

“(2) with respect to all children accepted by him for care, place them in private families either without expense or with reimbursement for the cost of care, or in appropriate cases to place them in private families under an adoption subsidy agreement concluded under section 3 of this Act (D.C. Code, sec. 3-115) or to place them in institutions willing to receive them either without expense or with reimbursement for the cost of care; and

27 Stat. 269.

“(3) consent to, arrange for or initiate court proceedings for the adoption of all children committed to the care of the Commissioner whose parents have been permanently deprived of custody by court order, or whose parents have relinquished a child to the Commissioner or to a licensed child-placing agency which has transferred the relinquishment to the Commissioner under section 6 of the Act entitled ‘An Act to regulate the placing of children in family homes, and for other purposes’, approved April 22, 1944 (D.C. Code, sec. 32-786).”

58 Stat. 194;

84 Stat. 578.

SEC. 2. (a) Section 307(b)(1)(D) of title 16 of the District of Columbia Code is amended by inserting immediately after “should have knowledge” the following: “, including the existence and terms of a tentative adoption subsidy agreement entered into prior to the filing of the adoption petition under section 3 of the Act of July 26, 1892 (D.C. Code, sec. 3-115).”

77 Stat. 539.

(b) Section 309(b) of title 16 of the District of Columbia Code is amended by adding at the end thereof the following new sentence: “In determining whether the petitioner will be able to give the prospective adoptee a proper home and education, the court shall give due consideration to any assurance by the Commissioner that he will provide or contribute funds for the necessary maintenance or medical care of the prospective adoptee under an adoption subsidy agreement under section 3 of the Act of July 26, 1892 (D.C. Code, sec. 3-115).”

77 Stat. 540.

SEC. 3. The amendments made by this Act shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act.

Effective date.

Approved January 2, 1974.

Public Law 93-242

AN ACT

January 2, 1974

To implement the shrimp fishing agreement with Brazil, and for other purposes.

[H. R. 8529]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Offshore Shrimp Fisheries Act of 1973”.

Offshore Shrimp
Fisheries Act of
1973.

DEFINITIONS

SEC. 2. When used in this Act—

(a) the term “treaty” shall mean the Agreement Between the Government of the Federative Republic of Brazil and the Government of the United States of America Concerning Shrimp, signed on May 9, 1972, including related annexes, notes, and agreed

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minutes, as these documents may be amended from time to time;

(b) the term "shrimp" shall mean the shrimp *Penaeus (M.) duorarum notialis*, *Penaeus brasiliensis*, and *Penaeus (M.) aztecus subtilis*;

(c) the term "area of agreement" shall mean the area in which United States vessels carry on a shrimp fishery in the vicinity of Brazil, as described by the following boundaries: the waters off the coast of Brazil having the isobath of thirty meters as the southwest limit, the latitude 1 degree north as the southern limit, the longitude 47 degrees 30 minutes west as the eastern limit, and a line running from the point of 4 degrees 44 minutes north latitude, 51 degrees 30 minutes west longitude at an azimuth of 17 degrees to the point of 4 degrees 51 minutes north latitude, 51 degrees 28 minutes west longitude and thence at an azimuth of 43 degrees to the point of 8 degrees 58 minutes north latitude, 47 degrees 30 minutes west longitude as the northwestern boundary;

(d) the term "vessel" shall mean every description of watercraft or other contrivance used, or capable of being used, as a means of transportation in water;

(e) the term "Secretary" shall mean the Secretary of Commerce or his delegate;

(f) the term "transship" shall mean the transfer of shrimp from one vessel to another vessel, or the receipt of shrimp by one vessel from another vessel;

(g) the term "fishing" shall mean the taking or attempted taking of shrimp by any means whatsoever;

(h) the term "vessel owner" shall mean any person, partnership, corporation, or association which is the owner of record of a vessel documented under the laws of the United States, except that, with respect to sections 4 and 5 hereof, the Secretary may issue such regulations as he deems appropriate to cover applications for and issuance of letters of voluntary compliance and permits with respect to vessels owned by corporations which are owned or controlled by one or more other corporations;

(i) the term "regulations" shall mean rules and regulations issued by the Secretary from time to time as he deems necessary to carry out the purposes and objectives of the treaty and this Act; and

(j) the term "gear" when applied to any vessel involved in a violation shall mean any single set of net and doors for a single trawl vessel, or for a vessel capable of towing more than one set at a time, as many sets of net and doors as the vessel is capable of towing: *Provided*, That if the vessel owner, master, or other person in charge of the vessel can show that a particular set (or sets) of net and doors was actually involved in the violation, then that set (or sets) shall be deemed to be the gear of the vessel involved in the violation.

