

"Taxpayer Relief Act of 1997." Section 904(a) of this Act provides that the excise tax on all covered vaccines under the VICP is 75 cents per dose and that combinations of vaccines are subject to an excise tax which is the sum of the amounts for each vaccine included in the combination. The amendments of the Taxpayer Relief Act also make effective the coverage of three new vaccines under the VICP—hepatitis B, Hib, and varicella vaccines.

On October 9, 1997, a Notice was published in the **Federal Register** (62 FR 52724) announcing the excise tax for these vaccines and that petitions for compensation for injuries or deaths related to hepatitis B, Hib, and varicella vaccines (items VIII, IX, X, and XI of the Table) may now be filed under the VICP. In accordance with section 2116(b) of the PHS Act, for injuries or deaths that occurred before August 6, 1997, for these three vaccines, petitions may be filed no later than August 6, 1999, provided that the injury or death occurred no earlier than August 6, 1989.

In accordance with section 904(b) of the Taxpayer Relief Act of 1997 which provides for an excise tax for these three new vaccines, this final rule (technical amendment) amends the CFR to include a date certain (August 6, 1997) in § 100.3(c) of the regulations for the coverage of these three new vaccines. Paragraph (c)(3) provides for inclusion of other new vaccines, as they may be added in the future under item XII of the Table.

Justification for Omitting Notice of Proposed Rulemaking

Since these amendments are of a technical nature, the Secretary has determined, pursuant to 5 U.S.C. 553 and departmental policy, that it is unnecessary and impractical to follow proposed rulemaking procedures or to delay the effective date of this final rule.

Economic Impact

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, safety distributive and equity effects). In addition, under the Regulatory Flexibility Act, if a rule has a significant economic effect on a substantial number of small entities, the Secretary must specifically consider the economic effect of a rule on small entities and analyze regulatory options that could lessen the impact of the rule.

Executive Order 12866 requires that all regulations reflect consideration of

alternatives, costs, benefits, incentives, equity, and available information. Regulations that are "significant" because of cost, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

The Department has determined that no resources are required to implement the requirements in this regulation. Therefore, in accordance with the Regulatory Flexibility Act of 1980 (RFA), and the Small Business Regulatory Enforcement Act of 1996, which amended the RFA, the Secretary certifies that these regulations will not have a significant impact on a substantial number of small entities. The Secretary has also determined that this final rule does not meet the criteria for a major rule as defined by Executive Order 12866. This technical amendment sets forth the effective date provision of coverage of certain vaccines to the Vaccine Injury Table. As such, this rule would have no major effect on the economy or on Federal or State expenditures.

Paperwork Reduction Act of 1995

This Final rule has no information collection requirements.

List of Subjects in 42 CFR Part 100

Biologics, Health insurance, Immunization.

Approved: April 28, 1998.

Claude Earl Fox,

Acting Administrator, Health Resources and Services Administration.

Accordingly, 42 CFR part 100 is amended as set forth below:

PART 100—VACCINE INJURY COMPENSATION

1. The authority citation for 42 CFR part 100 is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act (42 U.S.C. 216); sec. 2115 of the PHS Act, 100 Stat. 3767, as revised (42 U.S.C. 300aa-15); § 100.3, Vaccine Injury Table, issued under secs. 312 and 313 of Pub. L. 99-660, 100 Stat. 3779-3782 (42 U.S.C. 300aa-1 note) and sec. 2114(c) and (e) of the PHS Act, 100 Stat. 3766 and 107 Stat. 645 (42 U.S.C. 300aa-14(c) and (e); and sec. 904(b) of Pub. L. 105-34, 111 Stat. 873).

2. Section 100.3(c) is amended by revising its title, by adding "or (3)" in the first sentence of paragraph (c)(1) after the words "paragraph (c)(2)", by revising paragraph (c)(2), and by adding a new paragraph (c)(3) to read as follows:

§ 100.3 Vaccine injury table.

* * * * *

(c) *Coverage provisions.* * * *

(c)(2) Hepatitis B, Hib, and varicella vaccines (Items VIII, IX, X, and XI of the Table) are included in the Table as of August 6, 1997.

(c)(3) Other new vaccines (Item XII of the Table) will be included in the Table as of the effective date of a tax enacted to provide funds for compensation paid with respect to such vaccines. An amendment to this section will be published in the **Federal Register** to announce the effective date of such a tax.

[FR Doc. 98-12389 Filed 5-8-98; 8:45 am]

BILLING CODE 4160-15-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part O

[GC Docket No. 97-143; FCC 97-332]

Implementation of the Electronic Freedom of Information Act Amendments of 1996; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission (FCC) published in the **Federal Register** of October 3, 1997, a document amending its Freedom of Information Act (FOIA) regulations to implement the Electronic Freedom of Information Act Amendments of 1996 (EFOIA). Inadvertently, in § 0.461 paragraphs (i)(2) through (i)(5) were deleted from the rules. This document restores those rules.

EFFECTIVE DATE: May 11, 1998.

FOR FURTHER INFORMATION CONTACT: Laurence H. Schecker, Office of General Counsel, (202) 418-1720.

