

ment from the Commission for providing such services, facilities, and personnel.

(Pub. L. 99-5, § 5, Mar. 15, 1985, 99 Stat. 11.)

§ 3635. Preemption

If any State or treaty Indian tribe has taken any action, or omitted to take any action, the results of which place the United States in jeopardy of not fulfilling its international obligations under the Treaty, or any fishery regime or Fraser River Panel regulation adopted thereunder, the Secretary shall inform the State or tribe of the manner in which the action or inaction places the United States in jeopardy of not fulfilling its international obligations under the Treaty, of any remedial action which would relieve this concern, and of the intention to promulgate Federal regulations if such remedial actions are not undertaken within fifteen days unless an earlier action is required to avoid violation of United States Treaty obligations. Should United States action be required to meet Treaty obligations to Canada in respect to treaty Indian fisheries conducted in terminal areas subject to the continuing jurisdiction of a United States district court, such action shall be taken within the framework of such court jurisdiction. Otherwise, regulations may be promulgated by the Secretary pursuant to section 3636(a) of this title which shall supersede any State or treaty Indian tribal law, regulation or order determined by the Secretary to place the United States in jeopardy of not fulfilling its international obligations under the Treaty. Timely notice of all such determinations shall be disseminated by electronic media and shall be published in local newspapers in the major fishing ports affected and in the Federal Register. In order to enable the United States to fulfill its obligations under article IV(7) of the Treaty, the States of Alaska, Idaho, Oregon and Washington and the treaty Indian tribes shall advise the Secretary of all pertinent laws or regulations pertaining to the harvest of Pacific salmon, together with such amendments thereto as may be adopted from time to time.

(Pub. L. 99-5, § 6, Mar. 15, 1985, 99 Stat. 11.)

§ 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”.

Pub. L. 114-81, § 104(1)(A), inserted “, investigation,” after “search”.

Subsec. (a)(3). Pub. L. 114-81, § 104(2), inserted “, investigation,” after “search” and substituted “paragraph (2);” for “subparagraph (2);”.

Subsec. (a)(5). Pub. L. 114-81, § 104(3), made technical amendment to reference in original act which appears as a reference to “this chapter” and struck out “or” at end.

Subsecs. (b) to (f). Pub. L. 114-81, § 104(4), added subsec. (b) and struck out former subsecs. (b) to (f), which related to civil penalty, criminal penalty, forfeiture, enforcement authority, and jurisdiction.

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.

§ 3638. General standard

All actions taken under sections 3632(g),¹ 3633, 3635, and 3636 of this title shall—

(a) take into account the best scientific information available;

(b) result in measures necessary and appropriate for the conservation, management, utilization and development of the Pacific salmon resource, with due consideration of social and economic concerns; and

(c) be consistent with United States obligations under the Treaty, domestic Indian treaties and other applicable law.

(Pub. L. 99-5, § 9, Mar. 15, 1985, 99 Stat. 13.)

REFERENCES IN TEXT

Section 3632(g) of this title, referred to in text, was redesignated section 3632(h) of this title by Pub. L. 106-554, § 1(a)(4) [div. B, title I, § 144(c)(5)(B)], Dec. 21, 2000, 114 Stat. 2763, 2763A-239.

§ 3639. Advisory committee

(a) Appointment; membership

The United States Section shall appoint an advisory committee of not less than twelve but not more than twenty members who are knowledgeable and experienced with respect to fisheries subject to the Treaty. One-half the membership of the committee shall be residents of the State of Alaska and one member shall be a resident of the State of Idaho. Each member shall serve a term of two years and shall be eligible for reappointment.

(b) Functions

Members of the advisory committee may attend all public meetings of the Commission and Panels and all nonexecutive sessions of the United States Section and United States Panel sections. At nonexecutive meetings of the United States Section and United States Panel sections, members of the advisory committee shall be given the opportunity to examine and to be heard on any nonadministrative matter under consideration.

(c) Compensation

The members of the advisory committee shall receive no compensation for their services as such members.

(d) Meetings

The Chairman of the United States Section shall call a meeting of the advisory committee at least one time each year.

(Pub. L. 99-5, § 10, Mar. 15, 1985, 99 Stat. 13.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

¹ See References in Text note below.