

Making Fisheries Management Work for You A Fact Sheet for Connecticut Fishermen

Rights-Based Fisheries Management

Rights in Fisheries

In the United States, the government acts as a “trustee” for the public for the management of fisheries. The “public trust” in fisheries has been based on the idea that those who depend upon and invest their labor and capital in fisheries have priority rights to them. The public trust also includes the idea of free access or the public right to fish, and that no individual can have exclusive private ownership of fish until it is captured. Because of these ideas, it has been difficult to restrict public rights of access to the fishery. However, with our fisheries in crisis, these ideas are at a crossroads.

To become sustainable and profitable, there is discussion that the fishing industry must move toward management that allows restriction on who can have access to the fishery, how much fishing effort individual participants are allowed, or how much catch each can take. However, this raises a number of critical questions: Can government, as the trustee of fishery resources, give away rights to public trust fisheries? Can it create exclusive rights or privileges in fishing grounds? Does rights-based management amount to a giveaway of public resources to private interests?

Use Rights

Under a rights-based management system, those individuals or groups entitled to have access to the fishery are said to have use rights; that is, the right to use the fishery resources; while others do not have the right to “use” the fishery. Use rights concern (1) how we restrict who has access to the fishery, (2) how much fishing effort each participant is allowed, or (3) how much catch each can take. In practice, a management measure (e.g., the number of traps a fisherman may use in a lobster fishery) can be seen as a (negative) restriction or a (positive) use right, with the fisherman having the right to use that number of traps.

Rights in a fishery define what particular actions the fisherman is authorized to take and a claim to a benefit stream (i.e., fish catch) that is consciously protected, in most cases by the government. For example, a right provides the authority for a fisherman to operate in a specific fishing ground or fishery. The more complete the set of rights, the less exposed the fishers are to the actions of others, the less risk that the fishermen face, and the more stable are expectations concerning catch and management. Rights are also felt to provide fishermen with an incentive for long-term sustainability and greater stewardship. With a right to a share in the fishery, the incentive is to maximize economic

benefits by reducing the cost of using one's right and/or by increasing the value of the right; for example, by producing a higher-quality fish product.

Characteristics of Rights-Based Fisheries

Fisheries management systems that assign rights to a share of a fishery are specified by the feature of the rights, the nature of the shares in the fishery, the type of entities that hold rights, and rules concerning use of the rights. Rights can be considered as being composed of a bundle of individual rights (think of a bundle of sticks composed of individual sticks), such features of rights include access, withdrawal, management, exclusion and transfer. The make-up of the bundle varies with different fisheries and different points in time. In the past, an individual fisherman had only one exclusive right – the right to own the fish caught. Other rights were held in common. As entry to fisheries became limited, those who held permits gained the exclusive right to fish. More recently, rights to some fisheries have been made even more exclusive by assigning individual fishermen or groups (communities, cooperatives, corporations) the rights to catch a specified share of the total allowable catch. Creating individual or group rights that can be bought and sold is an attempt to create benefits by converting most of the sticks in the bundle of rights from shared rights to exclusive rights.

Shares in the fishery can be the amount of fish catch, units of fishing effort (such as days at sea) or an exclusive geographical area and time period when fishing is allowed. In order to be effective, the sum of all of the shares must not result in overfishing. There may be a need for additional rules, such as fish size limits, that apply to all rights holders in the fishery.

The rights holder can be an individual (a person or corporation), community, cooperative, or nominated representatives of a group. In some fisheries, it may be appropriate to vest the rights in a cooperative or community organization. The cooperative or community organization then allocates and monitors use of the resource. There is fear that fishing rights will become concentrated in a few owners. The public interest is ill-served when limited pools of owners gain more and more power over access. There is also concern about whether or not fishing rights will actually promote improved stewardship behavior. In some cases, community ownership of rights is preferable to individual ownership because it precludes individual concentration of ownership.

Forms of Rights-Based Fisheries Management

There are several forms of rights-based fisheries management including limited entry or access rights, input rights, and output rights. The Individual Transferable Quota (ITQ) is probably the most well known form of rights-based management.

Limited entry or access rights authorizes entry into a fishery or into a specific fishing ground. Limited entry can be an effective 'first step' in generating

economic benefits and slowing expansion of fishing capacity, but it does not resolve all fishery management issues, such as the 'rush for the fish'. Examples of limited entry include territorial use rights in fishing (TURFs) (where the right to fishing locations are specified) and limited entry licenses (where rights are assigned by licensing to limit participation in fishing).

Input rights typically involve the right to a specific amount of fishing effort (i.e., the number of lobster traps per fisherman). Input rights limit the total amount of effort through such measures as time fished, vessel size, amount and type of gear. Input rights may be a cost-effective management measure and minimize waste; however, it increases incentive's to expand uncontrolled inputs and requires adjustment since technological change increases effectiveness.

Output rights provide the right to take a specific catch. Output rights (catch limits) provide numerical rights to catch a piece of a total allowable catch (TAC). Output rights may reduce the 'race for the fish' and reduce overcapitalization, however, it increases incentives to under-report catches, and to dump, discard, high-grade (i.e., increase waste of the resource). Output rights include community quotas (e.g., Alaskan community development quotas (CDQs) and Maritime Canada groundfishery) and individual quotas (e.g., individual transferable quotas (ITQs) or individual non-transferable quotas (INTQ)).

Final Thoughts

No one form of use right is superior in all circumstances. The choice will depend upon society's objectives, fishery structure, history and traditions, social and cultural factors, economic situation, pre-existing rights, political realities, and fish stock realities. It may not be appropriate for all fisheries. A combination of management measures is generally needed to achieve effective management of the fishery. Rights must be supplemented by biological and technological measures such as protecting juveniles, selectivity of fishing gear and other measures.

Rights-based management systems will depend on how the management is designed, the institutional approach (market versus community-based), how the exclusiveness of the right is specified, the conditions under which it could be transferred, the duration of use rights, and the basis for the assignment of the rights. Individual fishing rights or group ownership doesn't automatically lead to better stewardship but will depend upon the mentality of the people who participate. Questions of equity arise as use rights define who can and cannot take part in the fishery. Decisions about use rights may be irreversible. Once allocated, it can be difficult to make changes.