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outside the United States: See appendix A to part 581 of this chapter.

For requests that apply to civilian employees of the Army Corps of Engineers, the National Security Agency, the Defense Intelligence Agency, and non-appropriated fund civilian employees of the Air Force, serve the following offices:

*Civilian employees of the Army Corps of Engineers*. Defense Finance and Accounting Service, Office of General Counsel, Attn: Garnishment Law Directorate, P.O. Box 998002, Cleveland, OH 44199–8002, Fax: 216–367–3675; Toll-Free Fax: 877–622–5930, Phone: 888–332–7411.

*Army Non-Appropriated Fund Employees in Europe*. Defense Finance and Accounting Service, Office of General Counsel, Attn: Garnishment Law Directorate, P.O. Box 998002, Cleveland, OH 44199–8002, Fax: 216–367–3675; Toll-Free Fax: 877–622–5930, Phone: 888–332–7411.

*National Security Agency*. General Counsel, National Security Agency/Central Security Service, 9800 Savage Rd., Ft. George G. Meade, MD 20755–6000, (301) 688–6705.

*Defense Intelligence Agency*. Office of General Counsel, Defense Intelligence Agency, Pentagon, 2E238, Washington, DC 20340–1029, (202) 697–3945.

*Air Force Non-Appropriated Fund Employees*. Office of General Counsel, Air Force Services Agency, 10100 Reunion Place, Suite 503, San Antonio, TX 78216–4138, (210) 652–7051.

For civilian employees of the Army, Navy and Marine Corps who are employed outside the United States, serve the following offices:

*Army Civilian Employees in Europe*. Commander, 266th Theater Finance Command, ATTN: AEUCF–CPF, APO AE 09007–0137, 011–49–6221–57–6303/2136, DSN 370–6303/2136.

*Army Civilian Employees in Japan*. Commander, U.S. Army Finance and Accounting Office, Japan, ATTN: APAJ–RM–FA–E–CP, Unit 45005, APO AP 96343–0087, DSN 233–3362.

*Army Civilian Employees in Korea*. Commander, 175th Finance and Accounting Office, Korea, ATTN: EAFC–FO (Civilian Pay), Unit 15300, APO AP 96205–0073, 011–822–791–4599, DSN 723–4599.

*Army Civilian Employees in Panama*. DCSRM Finance & Accounting Office, ATTN: SORM–FAP–C, Unit 7153, APO AA 34004–5000, 011–507–287–6766, DSN 287–5312.

*Navy and Marine Corps Civilian Employees Overseas*. Director of the Office of Civilian Personnel Management, Office of Counsel, Office of Civilian Personnel Management (OCPM–OL), Department of the Navy, 800 N. Quincy Street, Arlington, VA 22203–1990, (703) 696–4717.

*Navy and Marine Corps Non-Appropriated Fund Employees*. The agents are the same as those designated to receive garnishment orders of Navy and Marine Corps non-appropriated fund personnel for the collection of child support and alimony, published at 5 CFR part 581, appendix A, except as follows:

For non-civil service civilian personnel of Marine Corps non-appropriated fund instrumentalities, process may be served on the Commanding Officer of the employing activity, ATTN: Morale, Welfare and Recreation Director.

*Department of the Interior*. Chief, Payroll Operations Division, Attn: Code: D–2605, Bureau of Reclamation, Administrative Service Center, Department of the Interior, P.O. Box 272030, 7201 West Mansfield Avenue, Denver, CO 80227–9030, (303) 969–7739.

[88 FR 32090, May 19, 2023]

# PART 591—ALLOWANCES AND DIFFERENTIALS

## Subpart A—Uniform Allowances

Sec.

591.101 Purpose.
591.102 Definitions.
591.103 Governmentwide maximum uniform allowance rate.
591.104 Higher initial maximum uniform allowance rate.

## Subpart B—Cost-of-Living Allowance and Post Differential—Nonforeign Areas

591.201 Definitions.

COST-OF-LIVING ALLOWANCES AND POST DIFFERENTIALS

591.202 Why does the Government pay COLAs?
591.203 Why does the Government pay post differentials?
591.204 Who can receive COLAs and post differentials?
591.205 Which areas are nonforeign areas?

COST-OF-LIVING ALLOWANCES

591.206 How does OPM establish COLA areas?
591.207 Which areas are COLA areas?
591.208 How does OPM establish COLA rates?
591.209 What is a price index?
591.210 What are weights?
591.211 What are the categories of consumer expenditures?
591.212 How does OPM select survey items?
591.213 What prices does OPM collect?
591.214 How does OPM collect prices?
591.215 Where does OPM collect prices in the COLA and DC areas?
591.216 How does OPM combine survey data for the DC area and for COLA areas with multiple survey areas?
591.217 In which outlets does OPM collect prices?

591.218 How does OPM compute price indexes?
591.219 How does OPM compute shelter price indexes?
591.220 How does OPM calculate energy utility cost indexes?
591.221 How does OPM compute the consumer expenditure weights it uses to combine price indexes?
591.222 How does OPM use the expenditure weights to combine price indexes?
591.223 When does OPM conduct COLA surveys?
591.224 How does OPM adjust price indexes between surveys?
591.225 Which CPIs does OPM use?
591.226 How does OPM apply the CPIs?
591.227 What adjustment factors does OPM add to the price indexes?
591.228 How does OPM convert the price index plus adjustment factor to a COLA rate?
591.229 How does OPM inform agencies and employees of COLA rate changes?

POST DIFFERENTIALS

591.230 When does OPM establish post differential areas?
591.231 Which areas are post differential areas?
591.232 How does OPM establish and review post differentials?
591.233 Who can receive a post differential?
591.234 Under what circumstances may people recruited locally receive a post differential?

PROGRAM ADMINISTRATION

591.235 When do COLA and post differential payments begin?
591.236 When do COLA and post differential payments end?
591.237 Under what circumstances may employees on leave or travel receive a COLA and/or post differential?
591.238 How do agencies pay COLAs and post differentials?
591.239 How do agencies treat COLAs and post differentials for the purpose of overtime pay and other entitlements?
591.240 How are agency and employee representatives involved in the administration of the COLA and post differential programs?
591.241 What are the key activities of the COLA Advisory Committees?
591.242 What is the tenure of a COLA Advisory Committee?
591.243 How many members are on each COLA Advisory Committee?
591.244 How does OPM select COLA Advisory Committee members?

APPENDIX A TO SUBPART B OF PART 591—PLACES AND RATES AT WHICH ALLOWANCES ARE PAID

APPENDIX B TO SUBPART B OF PART 591—PLACES AND RATES AT WHICH DIFFERENTIALS ARE PAID

**Subpart C—Allowance Based on Duty at Remote Worksites**

591.301 Purpose.
591.302 Coverage.
591.303 Responsibilities of agencies and the Office of Personnel Management.
591.304 Criteria for determining remoteness.
591.305 Allowance rates.
591.306 Employee eligibility for an allowance.
591.307 Payment of allowance rate.
591.308 Relationship to additional pay payable under other statutes.
591.309 Effective date for payment of allowances.
591.310 Effect of regulations in this subpart on allowances established under previous statutes.

APPENDIX A TO SUBPART C OF PART 591—DAILY TRANSPORTATION ALLOWANCE SCHEDULE, COMMUTING OVER LAND BY PRIVATE MOTOR VEHICLE TO REMOTE DUTY POSTS

APPENDIX B TO SUBPART C OF PART 591—DAILY INCONVENIENCE OR HARDSHIP ALLOWANCE SCHEDULE, COMMUTING OVER LAND BY MOTOR VEHICLE TO REMOTE DUTY POSTS

**Subpart D—Separate Maintenance Allowance for Duty at Johnston Island**

591.401 Purpose and applicability.
591.402 Definitions.
591.403 Amount of payment.
591.404 Method of payment.
591.405 Responsibilities of agencies.
591.406 Records and reports.

## Subpart A—Uniform Allowances

AUTHORITY: 5 U.S.C. 5903; E.O. 12748, 3 CFR 1991 Comp., p. 316.

SOURCE: 59 FR 43705, Aug. 25, 1994, unless otherwise noted.

### § 591.101 Purpose.

This subpart prescribes the regulations authorized by section 5903 of title 5, United States Code, for the payment of uniform allowances.

### § 591.102 Definitions.

*Agency* means an ''Executive agency,'' as defined in 5 U.S.C. 105.

*Employee* means an employee in or under an agency.

*Category of employees* means any group of employees designated by an agency that has the same basic uniform requirements.

*Head of agency* means the head of an agency or an official who has been delegated the authority to act for the head of the agency in the matter concerned.

*Uniform* means a specified article or articles of clothing that may include, but is not limited to, such items as shoes, boots, hats, shirts, slacks, skirts, or outerwear an employee is required by an agency to wear to provide a distinctive and easily identifiable appearance in performing his or her job. A ''uniform'' does not include protective equipment required for the employee's safety under 5 U.S.C. 7903 or normal business or work attire purchased at the discretion of the employee.

*Year* means any period of 12 consecutive months designated by an agency as the basis for applying the maximum uniform allowance rates established under this part.

### § 591.103 Governmentwide maximum uniform allowance rate.

Unless a higher initial maximum uniform allowance rate is payable under § 591.104 to an employee who is required by statute, regulation, or an agency's written administrative procedures to wear a uniform, the head of each agency concerned, out of funds available, shall—

(a) Pay an allowance for a uniform not to exceed $800 a year; or

(b) Furnish a uniform at a cost not to exceed $800 a year.

(c) Any agency which provides a uniform allowance under paragraph (a) of this section must establish policies to administer the uniform allowance program, including uniform standards acceptable to the agency.

[59 FR 43705, Aug. 25, 1994, as amended at 72 FR 20702, Apr. 26, 2007]

### § 591.104 Higher initial maximum uniform allowance rate.

(a) The head of an agency may establish one or more initial maximum uniform allowance rates greater than the Governmentwide maximum uniform allowance rate established under § 591.103.

