

Oregon
State
University

Extension Service

Corvallis, Oregon 97331

Greetings:

Anticipated impacts of the Extended Jurisdiction Act are a subject of particular interest and timeliness. In an effort to answer some of the most frequently asked questions, the OSU Extension Service's Sea Grant Marine Advisory Program has prepared this list of questions and answers on the Act.

Please call on us, or your county Extension office, if you have additional questions on this Act or related topics on marine resources. Extension's Sea Grant Marine Advisory Program is a joint project of Oregon State University, the U.S. Departments of Agriculture and Commerce, and Oregon county governments.

Extension invites participation in its programs and offers them equally to all people, without discrimination.



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Agriculture, Home Economics, 4-H Youth, Forestry, Community Development, and Marine Advisory Programs
Oregon State University, United States Department of
Agriculture, and Oregon Counties cooperating

20 QUESTIONS

On the 200-mile limit

Oregon State University Extension Service Sea Grant/Marine Advisory Program

1 *So we have a new law.
Who wanted it?*

A lot of people: coastal fishermen from New England to Alaska; people impatient with the Law of the Sea Conference. It was not wanted by distant-water fishermen, who feared it would endorse other nations' sovereignty claims.

2 *What will it actually do?*

The Fisheries Conservation and Management Act of 1976 establishes exclusive U.S. fishery management authority over: (a) all fish (which the Act says means shellfish, etc., too--but not the tunas) out to 200 nautical miles; (b) all anadromous fish throughout their migratory range, even outside the 200 miles--until they

6 What are regional fishery management councils?

enter another nation's recognized fishery zone; (c) all continental shelf fishery resources beyond the 200-mile mark. (This adds up to about 10% of the world's fishery resources.) "Highly migratory species" (the tunas) are specifically excluded from coverage by the Act unless they come under the provisions of an existing international agreement.

The first 3 miles out from shore are the traditional "territorial" sea, under U.S. sovereignty just like acres on land (except for the "right of innocent passage"). Up to now the next 9 miles have been the U.S.-fishing-only zone, established in 1966. These made up our "12-mile limit." So that means the new Act adds 188 nautical miles--for fishery conservation purposes only, not to claim sovereignty. (Since 1945 the U.S. has claimed exclusive rights over the mineral resources of the continental shelf; the 1976 Act makes no new claim to mineral rights.)

3 Will this new Act keep foreign fishermen outside the 200-mile limit?

No. Foreign fishermen *may* be authorized to fish--under tight permit procedures--that portion of the optimum yield of a fishery (if any) that will *not* be harvested by U.S. fishermen. "Optimum yield" is that part of a fishery that will provide "the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities."

4 When is the Act effective?

March 1, 1977--unless a Law of the Sea Treaty is adopted first and comes into effect for the U.S.

5 How will it be put into effect?

In two ways: (a) through review or renegotiation of fishery treaties or agreements with other nations; (b) through new regional fishery management councils.

They're the heart of the new system; they determine that "optimum yield" for each fishery. For the first time, all marine fisheries will be under firm control. The 8 councils--with authority over *all* coastal waters--will assess fisheries, determine annual quotas if necessary, comment on international agreements affecting their areas, and determine what portion of a fishery, if any, can be open to foreign fishermen. Oregon belongs to 2 councils: The Pacific Council (California, Oregon, Washington, Idaho) and the North Pacific Council (Alaska, Washington, Oregon).

7 Who's on the Pacific Council? How long do members serve?

Councils have varying numbers of members, depending on the number of member states. The Pacific Council will have 13 *voting* members: each state's principal official with marine fishery management responsibilities, named by the Governors (4); the regional director of the National Marine Fisheries Service (1); at least one "qualified individual" from each of the 4 states, selected by the Secretary of Commerce from the Governors' nominees (4); and additional "qualified individuals" appointed at large by the Secretary from the Governors' nominees (4). The Pacific Council will also have 5 *nonvoting* members: the regional director of the U.S. Fish and Wildlife Service; the commander of the 13th Coast Guard District; the executive director of the Pacific Marine Fisheries Commission; one representative of the Secretary of State; and one appointee of the Governor of Alaska. All Governors' nominations had to be on the Secretary's desk by May 27, 1976.

The Act says a "qualified individual" is one who is "knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest, of the fishery resources of the geographical area concerned."

Each voting member will serve for 3 years--except that at the start the Secretary of Commerce will name up to a third of them on each council for 1 year, up to a third for 2, and the rest for 3.

Note that councils are *not* arms of the Federal, or of any state, Government.

