

## EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

**§ 3902. Judicial review of regulations**

In any proceeding under section 1296 or 1346(g) of this title in which the application of a regulation issued under chapter 5 of title 3 is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this chapter is not subject to judicial review.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4070.)

## EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

**§ 3903. Effect of failure to issue regulations**

In any proceeding under section 1296 or 1346(g) of this title, if the President, the designee of the President, or the Federal Labor Relations Authority has not issued a regulation on a matter for which chapter 5 of title 3 requires a regulation to be issued, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4070.)

## EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

**§ 3904. Expedited review of certain appeals**

(a) **IN GENERAL.**—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of chapter 5 of title 3.

(b) **JURISDICTION.**—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in subsection (a), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4070.)

## EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

**§ 3905. Attorney's fees and interest**

(a) **ATTORNEY'S FEES.**—If a covered employee, with respect to any claim under chapter 5 of

title 3, or a qualified person with a disability, with respect to any claim under section 421 of title 3, is a prevailing party in any proceeding under section 1296 or section 1346(g), the court may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964.

(b) **INTEREST.**—In any proceeding under section 1296 or section 1346(g), the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964.

(c) **PUNITIVE DAMAGES.**—Except as otherwise provided in chapter 5 of title 3, no punitive damages may be awarded with respect to any claim under chapter 5 of title 3.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4070.)

## REFERENCES IN TEXT

Sections 706 and 717 of the Civil Rights Act of 1964, referred to in subsecs. (a) and (b), are classified to sections 2000e-5 and 2000e-16, respectively, of Title 42, The Public Health and Welfare.

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Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

**§ 3906. Payments**

A judgment, award, or compromise settlement against the United States under this chapter (including any interest and costs) shall be paid—

(1) under section 1304 of title 31, if it arises out of an action commenced in a district court of the United States (or any appeal therefrom); or

(2) out of amounts otherwise appropriated or available to the office involved, if it arises out of an appeal from an administrative proceeding under chapter 5 of title 3.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4071.)

## EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

**§ 3907. Other judicial review prohibited**

Except as expressly authorized by this chapter and chapter 5 of title 3, the compliance or non-compliance with the provisions of chapter 5 of title 3, and any action taken pursuant to chapter 5 of title 3, shall not be subject to judicial review.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4071.)

## EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

**§ 3908. Definitions**

For purposes of applying this chapter, the terms “employing office” and “covered em-