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register** of October 3, 1997 (62 FR 51795), amending its FOIA regulations to conform to the EFOIA. In FR Doc. 97-26205, published in the **Federal Register** of October 3, 1997, in § 0.461 paragraphs (i)(2) through (i)(5) were inadvertently deleted from the regulations. This correction restores those rules.

In rule FR Doc. 97-26205 published on October 3, 1997, (62 FR 51795) make the following corrections.

1. On page 51797, in the second column, revise amendatory instruction 7. to read as follows: "Section 0.461 is amended by redesignating paragraph (a) as paragraph (a)(1) and adding paragraph (a)(2), revising paragraphs

(d)(1) and (d)(3), paragraph (g) introductory text, paragraph (g)(3) and the concluding text of paragraph (g), redesignating paragraphs (h)(1) through (h)(5) and (i) as paragraphs (i)(1) through (i)(5) and (j), revising newly designated paragraphs (i)(1) and (j), adding new paragraph (h), and revising paragraph (k) introductory text and paragraph (k)(3) to read as follows:"

2. On page 51798, in the first column, second line from the bottom, insert the designation "(1)" after the designation "(i)" and before the word "If".

3. On page 51798, in the second column, insert 5 asterisks in a line following paragraph (i)(1) and preceding paragraph (j).

Magalie Roman Salas,

Secretary.

[FR Doc. 98-12411 Filed 5-8-98; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF ENERGY

48 CFR Part 970

RIN 1991-AB43

Acquisition Regulation: Limitation on Allowability of Compensation for Certain Contractor Personnel

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) amends its Acquisition Regulation to incorporate the statutory provisions contained in Section 808 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85). Section 808 establishes a cap on allowable compensation costs for certain officers of Department of Defense and civilian agency contractors which applies to costs of compensation incurred after January 1, 1998 for executive compensation.

DATES: This rule is effective on May 11, 1998.

ADDRESSES: Terrence D. Sheppard, Office of Policy (HR-51), Office of Procurement and Assistance Policy, Department of Energy, 1000 Independence Avenue S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Terrence D. Sheppard (202) 586-8193; e-mail terry.sheppard@hq.doe.gov; fax (202) 586-0545.

SUPPLEMENTARY INFORMATION:

I. Background

II. Section by Section Analysis

III. Procedural Requirements

A. Review Under Executive Order 12866

B. Review Under Executive Order 12988

C. Review Under the Paperwork Reduction Act

D. Review Under the National Environmental Policy Act

E. Review Under Executive Order 12612

F. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

G. Review Under the Unfunded Mandates Reform Act of 1995

I. Background

This notice amends the Department of Energy Acquisition Regulation (DEAR) based on provisions contained in Section 808 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85). Section 808 establishes a cap on allowable compensation costs for certain officers of Department of Defense and civilian agency contractors which applies to costs of compensation incurred after January 1, 1998, under covered contracts entered into before, on, or after the date of enactment of the Act. Section 808 states that costs of compensation of senior executives of contractors for a fiscal year, regardless of the contract funding source, to the extent that such compensation exceeds the benchmark compensation amount determined applicable for the fiscal year by the Administrator for Federal Procurement Policy, are unallowable.

Further, for purposes of section 2324(e)(1)(P) of title 10, United States Code, and section 306(e)(1)(P) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(e)(1)(P)), the Administrator shall review commercially available surveys of executive compensation and, on the basis of the results of the review, determine a benchmark compensation amount to apply for each fiscal year. In making determinations under this subsection the Administrator shall consult with the Director of the Defense Contract Audit Agency and such other officials of executive agencies as the Administrator considers appropriate.

The benchmark compensation amount applicable for a fiscal year is the median amount of the compensation provided for all senior executives of all benchmark corporations for the most recent year for which data is available at the time the determination under subsection (a) is made.

The term "compensation", for a fiscal year, means the total amount of wages, salary, bonuses and deferred compensation for the fiscal year, whether paid, earned, or otherwise accruing, as recorded in an employer's cost accounting records for the fiscal year.

The term "senior executive", with respect to a corporation, means the chief

executive officer of the corporation or any individual acting in a similar capacity for the corporation; the four most highly compensated employees in management positions of the corporation other than the chief executive officer; and in the case of a corporation that has components which report directly to the corporate headquarters, the five most highly compensated individuals in management positions at each such component.

The term "benchmark corporation", with respect to a fiscal year, means a publicly-owned United States corporation that has annual sales in excess of \$50,000,000 for the fiscal year.

The term "publicly-owned United States corporation" means a corporation organized under the laws of a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States and the voting stock of which is publicly traded.

The term "fiscal year" means a fiscal year established by a contractor for accounting purposes.

II. Section by Section Analysis

1. The authority for Part 970 is restated.

2. Section 970.3102-2, Compensation for personnel services, is revised by adding a new paragraph (q) which addresses the statutory compensation limits.

3. Section 970.5204-13(d)(8) is revised by adding a new paragraph (viii) which addresses the statutory compensation limits.

4. Section 970.5204-14(d)(8) is revised by adding a new paragraph (viii) which addresses the statutory compensation limits.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following