PERMITS

SEC. 3. (a) The Secretary is authorized to issue permits to vessel owners for vessels documented under the laws of the United States to engage in fishing in the area of agreement: *Provided*, That the number of vessels which are the subject of permits shall not exceed three hundred and twenty-five or such other number of vessels as may be specified in the treaty from time to time as authorized to fish in the area of agreement. No vessel owner may be issued a permit with respect to a vessel unless such vessel meets the requirements of the treaty, the Act, and the regulations.

Limitation.

(b) Except as provided in section 4(d), a permit shall be valid only for the vessel with respect to which it is issued and shall not cover more than one vessel, except that a vessel owner may, with the prior consent of the Secretary, transfer a permit to another vessel whether or not owned by the same vessel owner.

(c) Permits shall be issued for a calendar year, and may be renewed annually.

Annual renewal.

(d) Permits shall contain such provisions, and shall be issued upon, and subject to, such terms and conditions as the Secretary deems necessary to carry out the treaty, the Act, and the regulations. Permit provisions may include, but are not limited to—

- (i) the manner, place, and time of conducting fishing operations,
- (ii) the keeping of records,
- (iii) the furnishing of information to the Secretary,
- (iv) the identification and marking of the vessels,
- (v) limitations on transshipment operations,
- (vi) restrictions or prohibitions on the employment on any permitted vessel of a master or other person against whom a civil penalty has been assessed pursuant to section 9,
- (vii) prohibited activities,
- (viii) revocation of permit for failure to pay a civil penalty assessed against a vessel owner pursuant to section 9, and
- (ix) the maintaining of an office in the United States by the holder of a permit at which all notices, legal documents, and other material may be served.

Permits may be suspended or revoked by the Secretary for failure to comply with any of the terms or conditions thereof, or with the treaty, this Act or the regulations. Upon any such suspension or revocation, the permittee shall be afforded a prompt opportunity, after due notice, for a hearing by the Secretary. The decision of the Secretary rendered in connection with such hearing shall be final and binding.

(e) Permits may be returned to the Secretary. In addition, the Secretary may issue regulations requiring the return of unutilized permits under such circumstances and upon such terms and conditions as he deems appropriate. If the Secretary reissues a permit to another vessel owner, a prorated amount of the annual permit fee for the portion of the year during which the permit is held by another vessel owner shall be refunded to the original permittee. Except as specified in this subsection (e) and in section 4(c), permit fees shall not be prorated.

(f) The annual fee for a permit for any year other than 1973 shall be \$615 for enforcement services plus an amount of not more than \$100, as determined by the Secretary, for the purpose of covering

Fee.

administrative costs. The fee for a permit for 1973 shall be \$1,230 for enforcement services plus an amount of not more than \$200, as determined by the Secretary, for the purpose of covering administrative costs: *Provided*, That the annual fee for a permit for 1973 for any vessel first documented in that year or certified as not having been engaged in fishing in the area of agreement in 1972 shall be \$615 for enforcement services plus an amount of not more than \$100, as determined by the Secretary, for the purpose of covering administrative costs. The amount of any deposit transferred to the Offshore Shrimp Fisheries Fund pursuant to section 5 of this Act shall be credited toward the annual permit fee.

(g) Any permit which has been suspended or revoked, or which is required to be returned, shall be surrendered to the Secretary.

PERMIT PROCEDURE

Publication in
Federal Register.

SEC. 4. (a) Vessel owners may apply for permits to engage in fishing in the area of agreement. The method and time for application shall be announced in advance in the Federal Register.

(b) The owner of any vessel for which application for a permit is refused may petition the Secretary for reconsideration, and shall be entitled to a hearing. The decision of the Secretary rendered in connection with such reconsideration shall be final and binding.

(c) The Secretary may reissue permits which have been returned pursuant to section 3, to vessel owners with outstanding applications, who have not been able to obtain permits under the procedure set out in subsection (d). The fee for such reissued permits shall be the prorated share of the annual fee for the portion of the year during which the new permittee holds the permit.

(d) If application is made with respect to more vessels than the number of permits allowed to be issued under section 3(a), the following procedure for granting permits shall apply:

(1) All vessel owners to whom letters of voluntary compliance have been issued, pursuant to section 5 of this Act, shall have first priority for permits but only as to vessels covered by such letters.