(b) A higher initial maximum uniform allowance rate established under this section may not exceed the average total uniform cost for the minimum basic uniform for the affected employees and, except as provided in paragraph (c) of this section, applies only to the year in which the employee becomes subject to a requirement to wear the uniform.

(c) An agency that establishes one or more higher initial maximum uniform allowance rates under this section may divide the cost of the minimum basic uniform and continue a higher initial maximum uniform allowance for the year following the year the employee first becomes subject to the requirement to wear the uniform, provided the agency publishes a notice of its intention to continue such payments in the FEDERAL REGISTER for notice and comment.

(d) Before establishing a higher initial maximum uniform allowance rate under this section, an agency shall publish in the FEDERAL REGISTER for notice and comment—

(1) A description and justification of the circumstances requiring a higher initial maximum uniform allowance rate;

(2) An estimate of the number of employees affected;

(3) The specific items required for the basic uniform and the average total uniform cost for the affected employees;

(4) The amount of the proposed higher initial maximum uniform allowance rate to be paid during the year the employee first becomes subject to the uniform requirement;

(5) The proposed effective date of the higher initial maximum uniform allowance rate; and,

(6) The intent of the agency (if any) to divide the cost of a minimum basic uniform and continue to make higher initial maximum basic uniform allowance payments in the year following the year the employee first becomes subject to the uniform requirement.

(e) So that OPM can evaluate agencies' use of this authority and provide the Congress and others with information regarding the use of a higher initial maximum uniform allowance rate, each agency concerned shall maintain

such other records and submit to OPM such other reports and data as OPM shall require.

(f) When OPM determines that an agency is using this authority inappropriately, OPM may require its prior approval before that agency establishes any future higher initial maximum uniform allowance rate.

(g) An agency may increase a higher initial maximum uniform allowance rate only as a result of an increase in the average total uniform cost for the affected employees. Before effecting an increase under this paragraph, an agency shall follow the notice and comment procedures required by paragraph (d) of this section.

(h) To establish a higher initial maximum uniform allowance rate applicable to the initial year a new style or type of minimum basic uniform is required for a category of employees, an agency shall use the higher initial maximum uniform allowance procedures provided under this section.

## Subpart B—Cost-of-Living Allowance and Post Differential—Nonforeign Areas

AUTHORITY: 5 U.S.C. 5941; E.O. 10000, 3 CFR, 1943–1948 Comp., p. 792; and E.O. 12510, 3 CFR, 1985 Comp., p. 338.

SOURCE: 67 FR 22340, May 3, 2002, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to subpart B of part 591 appear at 70 FR 31313, May 31, 2005.

### § 591.201 Definitions.

In this subpart—

*Agency* means an Executive agency as defined in section 105 of title 5, United States Code, but does not include Government-controlled corporations.

*Bureau of Labor Statistics (BLS)* means the Bureau of Labor Statistics of the Department of Labor.

*Commonwealth of the Northern Mariana Islands (CNMI)* means the Commonwealth of the Northern Mariana Islands, which is part of the Guam/CNMI COLA area.

*Consumer Expenditure Survey (CES)* means the BLS survey of consumers and their expenditures.

*Consumer Price Index (CPI)* means the BLS survey of the change of consumer prices over time.

*Cost-of-living allowance (COLA)* means an allowance that the Office of Personnel Management (OPM) establishes under 5 U.S.C. 5941 at a location in a nonforeign area where living costs are substantially higher than in the Washington, DC, area.

*Cost-of-living allowance area* means a geographic area for which OPM has authorized a COLA. COLA areas are listed in § 591.207.

*Detailed Expenditure Category (DEC)* means the lowest level of expenditure shown in tabulated nationwide CES data.

*Major Expenditure Group (MEG)* means one of the nine major groups into which OPM categorizes expenditures. These categories are food, shelter and utilities, clothing, transportation, household furnishings and supplies, medical, education and communication, recreation, and miscellaneous.

*Nonforeign area* means one of the areas listed in § 591.205.

*Office of Personnel Management (OPM)* means the Office of Personnel Management.

*Official worksite* means the official location of an employee's position of record as determined under 5 CFR 531.605.

*Position of record* means an employee's official position (defined by grade, occupational series, employing agency, law enforcement officer status, and any other condition that determines coverage under a pay schedule (other than official worksite)), as documented on the employee's most recent Notification of Personnel Action (Standard Form 50 or equivalent) and the current position description, excluding any position to which the employee is temporarily detailed. For an employee whose change in official position is followed within 3 workdays by a reduction in force resulting in the employee's separation before he or she is required to report for duty in the new position, the position of record in effect immediately before the position change is deemed to remain the position of record through the date of separation.

*Post differential* means an allowance OPM establishes under 5 U.S.C. 5941 at a location in a nonforeign area where conditions of environment differ substantially from conditions of environment in the contiguous United States and warrant its payment as a recruitment incentive.

*Post differential area* means a geographic area for which OPM authorizes a post differential. Post differential areas are listed in § 591.231.

*Primary Expenditure Group (PEG)* means one of approximately 40 expenditure groups into which OPM categorizes expenditures. A PEG is the first level of categorization under the MEG.

*Rate of basic pay* means the rate of pay fixed by statute for the position held by an individual, including any supplement included as part of basic pay under this subpart by law or regulation (e.g., a special rate supplement under 5 CFR part 530, subpart C), before any deductions and exclusive of additional pay of any other kind, such as overtime pay, night differential, extra pay for work on holidays, or other allowances and differentials. For firefighters covered by 5 U.S.C. 5545b, straight-time pay for regular overtime hours is basic pay, as provided in § 550.1305(b) of this chapter.

*Washington, DC, area* or *DC area* means the District of Columbia; Montgomery County, MD; Prince Georges County, MD; Arlington County, VA; Fairfax County, VA; Prince William County, VA; and the independent cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, Virginia; and in the context of certain survey items, includes additional geographic locations beyond these jurisdictions.

[67 FR 22340, May 3, 2002, as amended at 69 FR 59762, Oct. 6, 2004; 70 FR 31314, May 31, 2005]

## COST-OF-LIVING ALLOWANCES AND POST DIFFERENTIALS

### § 591.202 Why does the Government pay COLAs?

The Government pays COLAs as additional compensation to certain civilian Federal employees in specified nonforeign areas in consideration of higher living costs in the local area compared with living costs in the Washington, DC, area.

### § 591.203 Why does the Government pay post differentials?

The Government pays post differentials to certain civilian Federal employees in specified nonforeign areas as a recruitment incentive based on conditions of environment in the local area compared with conditions in the continental United States. Post differentials are designed to attract persons from outside the area to work for the Federal Government in the post differential area.

### § 591.204 Who can receive COLAs and post differentials?

(a) Agencies pay COLAs and post differentials authorized under this subpart to civilian Federal employees whose rates of basic pay are fixed by statute. The following pay plans are covered by this subpart:

(1) General Schedule,

(2) Veterans Health Administration (Department of Veterans Affairs),

(3) Foreign Service (including the Senior Foreign Service),

(4) Postal Service (where applicable under title 39, United States Code),

(5) Administrative law judges paid under 5 U.S.C. 5372,

(6) Senior Executive Service (including the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service),

(7) Senior-level and scientific or professional positions paid under 5 U.S.C. 5376, and

(8) Administrative appeals judges paid under 5 U.S.C. 5372b.

(b) At its sole discretion and consistent with the intent of 5 U.S.C. 5941, an agency may apply this subpart to other positions authorized by specific law.

(c) Agencies pay COLAs to employees covered by paragraphs (a) or (b) of this section and whose official worksite is in a COLA area as defined in § 591.207.

(d) Agencies pay post differentials to employees covered by paragraphs (a) or (b) of this section whose official worksite or detail to temporary duty is in a post differential area as defined in

§ 591.231 and who are eligible to receive a post differential under § 591.233.

### § 591.205 Which areas are nonforeign areas?

(a) The nonforeign areas are States, commonwealths, territories, and possessions of the United States outside the 48 contiguous United States and any additional areas the Secretary of State designates as being within the scope of Part II of Executive Order 10000, as amended.

(b) The following areas are nonforeign areas:

(1) State of Alaska;

(2) State of Hawaii;

(3) American Samoa (including the island of Tutuila, the Manua Islands, and all other islands of the Samoa group east of longitude 171 degrees west of Greenwich, together with Swains Island);

(4) Commonwealth of Puerto Rico;

(5) Commonwealth of the Northern Mariana Islands;

(6) Howland, Baker, and Jarvis Islands;

(7) Johnston Atoll;

(8) Kingman Reef;

(9) Midway Atoll;

(10) Navassaa Island;

(11) Palmyra Atoll;

(12) Territory of Guam;

(13) United States Virgin Islands;

(14) Wake Atoll;

(15) Any small guano islands, rocks, or keys that, in pursuance of action taken under the Act of Congress, August 18, 1856, are considered as pertaining to the United States; and

(16) Any other islands outside of the contiguous 48 states to which the U.S. Government reserves claim.

## COST-OF-LIVING ALLOWANCES

### § 591.206 How does OPM establish COLA areas?

(a) OPM designates, within nonforeign areas, areas where agencies pay employees a COLA by virtue of living costs that are substantially higher than those in the Washington, DC, area. In establishing the boundaries of COLA areas, OPM considers—

(1) The existence of a well-defined economic community,

(2) The availability of consumer goods and services,

(3) The concentration of Federal employees covered by this subpart, and

(4) Unique circumstances related to a specific location.

(b) If a department or agency wants OPM to consider establishing or revising the definition of a COLA area, the head of the department or agency or his or her designee must submit a request in writing to OPM.

