

Public Law 95-354
95th Congress

An Act

To authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal year 1979, to provide for the regulation of foreign fish processing vessels in the fishery conservation zone, and for other purposes.

Aug. 28, 1978

[H.R. 10732]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 406 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1882) is amended by adding at the end thereof the following new paragraph:

Fishery
Conservation and
Management Act
of 1976,
amendment.
Appropriation
authorization.

“(5) \$30,000,000 for the fiscal year ending September 30, 1979.”

SEC. 2. (a) Section 2(a)(7) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801(a)(7)) is amended by striking out “United States fishermen” and inserting in lieu thereof “the United States fishing industry”.

(b) Section 2(b)(6) of such Act (16 U.S.C. 1801(b)(6)) is amended by inserting immediately after “development” the following: “by the United States fishing industry”.

SEC. 3. Section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802) is amended by redesignating paragraph (25) as paragraph (27), and by inserting the following new paragraphs immediately after paragraph (24):

Definitions.

“(25) The term ‘United States fish processors’ means facilities located within the United States for, and vessels of the United States used or equipped for, the processing of fish for commercial use or consumption.

“(26) The term ‘United States harvested fish’ means fish caught, taken, or harvested by vessels of the United States within any fishery for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented.”

16 USC 1851.
16 USC 1821.

SEC. 4. Title II of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821-1825) is amended as follows:

(1) Section 201(a)(2) is amended by striking “(f)” and inserting in lieu thereof “(g)”.

(2) Section 201(c)(3) is amended by striking out “exceed” and inserting in lieu thereof “harvest an amount of fish which exceeds”.

(3) Section 201 is amended by redesignating subsections (f) and (g) as (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

“(f) FOREIGN ALLOCATION REPORT.—The Secretary of the Treasury, in cooperation with the Secretary and the Secretary of State, shall prepare and submit a report to the Congress and the President, not later than July 1 of each year, setting forth—

Report to
Congress and
President.

“(1) a list of species of all allocations made to foreign nations pursuant to subsection (e) and all permits issued pursuant to section 204(b)(6)(B); and

“(2) all tariff and nontariff trade barriers imposed by such nations on the importation of such species from the United States.”

16 USC 1824.

16 USC 1821.

(4) Section 201(h)(1), as redesignated by paragraph (3), is amended to read as follows:

“(1) shall contain a preliminary description of the fishery and a preliminary determination as to—

“(A) the optimum yield from such fishery;

“(B) when appropriate, the capacity and extent to which United States fish processors will process that portion of such optimum yield that will be harvested by vessels of the United States; and

“(C) the total allowable level of foreign fishing with respect to such fishery;”.

16 USC 1824.

(5) Section 204(b)(3) is amended—

(A) by amending subparagraph (D) to read as follows:

“(D) the estimated amount of tonnage of fish which will be caught, taken, or harvested in each such fishery by each such vessel during the time the permit is in force;”.

(B) by redesignating subparagraph (E) as subparagraph (F), and

(C) by inserting immediately after subparagraph (D) the following new subparagraph:

“(E) the amount or tonnage of United States harvested fish, if any, which each such vessel proposes to receive at sea from vessels of the United States; and”.

Publication in
Federal Register.

(6) Section 204(b)(4) is amended by striking out “such application in the Federal Register and” and inserting in lieu thereof “a notice of receipt of the application in the Federal Register. Any such notice shall summarize the contents of the applications from each nation included therein with respect to the matters described in paragraph (3) and shall be set forth under the name of each Council to which it will be transmitted for comment. The Secretary of State”.

(7) Section 204(b)(6) is amended—

(A) by inserting “(A)” before “After” in the first sentence thereof,

(B) by inserting “, subject to subparagraph (B),” immediately after “may approve” in the second sentence thereof, and

(C) by adding at the end thereof the following new subparagraph:

“(B)(i) In the case of any application which specifies that one or more foreign fishing vessels propose to receive at sea United States harvested fish from vessels of the United States, the Secretary may approve the application unless the Secretary determines, on the basis of the views, recommendations, and comments referred to in subparagraph (A) and other pertinent information, that United States fish processors have adequate capacity, and will utilize such capacity, to process all United States harvested fish from the fishery concerned.

“(ii) The amount or tonnage of United States harvested fish which may be received at sea during any year by foreign fishing vessels under permits approved under this paragraph may not exceed that portion of the optimum yield of the fishery concerned which will not be utilized by United States fish processors.

“(iii) In deciding whether to approve any application under this subparagraph, the Secretary may take into account, with respect to the foreign nation concerned, such other matters as the Secretary deems appropriate.”.

(8) Section 204(b)(7) is amended by redesignating subparagraph (D) as subparagraph (F), and inserting immediately after subparagraph (C) the following new subparagraphs: 16 USC 1824.

“(D) If the permit is issued other than pursuant to an application approved under paragraph (6)(B), the restriction that the foreign fishing vessel may not receive at sea United States harvested fish from vessels of the United States.

“(E) If the permit is issued pursuant to an application approved under paragraph (6)(B), the maximum amount or tonnage of United States harvested fish which may be received at sea from vessels of the United States.”.

SEC. 5. Title III of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1851-1861) is amended as follows:

(1) Section 302(h)(5) is amended by inserting “the capacity and extent to which United States fish processors will process United States harvested fish from,” immediately after “from,”. 16 USC 1852.

(2) Section 303(a)(4) is amended—

(A) by striking out “and” at the end of subparagraph (A);

(B) by striking out “; and” at the end of subparagraph (B) and inserting in lieu thereof “, and” and

(C) by adding at the end thereof the following new subparagraph: 16 USC 1853.

“(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States; and”.

(3) Section 303(a)(5) is amended by striking out “and number of hauls.” and inserting in lieu thereof “number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors.”.

(4) Section 307 is amended—

(A) by striking out “and” at the end of paragraph (1)(H);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof “; and”; and

(C) by adding at the end thereof the following new paragraph: 16 USC 1857.

“(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer directly

16 USC 1824.

or indirectly, or attempt to so transfer, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the fishery conservation zone, unless the foreign fishing vessel has been issued a permit under section 204 which authorizes the receipt by such vessel of United States harvested fish of the species concerned.”.

Approved August 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1334 accompanying H.R. 13340 and No. 95-1024 (Comm. on Merchant Marine and Fisheries).

SENATE REPORTS: No. 95-935 accompanying S. 3050 and No. 95-815 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Apr. 10, considered and passed House.

June 14, considered and passed Senate, amended.

July 11, H.R. 13340 considered and passed House; passage vacated; House agreed to Senate amendments of H.R. 10732 with an amendment.

Aug. 4, Senate concurred in House amendment with an amendment.

Aug. 10, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 35:

Aug. 28, Presidential statement.