8 What will the Pacific Council mean for Oregon fishermen?

The council is supposed to be in business in August 1976. Its main job will be to prepare a fishery management plan for every fishery from California to Washington, out to 200 miles. These plans will be based on scientific data and should prevent stocks from being overexploited. The council will hold public hearings to give all interested persons the chance to be heard. Each of its plans *must*:

- *list the necessary conservation and management measures, applicable to both U.S. and foreign fishermen;

- *describe the fishery in detail (how many vessels, types of gear, species and location of fishes, costs, recreational interest, Indian treaty rights);

- *assess present, and estimate future, maximum sustainable yield and optimum yield--with scientific data to back them up;

- *spell out the extent to which U.S. vessels will annually harvest this optimum yield and what portion of the remainder (if any) can be made available for foreign fishermen;

- *and outline the data that will be sent to the Secretary about the fishery (including type and quantity of gear, catch by species in number of fish or weight, areas and times of fishing, etc.). Statistics that any fisherman submits are confidential.

This is what the council *must* do for a fishery management plan. There are a number of things it *may* do: require permits from U.S. fishermen; set zones, seasons, or catch limits; establish limited access (only in the most urgent circumstances).

The Secretary of Commerce will review each plan--and approve it, reject it, or offer amendments. The council can amend the plan later as needed.

The council can appoint a scientific and statistical committee to help do its job. If for any reason the council fails to produce a management plan for a fishery, the Secretary of Commerce must do so.

A preliminary plan will be prepared by the Secretary only when a foreign country has applied for a fishing permit and the council can't prepare its plan by March 1, 1977; this preliminary plan lasts only until the council's own plan goes into effect.

9 What about the North Pacific Council?

For Oregon fishermen who head north into Alaskan waters, the process is the same. Where a fishery crosses the line between the 2 councils, the Secretary may assign one to prepare a given plan or require that both prepare it jointly.

10 What fishery management plans will Oregon fishermen face?

One for every recognized fishery--salmon, bottomfish, hake, crabs, shrimp, etc.

11 Where will state and local agencies fit in?

The Oregon Governor's appointee from the Department of Fish and Wildlife has one vote on both the Pacific and the North Pacific Councils. At least one other Oregon nominee will be appointed to the Pacific Council. In the first years, there will likely be extensive consultation between the new councils and state and local agencies. That doesn't mean the councils will always decide things the way state and local officials want, but it ought to mean that each side keeps the other well informed. *State authority out to the 3-mile limit is not changed.*

12 What about salmon and other anadromous fish?

The Act establishes U.S. authority over salmon (for example) originating in West Coast rivers and as far as they migrate over the open sea. If, however, they enter *Japan's* fishery zone--and if that zone has been recognized by the U.S.--then American authority ceases until the salmon emerge from the Japanese zone into the high seas again.

13 *What about albacore and other tunas?*

The Act does not apply to tunas except as covered by existing international agreements. Albacore do not come under the provisions of any existing agreement.

14 *How will the Act protect U.S. fishermen from foreign fleets?*

The Act will insure that foreign fishermen are allowed in a fishery only when U.S. fishermen can't harvest all of a determined level of, say, hake. If Japan and the Soviet Union have approved permits to fish for that portion, they may do so that year; every one of their ships and boats must display the permit in its wheelhouse.

So a foreign catch depends on the level the council has decided on for hake and how much of it U.S. fishermen can harvest. The council might set the yield below what U.S. fishermen took last year; that would probably mean a reduced U.S. catch and no foreign catch. What it amounts to is that the council must ask, in effect: How many hake *are* there? How many does it make sense to harvest this year? How much of *this* can U.S. fishermen handle?

15 *Are there teeth in the new Act?*

There are civil and criminal penalties provided for violations of the Act. And it says "any person"—Americans as well as foreigners.

16 *Who will enforce it? How?*

The Act authorizes the Secretaries of Commerce and Transportation (the Coast Guard operates under the latter) to enforce its provisions by arranging for the use of personnel and equipment—planes and ships—from any Federal agency, including the Defense Department, and from any state agency. Authorized officers may issue citations, make arrests, board vessels, and seize vessels or catches. U.S. district courts have jurisdiction over cases arising from the Act.

17 *Who will pay the bill?*

The Secretary of Commerce will publish a schedule of fees for foreign fishing-vessel operators; these will apply equally to all nations. In setting the fees, the Secretary is supposed to cover the costs of administering the Act.

18 *What voice does the individual fisherman have in all this?*

He can let the Governor know whom to nominate for council membership. He can voice his views at the public hearings the council must call on each fishery management plan it intends to prepare. The council will revise these plans annually, maybe oftener; fishermen's opinions will be important in helping to shape these changes.

19 *What if a real Law of the Sea Treaty comes along, after all?*

If the U.S. ratifies a comprehensive treaty as a result of the current UN Law of the Sea Conference, one that includes fishery conservation and management jurisdiction, the Secretary of Commerce may promulgate amendments to regulations promulgated under the Act, if these are necessary to conform the regulations to the treaty's provisions.

20 *Where can I get more information on the new Act?*

Your Sea Grant Extension marine agent has copies of the Act itself and other information about it. When the Pacific Council has an office, it will be able to answer questions directly and may offer other aids. Watch issues of *Oregon Commercial Fisheries* for news of the council's formation and activities.