### § 591.207 Which areas are COLA areas?

OPM has established the following COLA areas:

(a) City of Anchorage, AK, and 80-kilometer (50-mile) radius by shortest route using paved roads when available, as measured from the Federal courthouse to the official duty station;

(b) City of Fairbanks, AK, and 80-kilometer (50-mile) radius by shortest route using paved roads when available, as measured from the Federal courthouse to the official duty station;

(c) City of Juneau, AK, and 80-kilometer (50-mile) radius by shortest route using paved roads when available, as measured from the Federal courthouse to the official duty station;

(d) Rest of the State of Alaska;

(e) City and County of Honolulu, HI;

(f) County of Hawaii, HI;

(g) County of Kauai, HI;

(h) County of Maui (including Kalawao County), HI;

(i) Commonwealth of Puerto Rico;

(j) Territory of Guam and Commonwealth of the Northern Mariana Islands; and

(k) U.S. Virgin Islands.

[67 FR 22340, May 3, 2002, as amended at 73 FR 65245, Nov. 3, 2008]

### § 591.208 How does OPM establish COLA rates?

OPM establishes COLA rates based on price differences between the COLA area and the Washington, DC, area, plus an adjustment factor. OPM expresses price differences as indexes.

(a) OPM computes price indexes for various categories of consumer expenditures.

(b) OPM combines the price indexes using Consumer expenditure weights to produce an overall price index for the COLA area.

(c) To combine overall price indexes for COLA areas with multiple survey

areas, OPM uses employment weights to combine overall price indexes by survey area for COLA areas. The COLA areas that have multiple survey areas are listed in § 591.215(b).

(d) OPM adds an adjustment factor to the overall price index for the COLA area.

### § 591.209 What is a price index?

(a) The price index is the COLA area price divided by the DC area price and multiplied by 100.

(b) Example:

COLA Area Average Price for Item A = $1.233

DC Area Average Price for Item A = $1.164

Computation:

$1.233/$1.164 = 1.0592783

$1.0592783 \times 100 = 105.92783$.

(c) In the case of the final index, OPM rounds the index to two decimal places.

### § 591.210 What are weights?

(a) A weight is the relative importance or share of a subpart of a group compared with the total for the group. A weight is frequently expressed as a percentage. For example, in a pie chart, each wedge has a percentage that represents its relative importance or the size of the wedge compared with the whole pie.

(b) OPM uses two kinds of weights: Consumer expenditure weights and employment weights.

(1) *Consumer expenditure weights.* The consumer expenditure weight for a category of expenditures (e.g., Food) is the relative importance or share (often expressed as a percentage) of that category in terms of total consumer expenditures. OPM derives consumer expenditure weights from the tabulated results of the Bureau of Labor Statistics (BLS) Consumer Expenditure Survey (CES).

(2) *Employment weights.* The employment weight is the relative employment population of the survey area compared with the employment population of the COLA area as a whole. OPM uses the number of General Schedule employees in the survey area to compute employment weights. OPM uses these employment weights as described in § 591.216(b).

### § 591.211 What are the categories of consumer expenditures?

OPM uses three different types of categories: Major expenditure groups, primary expenditure groups, and detailed expenditure categories.

(a) *Major expenditure groups.* OPM groups expenditures into nine major expenditure groups (MEGs). These categories are food, shelter and utilities, clothing, transportation, household furnishings and supplies, medical, education and communication, recreation, and miscellaneous.

(b) *Primary expenditure groups.* OPM subdivides each MEG into primary expenditure groups (PEGs). There are approximately 40 PEGs.

(c) *Detailed expenditure categories.* OPM further subdivides each PEG into other categories down to the detailed expenditure categories (DECs), which are generally equivalent to the most detailed level of tabulated CES categories. OPM classifies each DEC into one of the PEGs to aggregate DECs with similar demand and cost characteristics into PEGs. Alternatively, OPM may remove the DEC entirely from the list of expenditures. Therefore, the classification of the DECs into PEGs and sub-PEGs does not necessarily follow that used in published CES tables.

### § 591.212 How does OPM select survey items?

(a) OPM selects a sufficient number of items to represent PEGs and reduce overall price index variability. In selecting these items, OPM applies the following guidelines. The item should be—

(1) Relatively important (*i.e.*, represent a DEC with a relatively large weight) within the PEG;

(2) Relatively easy to find in both COLA and DC areas;

(3) Relatively common, *i.e.*, what people typically buy;

(4) Relatively stable over time, e.g., not a fad item; and

(5) Subject to similar supply and demand functions.

(b) To the extent practical, the items OPM surveys in the COLA area must be identical to the items that OPM surveys in the DC area or be of closely similar quality and quantity, with

quantity adjustments as necessary. An example of a quantity adjustment is converting prices for 10 and 12 oz. packages to a price per pound.

(c) Within any DEC, OPM may specify items that differ in quality and quantity from other items specified for the same DEC. However, when OPM compares prices for such items between the COLA area and the DC area, OPM compares prices of like products.

### § 591.213 What prices does OPM collect?

(a) OPM surveys the price charged to the consumer at the time of the survey. The price includes any sales, excise, or general business tax passed on to the consumer at the time of sale and any discounts, mark-downs, or ''sales'' in progress at the time the price was collected.

(b) *Exceptions:* (1) OPM does not collect coupon prices, clearance prices, going-out-of-business prices, or area-wide distress sale prices.

(2) OPM prices automobiles at dealers and obtains the sticker (*i.e.*, non-negotiated) price for the model and specified options. The prices are the manufacturer's suggested retail price (including options), destination charges, additional shipping charges, appropriate dealer-added items or options, dealer mark-up, and taxes.

(3) OPM estimates prices for selected items, such as health insurance and K–12 education, based on employee usage of the item. For example, OPM estimates health insurance prices based on the employee's share of the premium costs and weights reflecting Federal enrollment, as reported in OPM's Central Personnel Data File, in the various plans available to Federal employees in each area.

[67 FR 22340, May 3, 2002, as amended at 69 FR 59762, Oct. 6, 2004]

### § 591.214 How does OPM collect prices?

(a) OPM collects most prices by visiting or calling retail outlets in each survey area and observing or verbally obtaining the item prices.

(b) OPM prices some items by catalog, Internet, or a similar source. Other items, not normally sold within an area, may be priced in a different area. In either case, the price of such items includes any applicable taxes, shipping, and handling charges. When an item is normally sold within an area but is not available at the time of survey, OPM may, on a case-by-case basis, use the price of the item in a neighboring survey or COLA area.

### § 591.215 Where does OPM collect prices in the COLA and DC areas?

(a) *Survey areas.* Each COLA area has one survey area, except Hawaii County, HI, and the U.S. Virgin Islands COLA areas. Hawaii County has two survey areas: the Hilo area and the Kailua Kona/Waimea area. The U.S. Virgin Islands also has two survey areas: the Island of St. Croix and the Islands of St. Thomas and St. John. The Washington, DC, area has three survey areas: the District of Columbia, the Maryland suburbs of the District of Columbia, and the Virginia suburbs of the District of Columbia. OPM collects non-housing data throughout the survey area, and for selected items such as golf, snow skiing, and air travel, OPM collects non-housing data in additional geographic locations. OPM may collect housing data throughout the survey area or in specific housing data collection areas. The following table shows the survey areas:

SURVEY AREAS

| COLA and reference areas | Survey areas and geographic coverage |
|---|---|
| Anchorage | City of Anchorage.[1] |
| Fairbanks | Fairbanks/North Pole area.[1] |
| Juneau | Juneau/Mendenhall/Douglas area.[1] |
| Rest of Alaska | See paragraph (c) of this section. |
| Honolulu | City and County of Honolulu. |
| Hawaii County | Hilo area.[1] |
| | Kailua Kona/Waimea area. |
| Kauai | Kauai Island. |
| Maui | Maui Island. |
| Guam & CNMI | Guam. |
| Puerto Rico | San Juan/Caguas area.[2] |
| U.S. Virgin Islands | St. Croix. |
| | St. Thomas/St. John area.[3] |
| Washington, DC-DC | District of Columbia.[1] |
| Washington, DC-MD. | Montgomery County and Prince Georges County.[1] |
| Washington, DC-VA | Arlington County, Fairfax County, Prince William County, City of Alexandria, City of Fairfax, City of Falls Church, City of Manassas, and City of Manassas Park.[1] |

[1] For selected items, such as golf, snow skiing, and air travel, these survey areas may include additional geographic locations beyond these jurisdictions.

[2] OPM may collect housing data in other areas in Puerto Rico that have a significant concentration of Federal employees stationed in those areas.

[3] OPM collects housing data in St. John. OPM also may collect non-housing data from selected outlets in St. John.

(b) *Rest of the State of Alaska COLA area.* OPM may collect survey data onsite, use alternative indicators of relative living costs (e.g., price and cost information published by the University of Alaska), or both. If the use of alternative indicators would result in a COLA rate reduction, OPM will conduct onsite surveys in one or more locations in the Rest of the State of Alaska COLA area, before making a reduction, to ensure that the reduction is warranted.

(c) *Determining Survey Coverage.* To aid OPM in determining survey coverage, OPM may from time to time conduct surveys of Federal employees in the COLA areas and/or the Washington, DC, area to determine where employees shop and what they spend on certain goods or services and to collect other information related to the price surveys and the calculation of price indexes.

[67 FR 22340, May 3, 2002, as amended at 69 FR 59762, Oct. 6, 2004]

### § 591.216 How does OPM combine survey data for the DC area and for COLA areas with multiple survey areas?

(a) *Washington, DC, area.* For each survey item except shelter, OPM averages separately the prices collected in each of the DC survey areas identified in § 591.215(a) and then averages these average prices together using equal weights to compute an overall average by item for the DC area.

(b) *COLA areas with multiple survey areas.* OPM computes weighted average indexes at the item, PEG, MEG, and/or overall level by using the corresponding indexes and Federal employment weights from each survey area within the COLA area.

[67 FR 22340, May 3, 2002, as amended at 69 FR 59763, Oct. 6, 2004]

### § 591.217 In which outlets does OPM collect prices?

OPM collects prices in popular outlets in each survey area. OPM selects these outlets based on their proximity to the housing data collection areas, accessibility by road, physical size, advertising, and other characteristics that reflect sales volume. To the extent practical, OPM prices like items in the same types of outlets in the COLA areas and the Washington, DC, area. As warranted, OPM also may conduct point-of-purchase surveys and select outlets based on the results of those surveys.