(2) After all vessel owners under subparagraph (1) have been considered for permits, all vessel owners who have been engaged in fishing in the area of agreement, during the last five years, shall have second priority for permits. However, in no event shall a vessel owner be eligible for receiving a permit under this subsection for a given vessel during the first six months after the effective date of this Act if the Secretary determines that such vessel has engaged in activities during the period from May 9, 1972, to the effective date of this Act which would have constituted a violation specified in section 8(a)(3) or 8(a)(5), but only to the extent 8(a)(5) relates to use of fishing gear and the closure of the area of agreement to fishing, if the Act had been in effect during such period. In the event of any such determination, the vessel owner affected thereby shall be given notice thereof and an opportunity for a hearing. The decision of the Secretary rendered in connection with the hearing shall be final and binding.

(3) After all vessel owners under subparagraphs (1) and (2) have been considered for issuance of a permit, all other vessel owners who have made application may be considered for permits.

If the number of vessels for which application is made in the categories outlined in subparagraph (2) or (3) is more than the number of permits available after having accounted for the vessels in the previous category (or in the case of subparagraph (1), if the number

Notice; hearing.

of vessels for which application is made in that category is more than the number of permits available pursuant to the treaty), then the number of permits available shall be proportionally distributed with the applicable category, in a manner provided in the regulations.

VESSELS WHICH VOLUNTARILY COMPLY

SEC. 5. The Secretary shall issue a letter of voluntary compliance to a vessel owner who has had vessels engaged in fishing in the area of agreement at any time subsequent to May 9, 1972, for all vessels of such owner documented under the laws of the United States which meet the requirements of the treaty, and for each of which the vessel owner has deposited and continuously maintained, until the transfer referred to in the following sentence, \$700 in a special account in a bank or trust company insured by the Federal Deposit Insurance Corporation for the purpose of reimbursing the United States for enforcement expenses as provided in article 6 of the treaty. On or before the issuance of a letter of voluntary compliance the deposited funds referred to above shall be transferred, in the manner provided for in regulations, through the Secretary, to the Offshore Shrimp Fisheries Fund, established pursuant to section 6 of this Act.

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OFFSHORE SHRIMP FISHERIES FUND; ENFORCEMENT EXPENSES

SEC. 6. (a) There is hereby established on the books of the Treasury a separate fund, the Offshore Shrimp Fisheries Fund, to be used by the Secretary to make payments for enforcement expenses as provided in article VI of the treaty. The fund shall be credited with permit fees collected pursuant to section 3 for enforcement expenses, funds appropriated under section 12(a), amounts transferred through the Secretary from deposits in the special accounts referred to in section 5, and amounts collected for minimum penalties pursuant to section 9.

(b) The Secretary of Commerce, through the Secretary of State, shall pay, or cause to be paid, on behalf of the United States the enforcement expenses as provided in article VI of the treaty.

(c) In the event that a vessel owner, master, or other person in charge of a vessel, pays on behalf of the United States the unusual enforcement expenses incurred in carrying out the seizure and detention of a vessel, referred to in article VI of the treaty, and is not assessed a civil penalty under section 9 of this Act within two years from the date of such seizure in respect to the violation for which the vessel was seized, such vessel owner, master, or other person shall be entitled to reimbursement of amounts so paid. Application for reimbursement shall be made to the Secretary.

INFORMATION AND REPORTS

SEC. 7. (a) Each master or other person in charge of a vessel which is the subject of a permit under this Act shall keep a logbook in the form and manner prescribed pursuant to the treaty and set forth in regulations.

Logbook.

(b) In addition to the logbook, owners of vessels which have permits under this Act shall supply to the Secretary, in such form and at such times as he may prescribe, any other information necessary in order to carry out the purposes and objectives of the treaty, the Act or the regulations, which information may include data on fishing beyond the area of agreement in order to determine to the extent possible the full potential of the shrimp fishery.

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(c) Except as otherwise provided in the treaty, information obtained pursuant to this Act shall be treated as confidential commercial information pursuant to section 552 of title 5, United States Code.

80 Stat. 383;
81 Stat. 54.
Subpena authority.

(d) The Secretary shall have the power to require by subpoena the production of all such logbooks, records, or other information required pursuant to this section. The Secretary may delegate the power to sign subpoenas and to receive documents.

Jurisdiction.

(e) In case of contumacy or refusal to obey a subpoena issued to any person, corporation, partnership, or other entity, the Secretary may request the Attorney General to invoke the aid of any district court of the United States or the United States courts of any territory or possession within the jurisdiction of which said person, corporation, partnership, or other entity is found, resides, or transacts business to secure compliance.

