

§ 3636. Rulemaking**(a) Promulgation of regulations by Secretary of Commerce**

The Secretary, in consultation with the Secretary of the Interior, the Secretary of the Department in which the Coast Guard is operating and the appropriate Regional Fishery Management Council, shall promulgate such regulations as may be necessary to carry out the United States international obligations under the Treaty and this chapter, pursuant to section 3635 of this title, as well as conforming amendatory regulations applicable to the United States Exclusive Economic Zone. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located. Such regulations as are necessary and appropriate to carry out obligations of the United States under the Treaty involve a foreign affairs function, and as such shall not be subject to sections 553 through 557 of title 5, or the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(b) Additions to fishery regimes and Fraser River Panel regulations

The Secretary, in cooperation with the Regional Fishery Management Councils, States, and treaty Indian tribes, may promulgate regulations applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with, fishery regimes and Fraser River Panel regulations adopted under the Treaty. Such regulations shall not discriminate between residents of different States.

(c) Judicial review

Regulations promulgated by the Secretary under this chapter shall be subject to judicial review by the district courts of the United States to the extent authorized by, and in accordance with, chapter 7 of title 5; except that section 705 of such title is not applicable, and the appropriate court shall only set aside any such regulation on a ground specified in section 706(2)(A), (B), (C), or (D) of such title. A civil action filed pursuant to this section shall be assigned for hearing at the earliest possible date, shall take precedence over other matters pending on the docket of the United States district court at that time, and shall be expedited in every way by such court and any appellate court.

(Pub. L. 99-5, §7, Mar. 15, 1985, 99 Stat. 12; Pub. L. 102-251, title III, §306(b), Mar. 9, 1992, 106 Stat. 66.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 102-251, title III, §§306(b), 308, Mar. 9, 1992, 106 Stat. 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (a) is amended by inserting "and special areas" after "Exclusive Economic Zone".

REFERENCES IN TEXT

The National Environmental Policy Act, referred to in subsec. (a), probably means the National Environmental Policy Act of 1969, Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102-251, set out as a note under section 773 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3637. Prohibited acts and penalties**(a) Unlawful acts**

It is unlawful for any person or vessel subject to the jurisdiction of the United States—

(1) to violate any provision of this chapter, or of any regulation adopted hereunder, or of any Fraser River Panel regulation approved by the United States under the Treaty;

(2) to refuse to permit any officer authorized to enforce the provisions of this chapter to board a fishing vessel subject to such person's control for purposes of conducting any search, investigation, or inspection in connection with the enforcement of this chapter;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation, or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this chapter;

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

(b) Additional prohibitions and enforcement

For additional prohibitions relating to this chapter and enforcement of this chapter, see section 1826g of this title.

(Pub. L. 99-5, §8, Mar. 15, 1985, 99 Stat. 12; Pub. L. 114-81, title I, §104, Nov. 5, 2015, 129 Stat. 657.)

AMENDMENTS

2015—Subsec. (a)(2). Pub. L. 114-81, §104(1)(B), made technical amendment to reference in original act which appears in text as reference to "this chapter".