### § 591.218 How does OPM compute price indexes?

Except for shelter and energy utilities, OPM averages by item the prices collected in each survey area. For the Washington, DC, area, OPM computes a simple average for each item based on the average prices from each DC survey area. On an item-by-item basis, OPM divides the COLA survey area average price by the DC average price and produces a price index.

### § 591.219 How does OPM compute shelter price indexes?

(a) In addition to rental and rental equivalence prices and/or estimates, OPM obtains for each unit surveyed information about the important characteristics of the unit, such as size, number of bathrooms, and other amenities that reflect the quality of the unit.

(b) OPM then uses these characteristics and rental prices and/or estimates in hedonic regressions (a type of multiple regression) to compute for each COLA survey area the price index for rental and/or rental equivalent units of comparable quality and size between the COLA survey area and the Washington, DC, area.

[67 FR 22340, May 3, 2002, as amended at 69 FR 59763, Oct. 6, 2004]

### § 591.220 How does OPM calculate energy utility cost indexes?

(a) OPM calculates energy utility cost indexes based on the relative cost of maintaining a standard size dwelling in each area at a given ambient temperature and the cost of other energy uses. Although the dwelling size may vary from one COLA survey area to another, OPM compares the utility cost for the same size dwelling in the COLA survey area and the Washington, DC, area.

(b) OPM applies the following six-step process to compute a cost index(es) for heating and cooling a

standard home to a given ambient temperature and to combine the cost index(es) by energy type (e.g., electricity and natural gas) with cost indexes for other energy uses.

(1) *Step 1.* OPM obtains technical information about the requirements by major energy type for heating and cooling a standard size dwelling, built according to current local building practices and codes in each area, given local climatic conditions (e.g., seasonal temperature and humidity). OPM also obtains similar information for use of energy types in other household operations (e.g., hot water, cooking, cleaning, recreation).

(2) *Step 2.* OPM obtains from the shelter survey, a survey of Federal employees, or other appropriate sources, information on dwelling size and the types and prevalence of heating and cooling equipment and energy types (e.g., electricity, gas, and oil) in each area.

(3) *Step 3.* OPM computes estimates of total home energy requirements by energy type attributable to heating and cooling plus all other household energy uses for the COLA survey area and the Washington, DC, area.

(4) *Step 4.* OPM surveys utility prices for each major energy type appropriate to the area.

(5) *Step 5.* OPM combines the above data to produce for each COLA survey area the cost of maintaining the standard size dwelling at a given ambient temperature and the cost of other household energy uses.

(6) *Step 6.* OPM compares the COLA survey area cost with the DC area cost to produce a price index.

### § 591.221 How does OPM compute the consumer expenditure weights it uses to combine price indexes?

OPM uses the following ten-step process to compute consumer expenditure weights:

(a) *Step 1.* OPM obtains the latest BLS tabulated CES data nationwide and for the Washington, DC, area.

(b) *Step 2.* In both the nationwide and DC area tabulated data, OPM replaces the homeowners' expenditures for shelter with estimated rental values of owned homes that are available elsewhere in tabulated CES data. Note: These replacements are consistent with the rental equivalence approach described in § 591.219.

(c) *Step 3.* OPM selects the central income groups in the nationwide CES tabulation.

(d) *Step 4.* OPM calculates the expenditure shares (*i.e.*, percentages) for each central income group by dividing each of its DEC expenditures by total expenditures for the income group. OPM also calculates expenditure shares for total nationwide expenditures by dividing each nationwide DEC expenditure by total nationwide expenditures.

(e) *Step 5.* OPM computes a democratic distribution of expenditure shares by averaging the central income groups' shares at each DEC and higher level of aggregation.

(f) *Step 6.* OPM computes a set of ratios by dividing each expenditure share of the nationwide democratic distribution by the corresponding expenditure share of the total national distribution.

(g) *Step 7.* OPM computes estimated expenditures for Washington DC for each DC DEC and higher level of aggregation that BLS reported by multiplying the reported expenditure by the corresponding ratio derived in Step 6.

(h) *Step 8.* For each DC DEC and higher level of aggregation that BLS did not report, OPM computes expenditures for DC by distributing the DC expenditure calculated in step 7 using the distribution of expenditure shares derived in step 5.

(i) *Step 9.* As described in § 591.211(c), OPM classifies each DEC and aggregate into PEGs.

(j) *Step 10.* OPM computes expenditure weights by dividing each DEC or aggregate by the total expenditure derived from the DC expenditure computed in step 8. Therefore, the sum of the MEGs, PEGs, and DECs, will separately total 100, *i.e.*, so that all consumer expenditures in the original tabulation are accounted for.

### § 591.222 How does OPM use the expenditure weights to combine price indexes?

OPM uses a three-step process to combine price indexes.

(a) *Step 1.* For each DEC represented by one or more items for which OPM could make valid price comparisons

(e.g., OPM was able to collect representative prices in both the COLA and DC areas), OPM computes the unweighted geometric average (the *nth* root of the product of *n* numbers) of the price index(es) of all item(s) representing the DEC.

(b) *Step 2.* OPM multiplies the price index for each DEC by its expenditure weight, sums the cross products, and divides by the sum of the weights used in the calculation. This produces a price index for the level of aggregation (e.g., PEG or sub-PEG) in which the DEC is categorized.

(c) *Step 3.* OPM repeats the process described in Step 2 at each level of aggregation within the PEG to produce a price index for the PEG, at the PEG level to produce an index for the MEG, and at the MEG level to produce the overall price index for the COLA area.

[67 FR 22340, May 3, 2002, as amended at 69 FR 59763, Oct. 6, 2004]

### § 591.223 When does OPM conduct COLA surveys?

(a) OPM conducts a survey in each COLA area once every 3 years on a rotational basis and surveys the Washington, DC, area concurrently with each COLA area survey. The order of the COLA area surveys is as follows:

(1) *Year 1.* All COLA areas in the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

(2) *Year 2.* All COLA areas in the State of Alaska, except as provided in paragraph (b)(2) of this section.

(3) *Year 3.* All COLA areas in the State of Hawaii and the Territory of Guam and CNMI.

(b) *Exceptions:*

(1) Nothing in this subpart precludes OPM from conducting interim surveys or implementing some other change in response to conditions caused by a natural disaster or similar emergency, provided OPM publishes a notice or rule in the FEDERAL REGISTER explaining the change and the reason(s) for it.

(2) As provided in §591.215(c), OPM does not conduct surveys in the Rest of the State of Alaska COLA area unless COLA rate reductions appear warranted.

### § 591.224 How does OPM adjust price indexes between surveys?

(a) OPM adjusts price indexes between the triennial surveys in each COLA area that is not surveyed in that year. To do this, OPM uses the annual or biennial change in the Consumer Price Index (CPI) for the COLA area relative to the annual or biennial change in the CPI for the Washington, DC, area. OPM uses the annual change for those areas surveyed the preceding year. OPM uses the biennial change for those areas surveyed 2 years before.

(b) Paragraph (a) of this section applies beginning with the effective date of the results of the 2005 survey conducted in Puerto Rico and the U.S. Virgin Islands.

(c) Based on additional housing data that may be collected before the 2005 survey conducted in Puerto Rico and the U.S. Virgin Islands, OPM will adjust as warranted the price indexes and COLA rates for Puerto Rico, the U.S. Virgin Islands, and the COLA areas in the State of Alaska. OPM will implement any such adjustments on a one-time basis on the effective date of the results of the 2004 surveys conducted in Hawaii and Guam/CNMI, and subject to §591.228. OPM will publish such adjustments as provided in §591.229.

[67 FR 22340, May 3, 2002, as amended at 69 FR 59763, Oct. 6, 2004]

### § 591.225 Which CPIs does OPM use?

OPM uses the following CPIs:

(a) For the Washington, DC, area—the BLS Consumer Price Index, All Urban Consumers (CPI-U);

(b) For all COLA areas in the State of Alaska—the BLS CPI-U for Anchorage, AK;

(c) For all COLA areas in the State of Hawaii and for Guam and the CNMI—the BLS CPI-U for Honolulu, HI; and

(d) For Puerto Rico and the U.S. Virgin Islands—the Puerto Rico CPI as produced by the Puerto Rico Department of Work and Human Resources.

### § 591.226 How does OPM apply the CPIs?

(a) OPM uses a three-step process to adjust price indexes by relative annual or biennial changes in the CPIs. For

steps 1 and 2, OPM computes the annual change by dividing the CPI from 1 year after the survey by the CPI from the time of the survey. OPM computes the biennial change by dividing the CPI from 2 years after the survey by the CPI from the time of the survey.

(1) *Step 1.* OPM computes the annual or biennial CPI change for the COLA area.

(2) *Step 2.* OPM computes the annual or biennial CPI change for the DC area.

(3) *Step 3.* OPM multiplies the COLA area price index from the last survey by the COLA area CPI change computed in step 1 divided by the DC area CPI change computed in step 2. The adjusted price index is rounded to the second decimal place.

(b) *Example:*

| | 2008 | 2009 |
|---|---|---|
| COLA Area CPI | 172.2 | 174.7 |
| DC Area CPI | 159.7 | 161.9 |
| COLA Area Survey Index | 117.33 | (1) |
| COLA Area CPI Adjusted Index | (2) | 117.42 |

1 No survey.
2 N/A

Computation:
117.33 × (174.7/172.2)/(161.9/159.7) = 117.4159, which would round to 117.42.

