

# Proposed Rules

Federal Register

Vol. 68, No. 145

Tuesday, July 29, 2003

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR PART 595

RIN 3206-AJ96

#### Physicians' Comparability Allowances

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Personnel Management (OPM) is proposing to revise the regulations governing the physicians' comparability allowance program. The proposed regulations have been converted to a question-and-answer format and rewritten to ease reader understanding and improve administration of this program.

**DATES:** Comments must be received on or before September 29, 2003.

**ADDRESSES:** Send or deliver comments to Donald J. Winstead, Deputy Associate Director for Pay and Performance Policy, Strategic Human Resources Policy Division, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415-8200, FAX: (202) 606-0824, or email them to *pay-performance-policy@opm.gov*.

**FOR FURTHER INFORMATION CONTACT:** Vicki Draper by telephone at (202) 606-2858; by fax at (202) 606-0824; or by email at *pay-performance-policy@opm.gov*.

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management (OPM) is issuing proposed regulations to revise 5 CFR part 595, Physicians' Comparability Allowances. Unless otherwise stated, the purpose of this revision to part 595 is to make part 595 more readable, not to make substantive changes. OPM has replaced the verb "shall" with "must" in this part for added clarity and readability. OPM intends that any provision in this part using the verb "must" has the same meaning and effect as previous provisions in this part using "shall."

Finally, OPM is removing § 595.108, Reports. Section 5948(j) of title 5,

United States Code, requires an annual Presidential report to Congress on the operation of the PCA program and specifies what information must be included in the report. The regulations in § 595.108 repeat what information must be included in the annual report. Since the regulations are redundant, we are proposing to remove § 595.108. In addition, since the PCA program was made permanent in 2000, the necessity for an annual report is clearly diminished. OPM plans to propose legislation to repeal 5 U.S.C. 5948(j) to delete the annual reporting requirement.

#### E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

#### Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

#### List of Subjects in 5 CFR Part 595

Government employees, Health professions, Wages.

U.S. Office of Personnel Management.

**Kay Coles James,**  
*Director.*

Accordingly, OPM is proposing to amend part 595 of title 5 of the Code of Federal Regulations as follows:

### PART 595—PHYSICIANS' COMPARABILITY ALLOWANCES

1. The authority citation for part 595 continues to read as follows:

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

2. Section 595.101 is revised to read as follows:

#### § 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.

3. In § 595.102, the section heading and paragraphs (a) and (b) are revised to read as follows:

#### § 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.

\* \* \* \* \*

4. In § 595.103, the section heading and paragraph (a) are revised to read as follows:

#### § 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.

\* \* \* \* \*

5. In § 595.104, the section heading and the introductory text are revised to read as follows:

**§ 595.104 What criteria are used to identify a recruitment and retention problem?**

The head of each agency may determine that a significant recruitment and retention problem exists for each category of physician position established under § 595.103 only if the following conditions are met with respect to the category:

\* \* \* \* \*

6. In § 595.105, the section heading and paragraphs (a), (b), (d), and (e) are revised to read as follows:

**§ 595.105 What criteria must be used to determine the amount of a physicians' comparability allowance?**

(a) The amount of the comparability allowance payable for each category of physician positions established under § 595.103 must be the minimum amount necessary to deal with the recruitment and retention problem identified under § 595.104 for that category of positions. In determining this amount, the agency head must consider the relative earnings, responsibilities, expenses, workload, working conditions, conditions of employment, and personnel benefits for physicians in each category and for comparable physicians inside and outside the Federal Government.

(b) Agencies may not pay a physicians' comparability allowance in excess of \$14,000 annually to a physician with 24 months or less of service as a Government physician. Agencies may not pay a physicians' comparability allowance in excess of \$30,000 annually to a physician with more than 24 months of service as a Government physician.

\* \* \* \* \*

(d) A physician who is employed on a regularly scheduled part-time basis of half-time or more is eligible to receive a physicians' comparability allowance, but any such allowance must be prorated according to the proportion of the physicians' work schedule to full-time employment.

(e) A physician who is serving with the Government under a loan repayment program must have the amount of any loan being repaid deducted from any physicians' comparability allowance for which he or she is eligible and may receive only that portion of such allowance which exceeds the amount of the loan being repaid during the period of employment required by the service agreement under the student loan repayment program.

7. Section 595.106 is revised to read as follows:

**§ 595.106 What termination and refund provisions are required?**

Each service agreement entered into by an agency and a physician under the comparability allowance program must prescribe the terms under which the agreement may be terminated and the amount of allowance, if any, required to be refunded by the physician for each reason for termination. In the case of each service agreement covering a period of service of more than 1 year, the service agreement must include a provision that, if the physician completes more than 1 year of service pursuant to the agreement, but fails to complete the full period of service specified in the agreement either voluntarily or because of misconduct by the physician, the physician must refund the amount of allowance he or she has received under the agreement for the 26 weeks of service immediately preceding the termination (or for a longer period, if specified in the agreement).

8. In § 595.107, the section heading and paragraphs (b) and (c) are revised to read as follows:

**§ 595.107 What are the requirements for implementing a physicians' comparability allowance program?**

\* \* \* \* \*

(b) The agency must submit to the Office of Management and Budget a complete description of its plan for implementing the physicians' comparability allowance program, including the following:

(1) An identification of the categories of physician positions the agency has established under § 595.103, and of the basis for such categories;

(2) An explanation of the determination that a recruitment and retention problem exists for each such category, in accordance with the criteria in § 595.104; and

(3) An explanation of the basis for the amount of comparability allowance determined necessary for each category of physician position under § 595.105.

(c) The Office of Management and Budget (OMB) will review each agency's plan for implementing the physicians' comparability allowance program and determine whether the plan is consistent with 5 U.S.C. 5948 and the requirements of this part. OMB will advise the agency within 45 calendar days after receipt of the plan as to whether the plan is consistent with 5 U.S.C. 5948 and this part or what changes need to be made.

9. Section § 595.108 is removed.

**§ 595.108 Reports. [Removed]**

[FR Doc. 03-19088 Filed 7-28-03; 8:45 am]

BILLING CODE 6325-39-P

**FARM CREDIT ADMINISTRATION**

**12 CFR Part 613**

**RIN 3052-AC20**

**Eligibility and Scope of Financing**

**AGENCY:** Farm Credit Administration.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Farm Credit Administration (FCA) is extending the comment period on our Advance Notice of Proposed Rulemaking concerning eligibility and scope of financing for farmers, ranchers, and aquatic producers or harvesters, and "moderately priced" rural housing. We are extending the comment period so all interested parties have more time to respond to our questions.

**DATES:** Please send your comments to the FCA by October 29, 2003.

**ADDRESSES:** We encourage you to send comments by electronic mail to "reg-comm@fca.gov," through the Pending Regulations section of FCA's Web site, <http://www.fca.gov>, or through the government-wide <http://www.regulations.gov> portal.

You may also send comments to S. Robert Coleman, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 or by facsimile to (703) 734-5784. You may review copies of all comments we receive at our office in McLean, Virginia.

**FOR FURTHER INFORMATION CONTACT:**

Mark L. Johansen, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TTY (703) 883-4434.

Or

Richard A. Katz, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TTY (703) 883-4020.

**SUPPLEMENTARY INFORMATION:** On May 2, 2003, FCA published a notice in the **Federal Register** seeking public comment on whether it should revise its regulations governing eligibility and scope of financing for farmers, ranchers, and aquatic producers or harvesters who borrow from Farm Credit System institutions that operate under titles I or II of the Farm Credit Act of 1971, as