resources, because implementation of state fishery management plans and protection of fishery habitats are important functions authorized under the Coastal Zone Management Act. The Coastal Zone Management Act requires state fishery management plans to conform to certain Secretarial guidelines and standards (as under the FCMA); also, subsequent Federal actions must be consistent with the state plan. Thus, if a Regional Fishery Management Council develops a management plan for a fishery already being managed in state waters under an approved OCZM plan, the Council plan cannot conflict with implementation of the state plan. Whatever problems arise, there is sufficient authority in the FCMA and the CZMA to resolve conflicts if we are all willing to work together – Federal and state governments, fishery management councils, academia, and the various user groups.

In the 1975 paper referred to earlier, eight major categories of ocean activities were listed as having potential conflicts with fishermen for ocean space and use. They included:

- 1) Fishing, both domestic and foreign, which we have already covered.
- 2) Marine recreation, which includes recreational fishing as well as water skiing, recreational boating, etc.
- 3) Offshore installations
- 4) Marine mining, including sand and gravel
- 5) Ocean dumping
- 6) Submarine cables
- 7) Offshore oil and gas exploration and extraction
- 8) Shipping

As part of its marine fisheries responsibilities, NOAA has an obligation, if not a responsibility, to resolve conflicts between fishermen and other users of ocean space and resources, and to assure that fishing can be undertaken without undue interference or risk. Many multiple-use conflicts can be resolved by NOAA working with the states in the implementation of the Coastal Zone Management Act. We have already observed how state coastal zone plans can adequately protect fishery habitats. In addition, certain activities detrimental to fish or fishing can be restricted or even prohibited; port facilities can be set aside for fishermen; even offshore activities can be controlled or regulated through restrictions on port use, or on the expansion of ports.

Under the Deep Water Port Act of 1974, NOAA was given the authority to develop guidelines governing deep water port development and operation in order to assure protection of marine environments and also to avoid or minimize conflicts between other ocean interests, including fisheries. Other proposed off-

shore activities, such as marine mining and offshore powerplant sitings, are similarly reviewed for potential problems or conflicts with fishing.

Continuing restrictions on ocean dumping and stricter enforcement of pollution laws have reduced the rate with which our coastal marine waters are being polluted. The rate of closure of shellfish grounds has been cut in half in recent years. Nevertheless, there is little cause for complacency, for many serious pollution problems remain and much more work needs to be done.

One example of cooperation is the close liaison NOAA has established with the Department of Transportation which will lay new submarine cables so as not to interfere with fishing operations. We can expect that it will be common practice from now on to bury all underwater cable that transect fishing grounds.

Offshore oil and gas development has accelerated in most of our coastal areas, greatly increasing the potential for conflicts with fishermen. NOAA has actively participated in baseline assessments of the resources in these areas, as well as in field and laboratory studies of chronic and immediate effects of petroleum hydrocarbons on the ocean environment, particularly living resources. In addition, where potential lease sites are located in heavily fished areas and could offer serious hazards or interface with fishing, we are looking at alternatives to proposed drilling operations. In certain instances, this may even remove sites from lease bidding. For example, 12 of 13 lease sites situated on Georges Bank have been removed from lease bidding because of the intense fishing in that area. Other leases off the Atlantic coast, as well as off Alaska, are being studied for possible removal or delay for lease bidding.

Shipping continues to be a major use of the ocean and, thus, has the potential to create serious problems for fishermen, particularly in certain areas. Commercial shipping tonnage has more than doubled in the past 20 years and is expected to double again in the next decade. To give a glimpse of the total surface activity, a simple count of the larger vessels in 1969 showed 38,327 commercial

Table 1. Estimated Vessels 1980

Type	Total	At sea/day
Oil tankers	7,980	6,300
Ore and bulk carriers	4,115	2,715
Combination carriers	433	286
General cargo	13,320	3,330
Container	689	379
Passenger lines	101	21
Liquid gas carriers	934	467
Chemical carriers	990	495
Fishing	17,900	13,950
Research vessels	348	174
Tugs and towboats	16,210	1,621
Ferries	296	29
Miscellaneous	6,700	670
Totals	70,026	30,453