### § 591.227 What adjustment factors does OPM add to the price indexes?

OPM adds to the price index an adjustment factor that reflects differences in need, access to and availability of goods and services, and quality of life in the COLA area relative to the DC area. The following table shows the adjustment factor for each area:

| COLA area | Amount |
|---|---|
| Anchorage, AK | 7.0 |
| Fairbanks, AK | 9.0 |
| Juneau, AK | 9.0 |
| Rest of the State of Alaska | 9.0 |
| City and County of Honolulu, HI | 5.0 |
| Hawaii County, HI | 7.0 |
| Kauai County, HI | 7.0 |
| Maui County, HI | 7.0 |
| Guam and CNMI | 9.0 |
| Commonwealth of Puerto Rico | 7.0 |
| U.S. Virgin Islands | 9.0 |

1 Amount added to the price index.

### § 591.228 How does OPM convert the price index plus adjustment factor to a COLA rate?

(a) OPM converts the price index plus the adjustment factor to a COLA rate as shown in the following table:

| Price index plus adjustment factor | COLA rate subject to paragraph (b) of this section |
|---|---|
| Equal to or greater than 124.50. | 25 percent. |
| Equal to or greater than 102.00 but less than 124.50. | Price index plus the adjustment factor, minus 100, expressed to the nearest whole percent. |
| Less than 102.00 | 0 percent. |

(b) This section is applicable on an area-by-area basis beginning with the effective date of the results of the first survey conducted in each area.

(c) OPM may reduce the COLA rate in any area by no more than 1 percentage point in any 12-month period. Any reduction in the COLA rate for any COLA area cannot be effective until the effective date of the first survey conducted in Hawaii and Guam and CNMI under these regulations.

### § 591.229 How does OPM inform agencies and employees of COLA rate changes?

OPM publishes COLA area survey summary reports, MEG and PEG indexes, and COLA rates in the FEDERAL REGISTER. OPM makes survey data and other information available to the public to the extent authorized by the Freedom of Information Act and the Privacy Act.

## POST DIFFERENTIALS

### § 591.230 When does OPM establish post differential areas?

(a) OPM establishes post differential areas in response to agency requests when—

(1) Conditions of environment within the post differential area differ substantially from conditions of environment in the continental United States, and

(2) The major Federal employers within the area believe payment of a post differential is warranted as a recruitment incentive to attract candidates from outside the post differential area to work for the Government in the post differential area.

(b) If a department or agency wants OPM to consider establishing or revising the definition of a post differential area, the head of the department or agency or his or her designee must submit a request in writing to OPM.

### § 591.231 Which areas are post differential areas?

OPM has established the following post differential areas:

(a) American Samoa as defined in § 591.205,

(b) Territory of Guam,

(c) Commonwealth of the Northern Mariana Islands,

(d) Johnston Atoll (including Sand Island),

(e) Midway Atoll, and

(f) Wake Atoll.

### § 591.232 How does OPM establish and review post differentials?

(a) OPM establishes a post differential by rulemaking if Government agencies require it for recruitment purposes and if one or more of the following conditions exist:

(1) Extraordinarily difficult living conditions,

(2) Excessive physical hardship, and/or

(3) Notably unhealthful conditions.

(b) OPM periodically reviews with Federal agencies whether conditions of environment have changed in the post differential areas and whether payment of the post differential continues to be warranted as a recruitment incentive.

### § 591.233 Who can receive a post differential?

An employee must meet all of the following conditions to be eligible to receive a post differential:

(a) The employee must be a citizen or national of the United States,

(b) The employee's official worksite or detail to temporary duty must be in the post differential area, and

(c) Immediately prior to being assigned to duty in the post differential area, the employee must have maintained his or her actual place(s) of residence outside the post differential area for an appropriate period of time (generally at least 1 year or more), except as provided in § 591.234.

### § 591.234 Under what circumstances may people recruited locally receive a post differential?

(a) Current residents of the area qualify for a post differential if they were originally recruited from outside the differential area and have been in substantially continuous employment by the United States or by U.S. firms, interests, or organizations.

(b) Examples of persons recruited locally but eligible to receive a post differential include, but are not limited to—

(1) Those who were originally recruited from outside the area and have been in substantially continuous employment by other Federal agencies, contractors of Federal agencies, or international organizations in which the U.S. Government participates and whose conditions of employment provide for their return transportation to places outside the post differential area,

(2) Those who are temporarily present in the post differential area for travel or formal study at the time they are hired and have maintained actual places of residence outside the area for an appropriate period of time, and

(3) Those who are discharged from U.S. military service in the differential area to accept employment with a Federal agency and have maintained actual places of residence outside the differential area for an appropriate period of time.

## PROGRAM ADMINISTRATION

### § 591.235 When do COLA and post differential payments begin?

(a) Agencies begin paying an employee a COLA or post differential on the effective date of the change in the employee's official worksite to an official worksite within the COLA or post differential area or, in the case of local recruitment, on the effective date of the appointment.

(b) For an employee detailed to temporary duty in a post differential area and who is otherwise eligible for a post differential, agencies must begin paying a post differential after 42 consecutive calendar days of temporary duty in the post differential area.

### § 591.236 When do COLA and post differential payments end?

Subject to § 591.237(a), agencies stop paying an employee a COLA or post differential on—

(a) Separation,

(b) The effective date of assignment or transfer to a new official worksite outside the COLA or post differential area, or

(c) In the case of an employee on detail to temporary duty in a post differential area, the ending date of the detail.

### § 591.237 Under what circumstances may employees on leave or travel receive a COLA and/or post differential?

(a) An employee on leave or travel may receive a COLA or post differential only if the agency anticipates that the employee will return to duty in the area. *Exceptions:* If the employee does not return to duty in the area, the agency may still pay a COLA and/or a post differential for the period of leave or travel, subject to paragraph (b) of this section, if the agency determines that—

(1) It is in the public interest not to return the employee to the official worksite, or

(2) The employee will not return because of compelling personal reasons or circumstances over which the employee has no control.

(b) *Post differentials.* Agencies may pay a post differential to an employee only during the employee's first 42 consecutive calendar days of absence from the post differential area.

### § 591.238 How do agencies pay COLAs and post differentials?

(a) Agencies pay COLAs and post differentials as a percentage of an employee's hourly rate of basic pay, including a retained rate of pay under 5 U.S.C. 3594(c) or 5363, for those hours during which the employee receives basic pay. This includes all periods of paid leave, detail, or travel status outside the COLA or post differential area.

(b) Agencies pay employees eligible for both a COLA and a post differential the full amount of the COLA, plus so much of the post differential as will not cause the combined total of the COLA and post differential to exceed 25 percent of the hourly rate of basic pay.

### § 591.239 How do agencies treat COLAs and post differentials for the purpose of overtime pay and other entitlements?

(a) Agencies include COLAs in the employee's straight time rate of pay and include COLAs and post differentials in an employee's regular rate of pay for computing overtime pay entitlements for nonexempt employees under the Fair Labor Standards Act of 1938, as amended.

(b) Agencies may not include a COLA or post differential as part of an employee's rate of basic pay for the purpose of computing entitlements to overtime pay, retirement, life insurance, or any other additional pay, COLA, or post differential under title 5, United States Code.

(c) Payment of a COLA or post differential is not an equivalent increase in pay within the meaning of 5 U.S.C. 5335.

### § 591.240 How are agency and employee representatives involved in the administration of the COLA and post differential programs?

(a) OPM may establish a COLA Advisory Committee in each COLA survey area. The committees are composed of agency and employee representatives from the COLA survey area and one or more representatives from OPM.

(b) To the extent practical, the COLA Advisory Committees coordinate and work with the Survey Implementation Committee established pursuant to *Caraballo, et al.* v. *United States,* No. 1997–0027 (D.V.I).

### § 591.241 What are the key activities of the COLA Advisory Committees?

(a) The COLA Advisory Committees may—

(1) Advise and assist OPM in planning living-cost surveys;

(2) Provide or arrange for observers for data collection during living-cost surveys;

(3) Advise and assist OPM in the review of survey data;

(4) Advise OPM on its administration of the COLA program, including survey methodology; and

(5) Assist OPM in disseminating information to affected employees about

the living-cost surveys and the COLA program.

(b) The committees also may advise OPM on special situations or conditions, such as hurricanes and earthquakes, as they relate to OPM's authority under § 591.223(b) to conduct interim surveys or implement some other change in response to conditions caused by a natural disaster or similar emergency.

### § 591.242 What is the tenure of a COLA Advisory Committee?

OPM may establish a COLA Advisory Committee in each area prior to each living-cost survey conducted in that area. OPM will appoint committee members for 3-year renewable terms. To the extent practical, the committee will continue to exist between surveys, but OPM may periodically review with the committee whether there is a continuing need for the committee.

### § 591.243 How many members are on each COLA Advisory Committee?

A COLA Advisory Committee has up to 12 members composed of OPM representatives and other agency and employee representatives, unless OPM determines that the committee should be larger. In determining the number of committee members, OPM considers the amount of work the committee is likely to be requested to do (based on the size and complexity of the local living-cost survey) and the availability of employee and agency representatives to participate as committee members.

### § 591.244 How does OPM select COLA Advisory Committee members?

(a) In establishing a COLA Advisory Committee, OPM invites local agencies and employee organizations to nominate committee members. OPM also invites COLA Defense Corporations and the local Federal Executive Board or Federal Executive Association each to nominate committee members. Subject to § 591.243, OPM selects committee members from these nominations in a manner designed to achieve a balanced representation that is reflective of agencies and employee organizations in the area. In consultation with the committee, OPM may select additional nominees to serve as alternates to the primary committee members. OPM designates not more than two OPM representatives to serve on each committee.

(b) Each Executive agency, as defined in 5 U.S.C. 105, must cooperate and release appointed employees for committee proceedings and activities unless the agency can demonstrate that exceptional circumstances directly related to accomplishing the mission of the employee's work unit require his or her presence on the job. Executive agency employees serving as committee members are considered to be on official assignment to an interagency function, rather than on leave, and are eligible to receive reimbursement for authorized travel expenses from their respective agencies.