PROHIBITIONS

SEC. 8. (a) No master or other person in charge of a vessel documented under the laws of the United States shall—

(1) engage in fishing in the area of agreement, unless the vessel is the subject of a permit in force pursuant to this Act;

(2) transship shrimp in the area of agreement, unless each vessel engaged in the transshipment is the subject of a permit in force pursuant to this Act, or is otherwise authorized to fish in the area of agreement pursuant to the treaty;

(3) assault or attempt to prevent any duly authorized officer from boarding, searching, seizing or detaining a vessel in accordance with such officer's duties under the treaty;

(4) engage in fishing in the area of agreement contrary to regulations establishing a procedure for limiting the number of vessels allowed to be present in the area of agreement at any one time to one hundred and sixty or such other number as may be allowed pursuant to the treaty;

(5) engage in fishing in the area of agreement in contravention of annex II, as it may be modified from time to time pursuant to article II of the treaty, or any regulations issued by the Secretary to implement such annex.

(b) No master or other person in charge of a vessel documented under the laws of the United States shall—

(1) fail or refuse to keep or provide any logbooks or any other information required pursuant to this Act, or provide or furnish false logbooks or other information;

(2) violate any other provision of the treaty, this Act, or any regulations promulgated by the Secretary, the violation of which is not covered by subsection (a).

PENALTIES

SEC. 9. (a) Any master or other person in charge of a vessel who violates section 8 hereof may be assessed a civil penalty by the Secretary, after notice and opportunity for a hearing, of not more than \$10,000 for a violation of section 8(a) and \$3,000 for a violation of section 8(b). Except as provided in this section, the minimum penalty assessed shall be not less than an amount sufficient to cover the unusual enforcement expenses, if any, incurred by the United States pursuant to article VI of the treaty in connection with such violation: *Provided*, That if the person against whom the penalty has been assessed has paid on behalf of the United States such unusual enforcement expenses,

the minimum penalty requirement shall not apply. The amount of any such minimum civil penalty assessed shall be deposited directly into the Offshore Shrimp Fisheries Fund. The amount of any such civil penalty over the minimum penalty may be compromised by the Secretary.

(b) The Secretary shall notify any vessel owner involved in a violation of section 8 of the outcome of any proceeding under subsection (a) above.

(c) The Secretary, after notice and opportunity for hearing, may assess against a vessel owner a civil penalty equal to the value of the catch on board the vessel when detained and the value of the gear involved in a violation of section 8(a)(1), or involved in a second or subsequent violation of any other provision of section 8(a) by a person against whom a penalty had previously been assessed under section 9(a) for a violation involving the operation of a vessel owned by the same person as the vessel involved in such second or subsequent violation. The amount of any such penalty shall be deposited as miscellaneous receipts into the general fund of the Treasury.

(d) Upon failure of the party penalized as provided in this section to pay the penalty within thirty days of the assessment thereof, the Secretary may request the Attorney General to commence action in the Federal district court having jurisdiction over the party for such relief as may be appropriate. In any such action for relief, the Secretary's penalty assessment shall be final and unreviewable unless the penalized party has otherwise sought judicial review thereof.

(e) In any hearing held by the Secretary in connection with the assessment of a civil penalty hereunder, the vessel owner, the master or any other person against whom a penalty may be assessed may appear in person or by counsel at such hearing or in lieu of a personal appearance may submit such affidavits or depositions as he deems necessary to the defense of any charges which may be considered by the Secretary at such hearing.

ENFORCEMENT

SEC. 10. (a) This Act shall be enforced jointly by the Secretary, the Secretary of the department in which the Coast Guard is operating, and the Secretary of the Treasury.

(b) Any duly authorized law enforcement officer of the Government of Brazil who is exercising responsibility under article V of the treaty shall be empowered to act on behalf of the United States to enforce the provisions of the treaty in the area of agreement as follows: Any such officer may board and search any vessel which he has reasonable cause to believe has violated any provisions of the treaty. If after boarding and searching such vessel the officer continues to have reasonable cause to believe that a violation has been committed, he may seize and detain the vessel for the sole purpose of delivering it, as soon as practicable, to an agent of the United States Government at the nearest port to the place of seizure or any other place which is mutually agreed upon by the Government of Brazil and the Secretary of State.

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REGULATIONS

SEC. 11. In addition to any specific authority contained in this Act, the Secretary is authorized to issue all regulations necessary to carry out the purposes and objectives of the treaty and this Act. Prior to the issuance of any regulations dealing with the marking of vessels or with the use of radiotelephone frequencies, the Secretary shall consult with the Secretary of the department in which the Coast Guard is operating.

APPROPRIATIONS

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SEC. 12. (a) There is hereby authorized to be appropriated such amounts as are necessary for enforcement expenses pursuant to article VI of the treaty, to be deposited in the Offshore Shrimp Fisheries Fund.