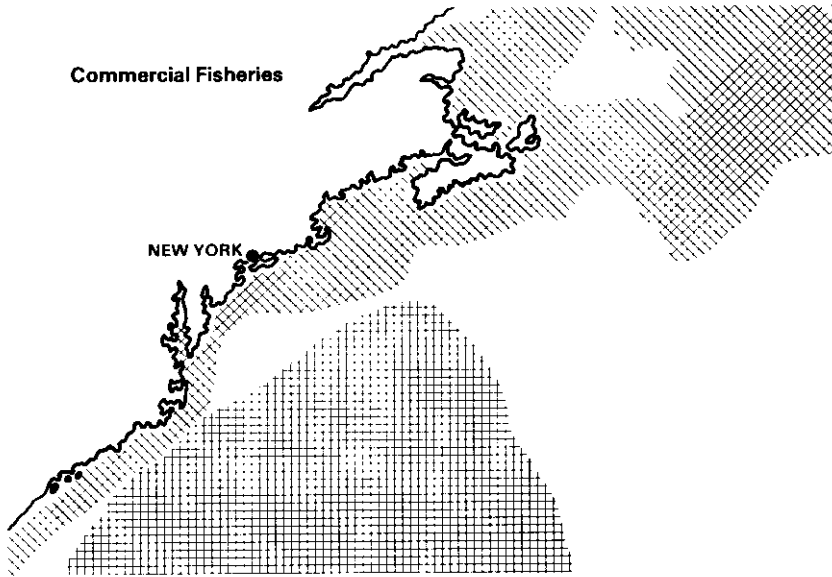


Figure 1. Commercial fisheries – Northwest Atlantic seacoast.

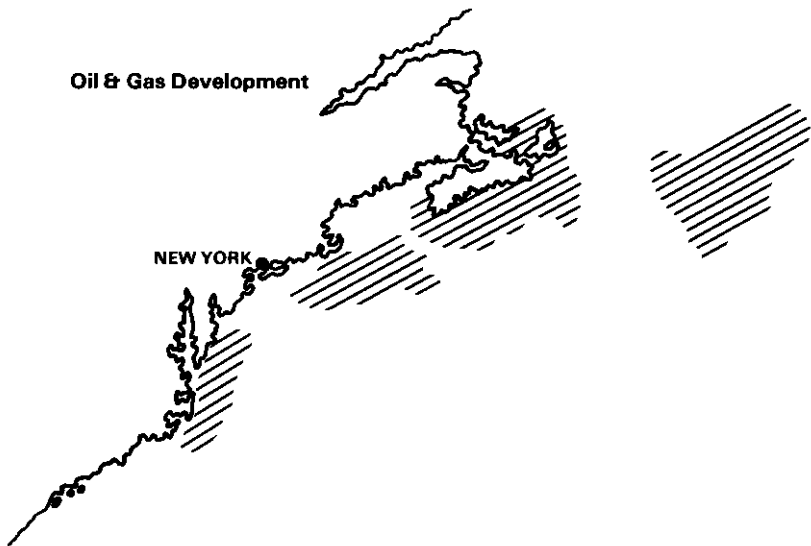


Figure 2. Proposed oil and gas development – Northwest Atlantic seacoast.

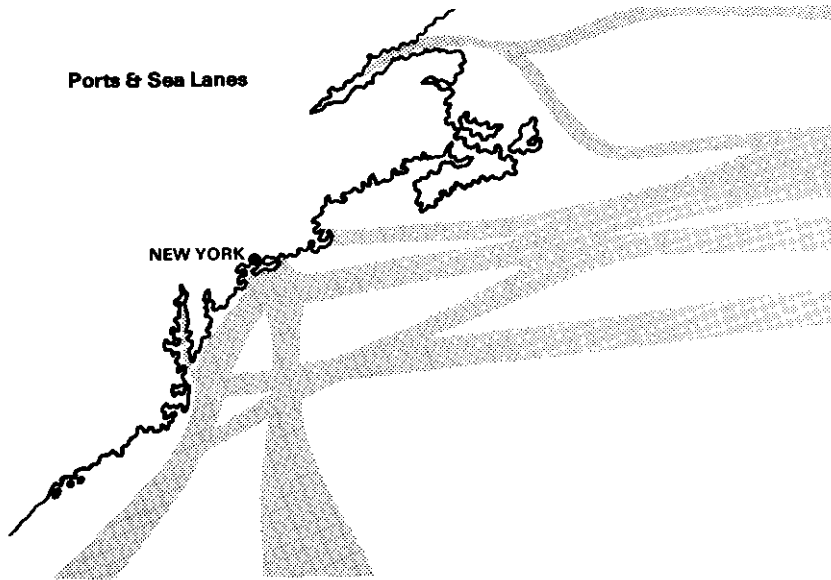


Figure 3. Sea lane patterns – Northwest Atlantic seacoast.

ships plus 11,949 fishing vessels (McCreery, 1974). The estimated total at sea on any given day was 20,973. By 1980, these figures will increase to an estimated 70,026, with 30,453 at sea on a given day. Table 1 details these 1980 estimates.

Where fishing, shipping, and oil and gas development occur together, the potential for conflict increases substantially. An example of one congested area, the Northwest Atlantic seacoast, can be seen in Figures 1 through 4, which show the extent of commercial fishing, proposed oil exploitation, sea lane patterns, and cables. Clearly, a system must be developed in this and other congested ocean areas to assure safe and equitable use by fishermen.

Above all, in any allocation of ocean use or ocean space, there must be universal recognition and acceptance of one of the foremost of priorities – the health of renewable living resources; i.e., the shellfish, fish, mammals, and birds that provide much of the world with valuable food, numerous drugs and industrial products, plus much aesthetic pleasure.