## APPENDIX A TO SUBPART B OF PART 591—PLACES AND RATES AT WHICH ALLOWANCES ARE PAID

This appendix lists the places approved for a cost-of-living allowance and shows the authorized allowance rate for each area. The allowance rate shown is paid as a percentage of an employee's rate of basic pay. The rates are subject to change based on the results of future surveys.

| Geographic coverage | Allowance rate (percent) |
|---|---|
| State of Alaska: | |
| City of Anchorage and 80-kilometer (50-mile) radius by road | 23 |
| City of Fairbanks and 80-kilometer (50-mile) radius by road | 23 |
| City of Juneau and 80-kilometer (50-mile) radius by road | 23 |
| Rest of the State | 25 |
| State of Hawaii: | |
| City and County of Honolulu | 25 |
| Hawaii County, Hawaii | 18 |
| County of Kauai | 25 |
| County of Maui and County of Kalawao | 25 |
| Territory of Guam and Commonwealth of the Northern Mariana Islands | 25 |
| Commonwealth of Puerto Rico | 14 |
| U.S. Virgin Islands | 25 |

[74 FR 7777, Feb. 20, 2009]

## APPENDIX B TO SUBPART B OF PART 591—PLACES AND RATES AT WHICH DIFFERENTIALS ARE PAID

This appendix lists the places where a post differential has been approved and shows the differential rate to be paid to eligible employees. The differential percentage rate shown is paid as a percentage of an employee's rate of basic pay.

| Geographic coverage | Percentage differential rate |
|---|---|
| American Samoa (including the island of Tutuila, the Manua Islands, and all other islands of the Samoa group east of longitude 171° west of Greenwich, together with Swains Island) | 25.0 |
| Johnston Atoll | 25.0 |
| Midway Atoll | 25.0 |
| Territory of Guam and Commonwealth of the Northern Mariana Islands | 20.0 |
| Wake Atoll | 25.0 |

## Subpart C—Allowance Based on Duty at Remote Worksites

AUTHORITY: 5 U.S.C. 5942; sec. 8, E.O. 11609, 3 CFR 1971–1975 Comp., p. 591; 5 U.S.C. 1104, Pub. L. 95–454, 92 Stat. 1120 and Sec. 3(5) of Pub. L. 95–454; 92 Stat. 1120.

SOURCE: 44 FR 55134, Sept. 25, 1979, unless otherwise noted.

### § 591.301 Purpose.

This subpart prescribes the regulations required by section 5942 of title 5, United States Code, for the payment of an allowance based on duty at remote worksites.

### § 591.302 Coverage.

(a) *Agencies*. This subpart applies to executive departments as defined in section 101 of title 5, United States Code, and to independent establishments as defined in section 104 of title 5, United States Code, but does not apply to Government corporations as defined in section 103 of title 5, United States Code.

(b) *Employee*. This subpart applies to each employee assigned to a permanent duty station at or within a designated remote duty post, except an employee who is a permanent or temporary resident at the remote duty post, and except foreign nationals employed at remote duty posts in foreign countries.

### § 591.303 Responsibilities of agencies and the Office of Personnel Management.

(a) Each agency is responsible for:

(1) Establishing and subsequently adjusting, in accordance with the provisions of this subpart, an allowance for each remote duty post at which the agency has employees and which meets the criteria in paragraph (a)(1) of § 591.304, as restricted by paragraph (b) of § 591.304;

(2) Advising the Office of Personnel Management of each establishment or adjustment of an allowance under paragraph (a)(1) of this section, and of the basis for such establishment or adjustment;

(3) Submitting a recommendation to the Office of Personnel Management to establish or adjust an allowance for each remote duty post at which the agency has employees and which meets the criteria in paragraph (a)(2) or (a)(3) or paragraph (c) of § 591.304; and

(4) Advising the Office of Personnel Management in a timely manner of any changes in a duty post or commuting conditions or other factors that may affect an allowance that has been authorized by the Office of Personnel Management under paragraph (b) of this section.

(b) The Office of Personnel Management is responsible for:

(1) Establishing and subsequently adjusting, in accordance with the provisions of this subpart, an allowance for each remote duty post which does not meet the criteria in paragraph (a)(1) of § 591.304, but does meet the criteria in paragraph (a)(2) or (a)(3) or paragraph (c) of § 591.304;

(2) Reviewing each establishment or adjustment of an allowance by an agency under paragraph (a)(1) of this section to determine if such establishment or adjustment is in accordance with the provisions of this subpart; and

(3) Directing the termination or adjustment of any allowance determined by the Office to be not in accordance with the provisions of this subpart, which termination or adjustment shall be implemented by the agency without delay.

(c) Each allowance which has been authorized by the Office of Personnel Management or the Civil Service Commission on or before February 1, 1979, and which is authorized for a remote duty post which meets the criteria in paragraph (a)(1) of § 591.304, shall be subject to further adjustment by the agency under paragraph (a)(1) of this section as if such allowance had been initially authorized by the agency under that paragraph.

### § 591.304 Criteria for determining remoteness.

(a) Except as provided by paragraphs (b) and (c) of this section, a duty post shall be determined to be a remote duty post for basic allowance eligibility purposes when:

(1) Normal ground transportation (e.g., automobile, train, bus) is available on a daily basis and the duty post is 80 kilometers (50 miles), or more, one way from the nearest established community or suitable place of residence. Distance shall be computed in road or rail kilometers (miles) over the most direct route traveled from the center of the city, or other appropriate point for large cities or areas; or

(2) Daily commuting is impractical because the location of the duty post and available transportation are such that agency management requires employees to remain at the duty post for their workweek as a normal and continuing part of the conditions of employment; or

(3) Transportation may be accomplished only by boat, aircraft, or unusual conveyance, or under extraordinary conditions, and the distance, time, and commuting conditions result in expense, inconvenience, or hardship significantly greater than that encountered in metropolitan area commuting. A determination may only be made on an individual location basis.

(b) Except when the criteria in paragraph (a)(2) or (3) of this section are met, the criteria in paragraph (a)(1) of this section are not met:

(1) When the duty post is within the boundary of a metropolitan area, a developed urban area, or community of sufficient size to provide adequate consumer facilities; and

(2) When the duty post is within 80 kilometers (50 miles) of the center of, or other appropriate point for large cities or areas, a metropolitan area, a developed urban area, or community of sufficient size to provide adequate consumer facilities. (This generally excludes a post of duty within 80 kilometers (50 miles) of any city of 5,000 or more population.)

(c) A determination of remoteness for a duty post outside the 50 United States will be made on an individual location basis, taking into consideration the distance, time, and commuting conditions, and the extent to which these factors result in significant expense, inconvenience, or hardship.

[44 FR 55134, Sept. 25, 1979, as amended at 58 FR 32278, June 9, 1993]

### § 591.305 Allowance rates.

(a) *General.* An allowance rate may not exceed $10 a day. An allowance rate shall be established for each post of duty determined to be remote under § 591.304, and shall be terminated or adjusted as warranted. In determining the amount of the allowance rate, the following shall be considered:

(1) Transportation expenses incurred in commuting to the remote post of duty as compared to transportation expenses (including cost of public transportation service) representative of those incurred in metropolitan areas within the United States or overseas as appropriate as periodically determined by the Office of Personnel Management.

(2) Expenses incurred for lodging, meals, other services, and miscellaneous expenses when it is not feasible for an employee to commute daily as at duty posts determined under § 591.304(a)(2).

(3) Inconvenience or hardship associated with commuting to the remote duty post taking into account such factors as travel time, road conditions and terrain, type and quality of vehicle, and climate conditions, and conditions that exist at those duty posts determined by the Office of Personnel Management to meet the criteria in § 591.304(a)(2).

(4) Operational or workload demands, weather conditions, or other situations which require an employee to report to or remain at this post of duty substantially beyond his or her normal arrival or departure time with respect to those duty posts meeting the criteria in § 591.304(a)(2).

(b) *Authorized allowance rates.* Each authorized allowance rate for each duty post may consist of up to three parts, separately stated as appropriate, and the authorized allowance rate shall be paid as provided in § 591.306, but no employee may be paid more than $10 a

day. The parts which make up the authorized allowance rate are:

(1) *Transportation allowance*—(i) *Commuting by private motor vehicle.* A transportation allowance schedule showing the daily transportation expense rate to be paid under the distances and conditions described, when commuting by private motor vehicle is set out as appendix A to this subpart and is incorporated in and made part of this section.

(ii) *Travel by commercial or Government-provided transportation.* The transportation allowance shall be limited to the cost of the service less normal cost for public transportation service in metropolitan areas.

(2) *Inconvenience or hardship allowance.* An allowance rate to compensate for hardship or inconvenience may not be considered unless the travel time normally exceeds one hour one way between the closest established community or suitable place or residence and the remote duty post. An allowance schedule covering land travel by motor vehicle, showing the daily rates to be paid under the time factors and conditions described, for inconvenience or hardship combined, is set out as appendix B to this subpart and is incorporated in and made part of this section.

(3) *Other commuting situations.* Notwithstanding paragraphs (b)(1) and (b)(2) of this section, when commuting is by boat, aircraft or an unusual conveyance, or under extraordinary conditions by motor vehicle, or involving factors or conditions unique to the duty post, the Office of Personnel Management shall establish the allowance based on the facts and circumstances of that individual remote duty post.

(4) *Miscellaneous.* When daily commuting is impractical as determined under § 591.304(a)(2):

(i) The Office of Personnel Management may authorize a miscellaneous allowance, the amount to depend on such factors as miscellaneous expenses, living conditions that exist at the duty post, or inconvenience or hardship that may be associated with this type of employment environment. When employees are required to pay a fee for lodging, meals, or other services at the remote duty post, the miscellaneous allowance shall at least equal the amount charged for the use of facilities and services.

(ii) On those days when operational or workload demands, weather conditions, or other situations result in employees reporting to or remaining at the remote duty post substantially beyond normal arrival or departure time, the maximum daily allowance rate of $10 shall be paid.

### § 591.306 Employee eligibility for an allowance.

(a) An authorized allowance rate shall be paid to each employee with a permanent duty station at or within a remote post of duty approved under § 591.304, regardless of type of appointment or work schedule, only (1) when the employee travels the prescribed minimum distance and time, or is subject to prescribed minimum inconvenience or hardship factors, while commuting from the nearest established community or suitable place of residence and the remote duty post, or (2) the employee remains at the worksite at the direction of management because daily commuting is impractical.