(b) There is also hereby authorized to be appropriated such amounts as are necessary for domestic enforcement expenses and the expenses of administering the provisions of the treaty, this Act, and the regulations, to be available until expended, when so provided in appropriation acts. So much of the permit fees as are identified for administrative costs shall be deposited as miscellaneous receipts to the general fund of the Treasury.

TERMINATION

SEC. 13. The provisions of this Act, except section 15, shall expire June 15, 1975.

SEVERABILITY

SEC. 14. The provisions of this Act shall be severable and if any part of the Act is declared unconstitutional or the applicability thereof is held invalid, the constitutionality of the remainder and the applicability thereof shall not be affected thereby.

SEC. 15. Subsections (a) and (b) of section 5 of the Act of May 20, 1964 (78 Stat. 196), are amended to read as follows:

16 USC 1085.

"Continental Shelf fishery resource."

"(a) As used in this Act, the term 'Continental Shelf fishery resource' means living organisms belonging to sedentary species; that is to say, organisms, which at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil of the Continental Shelf, including the following species:

"CRUSTACEA

- "Tanner Crab—*Chionoecetes tanneri*;
- "Tanner Crab—*Chionoecetes opilio*;
- "Tanner Crab—*Chionoecetes angulatus*;
- "Tanner Crab—*Chionoecetes bairdi*;
- "King Crab—*Paralithodes camtschatica*;
- "King Crab—*Paralithodes platypus*;
- "King Crab—*Paralithodes brevipes*;
- "Stone Crab—*Menippe mercenaria*;
- "Lobster—*Homarus Americanus*;
- "Dungeness Crab—*Cancer magister*;
- "California King Crab—*Paralithodes californiensis*;
- "Golden King Crab—*Lithodes aequispinus*;
- "Northern Stone Crab—*Lithodes maia*;
- "Stone Crab—*Menippe mercenaria*; and
- "Deep-sea Red Crab—*Ceryon quinquegens*.

"MOLLUSKS

- "Red Abalone—*Haliotis rufescens*;
- "Pink Abalone—*Haliotis corrugata*;
- "Japanese Abalone—*Haliotis kamtschatkana*;
- "Queen Conch—*Strombus gigas*;
- "Surf Clam—*Spisula solidissima*; and
- "Ocean Quahog—*Artica islandica*.

"SPONGES

"Glove Sponge—*Hippiospongia canaliculata*;

"Sheepswool Sponge—*Hippiospongia lachne*;

"Grass Sponge—*Spongia graminea*;

"Yellow Sponge—*Spongia barbera*."

"(b) The Secretary of Commerce, in consultation with the Secretary of State, is authorized to publish in the Federal Register additional species of living organisms covered by the provisions of subsection (a) of this section."

Publication in
Federal Register.

Approved January 2, 1974.

Public Law 93-243

AN ACT

January 2, 1974
[S. 2812]

To amend the Federal Water Pollution Control Act to establish the ratio for allocation of treatment works construction grant funds, to insure that grants may be given for other than operable units, and to clarify the requirements for development of priorities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 205 of the Federal Water Pollution Control Act is amended by inserting immediately after the third sentence thereof the following new sentence: "For the fiscal year ending June 30, 1975, such ratio shall be determined one-half on the basis of table I of House Public Works Committee Print Numbered 93-28 and one-half on the basis of table II of such print, except that no State shall receive an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of such print."

Federal Water
Pollution Control
Act, amendments.
86 Stat. 837.
33 USC 1285.

(b) The last sentence of subsection (a) of section 205 of the Federal Water Pollution Control Act is amended by striking out "June 30, 1974," and inserting in lieu thereof "June 30, 1975."

SEC. 2. Section 203 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

86 Stat. 835.
33 USC 1283.

"(d) Nothing in this Act shall be construed to require, or to authorize the Administrator to require, that grants under this Act for construction of treatment works be made only for projects which are operable units usable for sewage collection, transportation, storage, waste treatment, or for similar purposes without additional construction."

SEC. 3. Section 511 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

86 Stat. 893.
33 USC 1371.

"(d) Notwithstanding this Act or any other provision of law, the Administrator (1) shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works (as defined in title II of this Act), any water pollution control agreement which may have been entered into between the United States and any other nation, and (2) shall not consider any such agreement in the approval of any such priority ranking."

33 USC 1281.

SEC. 4. Subsection (b) of section 516 of the Federal Water Pollution Control Act, as amended (86 Stat. 895), is amended by inserting "(1)" after "(b)"; by striking "(1)", "(2)", "(3)", and "(4)" and inserting in lieu thereof "(A)", "(B)", "(C)", and "(D)", respectively; and by adding the following new paragraph:

33 USC 1375.