In reviewing recent fishery conflicts in the United States, one quickly realizes that they are not merely between fishermen groups or between fishermen and other users of ocean space and resources. Individuals and organizations who are not direct users of the space or the resources view ocean use from a different perspective. We have categorized them as “ocean advocates” with their interests covering a broad spectrum of ocean-use activities. In the past year, the major ocean-use controversies experienced in our country have not been so much between one fishing activity and another fishing activity, or between fishermen and other direct users of ocean space or resources; rather, they have been more

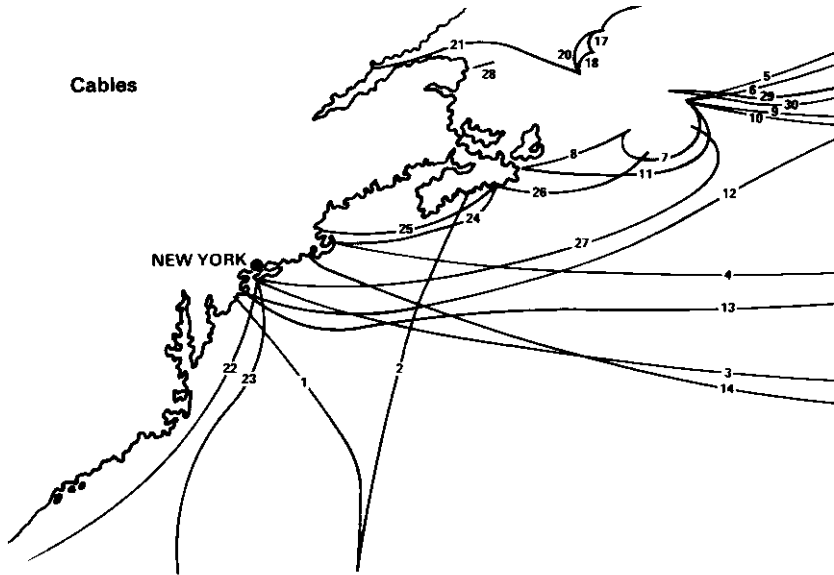


Figure 4. Cables -- Northwest Atlantic seacoast.

in terms of clashes in philosophies – even cultures; the “exploiters” vs. environmentalists, conservationists, and consumers. Some of these conflicts have focused worldwide attention on such issues as porpoise mortalities in the eastern tropical Pacific tuna purse seine fishery and whether or not Eskimos should continue to harvest endangered bowhead whales. Equally active have been environmental groups who oppose exploitation of oil and gas on our Outer Continental Shelf and consumer advocates who oppose the initiation of joint ventures between U.S. and foreign fishermen on the grounds that these actions will increase prices at home. The message from ocean advocate groups is clear: (1) Ocean use and management systems must consider the overall impact on (a) the ecological system and (b) the socio-economic system; (2) Ocean use and development must have minimal impact on the environment and its associated living organisms; (3) The harvesting of fishery resources must not cause any serious decline in stocks; and (4) Ocean use and management also means reservation of certain animals or environmental areas solely for aesthetic enjoyment. Those of us concerned with management of fishery resources must recognize that environmentalists and consumers are likely to influence the character of any fishery development program or fishery management regime, and indeed, any ocean use activity. Their concerns should not be ignored.

Because NOAA has recognized the need to address the broader problems of ocean space allocation and resource use conflicts, we have established an Office of Ocean Management to evaluate proposals for ocean use initiated by agencies of the federal government or the private sector. This office will evaluate alternative ocean uses, recommend possible plans or systems for areas of particularly intense activity, and represent NOAA's views in public and interagency determinations of policy on such proposals. Since it will have no program responsibility, the office will not be committed to any particular course of action. Instead of addressing immediate problems, it can focus on tomorrow's.

All of this preoccupation and concern with coastal zone management and ocean-use conflicts means that we have entered into a new era of ocean use and coastal zone management. Other needs and philosophies are influencing long-established practices. Nevertheless, the most fundamental issue of all is still unchanged – how to allocate and to whom to allocate. How to divide the space, the environment, and the resources; and how to do it in the simplest, most effective, and most equitable manner possible. Our complex task, therefore, is to ensure that all policies affecting the inter-related interests associated with the sea and its resources are compatible, and that we implement them in ways that serve both the national and international interests. At the moment, some policies are in obvious conflict, making implementation difficult. Experience will help us overcome these problems. In the meantime, our strategies must be to make the best of the legal and administrative tools we possess. These are far more sophisticated and powerful than in the past, and we have every right to be optimistic about our ability to make wise and rational use of the sea.

LITERATURE CITED

- Smith, Roland F.
1975. Multiple-use conflicts between fishermen and other users of the ocean with a consideration of a possibly expanded federal role. *Gulf Carib. Fish. Inst.* 28: 27-34.
- McCreery, R.P.
1974. The effect of increasing multiple-use of ocean space and resources on World fishery production and extraction. Univ. Wash., Inst. Mar. Studies. Working paper No. 4 prepared for 8th Session of ACMRR.