(b) An employee shall be paid an authorized allowance rate for those days on which he or she incurs unusual expense in commuting to a remote post of duty or for those days on which he or she is subject to extraordinary inconvenience or hardship during the commuting.

(c) An employee who resides permanently, or temporarily for his or her own convenience at a remote duty post is not eligible for an authorized allowance rate during his or her period of residence.

### § 591.307 Payment of allowance rate.

(a) An authorized allowance rate is earned on a daily basis; however, where appropriate for administrative convenience, the rate may be averaged taking into consideration the number of noncommuting days over a period of time, and paid for each workday, excluding days in a nonpay status and period of extended absence.

(b) The transportation allowance is paid only when expense is incurred and at the lowest rate consistent with available transportation.

(c) The inconvenience or hardship allowance is paid regardless of eligibility for the transportation expense part of the allowance rate when the employee is otherwise eligible.

(d) Except as provided under § 591.305(b)(4)(ii), when the necessity for remaining at the post of duty for the workweek is the basis for the allowance under § 591.304(a)(2), the allowance rate is paid for each full day, or prorated for each part of a day, that the employee remains at the duty post.

(e) The transportation allowance prescribed by paragraph (b)(1)(i) of § 591.305, or other allowance as may be prescribed for commuting by private motor vehicle, may not be paid unless the officially approved work schedule of the employee precludes use of the transportation services that may be available at lower cost.

(f) An employee, who normally commutes on a daily basis, will not be disqualified from receiving an authorized allowance when he or she is officially required to remain overnight at the remote duty post, for one or more days on a temporary basis, because of the schedule of operations or the nature of assigned work.

(g) When a remote duty post is determined by the Office of Personnel Management under paragraph (a)(3) or (c) of § 591.304 as being basically eligible for an allowance, the Office of Personnel Management will determine the basis for payment of the allowance rate taking into consideration the facts and circumstances associated with commuting to the remote duty post.

### § 591.308 Relationship to additional pay payable under other statutes.

An allowance authorized under this subpart is in addition to any additional pay or allowances payable under other statutes. It shall not be considered part of the employee's rate of basic pay in computing additional pay or allowances payable under other statutes.

### § 591.309 Effective date for payment of allowances.

When an allowance is authorized for a remote duty post, the authorization shall specify the effective date that an agency shall begin paying the allowance to its employees, except that a date earlier than January 8, 1971, may not be specified.

### § 591.310 Effect of regulations in this subpart on allowances established under previous statutes.

Regulations in this subpart do not require a reduction in the allowance rates authorized under previous statutes unless an adjustment is determined to be warranted on the basis of a change in facts and circumstances on which that previous allowance was established.

## APPENDIX A TO SUBPART C OF PART 591—DAILY TRANSPORTATION ALLOWANCE SCHEDULE, COMMUTING OVER LAND BY PRIVATE MOTOR VEHICLE TO REMOTE DUTY POSTS

### SCHEDULE I—EFFECTIVE JANUARY 8, 1971, THROUGH JULY 12, 1975

| Round trip distance in excess of 50 miles | Degree A commuting conditions | Degree B commuting conditions | Degree C commuting conditions |
|---|---|---|---|
| up to 9 miles | $0.20 | $0.22 | $0.24 |
| 10 to 19 | .70 | .77 | .84 |
| 20 to 29 | 1.20 | 1.32 | 1.44 |
| 30 to 39 | 1.70 | 1.87 | 2.04 |
| 40 to 49 | 2.20 | 2.42 | 2.64 |
| 50 to 59 | 2.70 | 2.97 | 3.24 |
| 60 to 69 | 3.20 | 3.52 | 3.84 |
| 70 to 79 | 3.70 | 4.07 | 4.44 |
| 80 to 89 | 4.20 | 4.62 | 5.04 |
| 90 to 99 | 4.70 | 5.17 | 5.64 |
| 100 to 109 | 5.20 | 5.72 | 6.24 |
| 110 to 119 | 5.70 | 6.27 | 6.84 |
| 120 to 129 | 6.20 | 6.82 | 7.44 |
| 130 to 139 | 6.70 | 7.37 | 8.04 |
| 140 to 149 | 7.20 | 7.92 | 8.64 |
| 150 to 159 | 7.70 | 8.47 | 9.24 |
| 160 to 169 | 8.20 | 9.02 | 9.84 |
| 170 and over | 8.70 | 9.57 | [1] 10.00 |

[1] See footnote at end of Schedule II.

### SCHEDULE II—EFFECTIVE ON OR AFTER JULY 13, 1975

| Round trip distance in excess of 50 miles | Degree A commuting conditions | Degree B commuting conditions | Degree C commuting conditions |
|---|---|---|---|
| up to 9 miles | $0.30 | $0.32 | $0.34 |
| 10 to 19 | 1.05 | 1.12 | 1.19 |
| 20 to 29 | 1.80 | 1.92 | 2.04 |
| 30 to 39 | 2.55 | 2.72 | 2.89 |
| 40 to 49 | 3.30 | 3.52 | 3.74 |
| 50 to 59 | 4.13 | 4.32 | 4.68 |
| 60 to 69 | 4.80 | 5.12 | 5.44 |
| 70 to 79 | 5.55 | 5.92 | 6.29 |
| 80 to 89 | 6.30 | 6.72 | 7.14 |
| 90 to 99 | 7.05 | 7.52 | 7.99 |
| 100 to 109 | 7.80 | 8.32 | 8.84 |
| 110 to 119 | 8.55 | 9.12 | 9.69 |
| 120 to 129 | 9.30 | 9.92 | [1] 10.00 |

SCHEDULE II—EFFECTIVE ON OR AFTER JULY 13, 1975—Continued

| Round trip distance in excess of 50 miles | Degree A commuting conditions | Degree B commuting conditions | Degree C commuting conditions |
|---|---|---|---|
| 130 to 139 | [1] 10.00 | [1] 10.00 | [1] 10.00 |
| 140 to 149 | [1] 10.00 | [1] 10.00 | [1] 10.00 |
| 150 to 159 | [1] 10.00 | [1] 10.00 | [1] 10.00 |

SCHEDULE II—EFFECTIVE ON OR AFTER JULY 13, 1975—Continued

| Round trip distance in excess of 50 miles | Degree A commuting conditions | Degree B commuting conditions | Degree C commuting conditions |
|---|---|---|---|
| 160 to 169 | [1] 10.00 | [1] 10.00 | [1] 10.00 |
| 170 and over | [1] 10.00 | [1] 10.00 | [1] 10.00 |

[1] Under the statute, $10 a day is the maximum allowance.

SCHEDULE III—EFFECTIVE ON OR AFTER DECEMBER 28, 1980

| Round-trip distance in excess of 80 kilometers (50 miles) | Degree A commuting conditions | Degree B commuting conditions | Degree C commuting conditions |
|---|---|---|---|
| Up to 15 km (up to 9 mi) | $0.40 | $0.42 | $0.44 |
| 16 to 31 km (10 to 19 mi) | 1.40 | 1.47 | 1.54 |
| 32 to 47 km (20 to 29 mi) | 2.40 | 2.52 | 2.64 |
| 48 to 63 km (30 to 39 mi) | 3.40 | 3.57 | 3.74 |
| 64 to 79 km (40 to 49 mi) | 4.40 | 4.62 | 4.84 |
| 80 to 95 km (50 to 59 mi) | 5.40 | 5.67 | 5.94 |
| 96 to 111 km (60 to 69 mi) | 6.40 | 6.72 | 7.04 |
| 112 to 127 km (70 to 79 mi) | 7.40 | 7.77 | 8.14 |
| 128 to 144 km (80 to 89 mi) | 8.40 | 8.82 | 9.24 |
| 145 to 160 km (90 to 99 mi) | 9.40 | 9.87 | 10.00 |
| 161 to 176 km (100 to 109 mi) | 10.00 | 10.00 | 10.00 |
| 177 to 192 km (110 to 119 mi) | 10.00 | 10.00 | 10.00 |
| 193 to 208 km (120 to 129 mi) | 10.00 | 10.00 | 10.00 |
| 209 to 224 km (130 to 139 mi) | 10.00 | 10.00 | 10.00 |
| 225 to 240 km (140 to 149 mi) | 10.00 | 10.00 | 10.00 |
| 241 to 256 km (150 to 159 mi) | 10.00 | 10.00 | 10.00 |
| 257 to 272 km (160 to 169 mi) | 10.00 | 10.00 | 10.00 |
| 273 km and over (170 mi and over) | 10.00 | 10.00 | 10.00 |

Under the statute, $10 a day is the maximum allowance.

*Degree A Commuting Conditions*

Good paved roads; climatic conditions cause intermittent driving difficulty.

*Degree B Commuting Conditions*

Roads typically fair but may be good for part of distance or may be unpaved for short distances; climatic conditions during part of a season, in relation to terrain, contribute to additional cost.

*Degree C Commuting Conditions*

Fair to poor roads; unpaved for part of distance, or travel over range; hilly or mountainous terrain; climatic conditions during most of a season contribute to additional cost.

[44 FR 55134, Sept. 25, 1979, as amended at 45 FR 76087, Nov. 18, 1980; 58 FR 32278, June 9, 1993]

## APPENDIX B TO SUBPART C OF PART 591—DAILY INCONVENIENCE OR HARDSHIP ALLOWANCE SCHEDULE, COMMUTING OVER LAND BY MOTOR VEHICLE TO REMOTE DUTY POSTS

| Round trip distance in excess of 2 hours | Degree A commuting conditions | Degree B commuting conditions | Degree C commuting conditions |
|---|---|---|---|
| up to 15 minutes | $0.50 | $0.63 | $0.75 |
| 16 to 30 | 1.00 | 1.25 | 1.50 |
| 31 to 45 | 1.50 | 1.88 | 2.25 |
| 46 to 60 | 2.00 | 2.50 | 3.00 |
| 61 to 75 | 2.50 | 3.13 | 3.75 |
| 76 to 90 | 3.00 | 3.75 | 4.50 |
| 91 to 105 | 3.50 | 4.38 | 5.25 |
| 106 to 120 | 4.00 | 5.00 | 6.00 |
| 121 to 135 | 4.50 | 5.63 | 6.75 |
| 136 to 150 | 5.00 | 6.25 | 7.50 |
| 151 to 165 | 5.50 | 6.88 | 8.25 |
| 166 to 180 | 6.00 | 8.13 | 9.00 |

*Degree A Commuting Conditions*

Good paved roads; climatic conditions, in relation to type and quality of vehicle, cause minimal discomfort during trip.

*Degree B Commuting Conditions*

Roads typically fair, but may be good for part of distance and possibly unpaved for

short distances; climatic conditions during part of a season, in relation to type and quality of vehicle, result in moderate discomfort during trip.

*Degree C Commuting Conditions*

Fair to poor roads, unpaved for part of distance, climatic conditions during most of a season, in combination with such factors as type and quality of vehicle and terrain, result in unusual discomfort during trip.

## Subpart D—Separate Maintenance Allowance for Duty at Johnston Island

AUTHORITY: 5 U.S.C. 5942a(b); E.O. 12822, 3 CFR, 1992 Comp., p. 325

SOURCE: 58 FR 51566, Oct. 4, 1993, unless otherwise noted.

### § 591.401 Purpose and applicability.

(a) *Purpose.* This subpart prescribes the regulations required by section 5942a of title 5, United States Code, to authorize payment of a separate maintenance allowance to assist an employee assigned to Johnston Island to meet the additional expenses of maintaining family members elsewhere who would normally reside with him or her because they cannot accompany the employee to Johnston Island. This subpart provides rules for determining which employees are eligible to receive the separate maintenance allowance, who qualifies as family members under the program, the method of payment, and payment amounts.

(b) *Applicability.* This subpart applies to an employee (as defined in 5 U.S.C. 2105) in an executive department (as defined in section 101 of title 5, United States Code) or an independent establishment (as defined in section 104 of title 5, United States Code) who is assigned to a post of duty at Johnston Island.

[58 FR 51566, Oct. 4, 1993, as amended at 61 FR 27244, May 31, 1996]

### § 591.402 Definitions.

*Adult*, a term used in the Department of State *Standardized Regulations (Government Civilians, Foreign Areas)*, means a family member who is 21 years of age or older.

*Domestic partner* means a person in a domestic partnership with an employee or annuitant of the same sex.

*Domestic partnership* means a committed relationship between two adults of the same sex in which the partners—

(1) Are each other's sole domestic partner and intend to remain so indefinitely;

(2) Maintain a common residence, and intend to continue to do so (or would maintain a common residence but for an assignment abroad or other employment-related, financial, or similar obstacle);

(3) Are at least 18 years of age and mentally competent to consent to contract;

(4) Share responsibility for a significant measure of each other's financial obligations;

(5) Are not married or joined in a civil union to anyone else;

(6) Are not the domestic partner of anyone else;

(7) Are not related in a way that, if they were of opposite sex, would prohibit legal marriage in the U.S. jurisdiction in which the domestic partnership was formed;

(8) Are willing to certify, if required by the agency, that they understand that willful falsification of any documentation required to establish that an individual is in a domestic partnership may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification, as well as constitute a criminal violation under 18 U.S.C. 1001, and that the method for securing such certification, if required, will be determined by the agency; and

(9) Are willing promptly to disclose, if required by the agency, any dissolution or material change in the status of the domestic partnership.

*Family member* means one or more of the following relatives of an employee who would normally reside with the employee except for circumstances warranting the granting of a separate maintenance allowance, but who does not receive from the Government an allowance similar to that granted to the employee and who is not deemed to be a family member of another employee for the purpose of determining the

amount of a separate maintenance allowance or similar allowance:

(1) Children who are unmarried and under 21 years of age or who, regardless of age, are incapable of self-support, including natural children, step and adopted children, and those under legal guardianship or custody of the employee, or of the employee's spouse or domestic partner, when they are expected to be under such legal guardianship or custody at least until they reach 21 years of age and when dependent upon and normally residing with the guardian;

(2) Parents (including step and legally adoptive parents) of the employee, or of the employee's spouse or domestic partner, when such parents are at least 51 percent dependent on the employee for support;

(3) Sisters and brothers (including step or adoptive sisters and brothers) of the employee, or of the employee's spouse or domestic partner, when such sisters and brothers are at least 51 percent dependent on the employee for support, unmarried and under 21 years of age, or regardless of age, are incapable of self-support;

(4) Spouse, excluding a spouse independently entitled to and receiving a similar allowance; or

(5) Domestic partner, excluding a domestic partner independently entitled to and receiving a similar allowance.

*Johnston Island,* also called Johnston Atoll, is a possession of the United States located 717 nautical miles southwest of Honolulu, Hawaii.

*Separate maintenance allowance* means an allowance to assist an employee assigned to Johnston Island who is compelled by reason of dangerous, notably unhealthful, or excessively adverse living conditions at Johnston Island, or for the convenience of the Government, to meet the additional expense of maintaining family members at a location other than Johnston Island.

[61 FR 27244, May 31, 1996, as amended at 77 FR 42905, July 20, 2012]

### § 591.403 Amount of payment.

(a) The annual rate of the separate maintenance allowance paid to an employee is determined by the number of individuals, including a spouse, a domestic partner, and/or one or more other family members, who are maintained at a location other than Johnston Island.

(b) The annual rates for the separate maintenance allowance paid to employees assigned to Johnston Island shall be the same as the annual rates for the separate maintenance allowance established by the Department of State in its *Standardized Regulations (Government Civilians, Foreign Areas).* The annual rates shall not vary by location of the separate household.

(c) The annual rates of the separate maintenance allowance shall be adjusted on the first day of the first pay period beginning on or after July 1, 1996 and, subsequently, on the first day of the first pay period beginning on or after the effective date established for adjustment of annual rates for the separate maintenance allowance in the *Standardized Regulations (Government Civilians, Foreign Areas).*

[61 FR 27244, May 31, 1996, as amended at 77 FR 42905, July 20, 2012]

### § 591.404 Method of payment.

(a) Separate maintenance allowance rates are paid from the employee's date of arrival at Johnston Island to the employee's date of departure from Johnston Island. No deductions are necessary for details away from Johnston Island or for partial days. The separate maintenance allowance shall be computed and paid at daily rates as follows:

(1) Divide the annual rate of payment by the number of days in the applicable calendar year to obtain a daily rate (counting one half-cent and over as a whole cent);

(2) Multiply the daily rate by 14 to obtain a biweekly rate; and

(3) Multiply the daily rate by the number of days involved to obtain the rate for any period.

(b) A separate maintenance allowance is not part of an employee's rate of basic pay for any purpose.

(c) The rate for any pay period shall be computed at the daily rate applicable on the first day of that pay period.

### § 591.405 Responsibilities of agencies.

Agencies with employees stationed at Johnston Island may require reasonable verification of relationship and dependency.

[61 FR 27244, May 31, 1996]

### § 591.406 Records and reports.

So that the Office of Personnel Management can evaluate agencies' use of this authority and provide the Congress and others with information regarding the use of a nonforeign separate maintenance allowance, each agency shall maintain such records and submit to the Office of Personnel Management reports and data as requested.

## PART 595—PHYSICIANS' COMPARABILITY ALLOWANCES

Sec.

595.101 Purpose.
595.102 Who is covered by this program?
595.103 What requirements must agencies establish for determining which physician positions are covered?
595.104 What criteria are used to identify a recruitment and retention problem?
595.105 What criteria must be used to determine the amount of a physicians' comparability allowance?
595.106 What termination and refund provisions are required?
595.107 What are the requirements for implementing a physicians' comparability allowance program?

AUTHORITY: 5 U.S.C. 5948; E.O. 12109, 44 FR 1067, Jan. 3, 1979.

SOURCE: 44 FR 40876, July 13, 1979, unless otherwise noted.

### § 595.101 Purpose.

Section 5948 of title 5, United States Code, authorizes the payment of allowances to certain eligible Federal physicians who enter into service agreements with their agencies. These allowances are paid only to categories of physicians for which the agency is experiencing recruitment and retention problems and are fixed at the minimum amounts necessary to deal with such problems. The President has delegated regulatory responsibility for this program to the Director of OPM, acting in consultation with the Office of Management and Budget. This part contains the regulations, criteria and conditions which the Director of OPM, in consultation with the Director of the Office of Management and Budget, has prescribed for the administration of the physicians' comparability allowance program. This part supplements and implements 5 U.S.C. 5948 and should be read together with that section of law.

[69 FR 27817, May 17, 2004]

### § 595.102 Who is covered by this program?

(a) This program covers individuals employed as physicians under the Federal pay systems listed in 5 U.S.C. 5948(g)(1), except as provided in 5 U.S.C. 5948(b). For the purposes of this part, an individual is *employed as a physician* only if he or she is serving in a position the duties and responsibilities of which could not be satisfactorily performed by an incumbent who is not a physician.

(b) Section 5948(b) of title 5, United States Code, prohibits the payment of physicians' comparability allowances to certain physicians, including physicians who are reemployed annuitants. For the purpose of applying this prohibition, *reemployed annuitant* means an individual who is receiving or has title to and has applied for an annuity under any retirement program of the Government of the United States, or the government of the District of Columbia, on the basis of service as a civilian employee.

(c) Physicians employed and paid under title 38, United States Code, and Commissioned Corps officers of the Public Health Service under title 42, United States Code, are not eligible for physicians' comparability allowances.

[44 FR 40876, July 13, 1979, as amended at 58 FR 65537, Dec. 15, 1993; 64 FR 72458, Dec. 28, 1999; 69 FR 27817, May 17, 2004]

### § 595.103 What requirements must agencies establish for determining which physician positions are covered?

(a) The head of each agency must determine categories of physician positions for which there is a significant recruitment and retention problem, and physicians' comparability allowances may be paid only to physicians serving in positions in such categories.