

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: 55 FR 1373, Jan. 16, 1990, unless otherwise noted.

§ 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. For the purposes of § 591.212, “agency” also includes the United States Postal Service.

Allowance area means a geographic area for which an allowance has been authorized. There may be more than one allowance area within a nonforeign area. Allowance areas are listed in § 591.204 of this part.

Day or calendar day means any day of the year. Fractional days are considered whole days.

Differential area means a geographic area for which a post differential has been authorized. Differential areas are listed in § 591.208 of this part.

Nonforeign allowance or allowance means a cost-of-living allowance established by the Office of Personnel Management and payable under section 5941 of title 5, United States Code, at a location in a nonforeign area where living

costs are substantially higher than those in the Washington, DC, area.

Nonforeign area means the States of Alaska and Hawaii, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, territories and possessions of the United States, and any additional areas located outside the contiguous United States that the Secretary of State designates as being within the scope of Part II of Executive Order 10,000, as amended. Nonforeign areas are listed in § 591.202 of this part.

Nonforeign differential or differential means a post differential established by the Office of Personnel Management and payable under section 5941 of title 5, United States Code, at a location in a nonforeign area if conditions of environment differ substantially from conditions of environment in the contiguous United States and warrant its payment as a recruitment incentive.

Official duty station means the duty station for an employee’s position of record as indicated on his or her most recent notification of personnel action, excluding a new duty station for an assignment that is followed immediately (i.e., within 3 workdays) by a reduction in force resulting in the employee’s separation before he or she is required to report for duty at the new location. For an employee who is authorized to receive relocation allowances under 5 U.S.C. 5737 in connection with an extended assignment, the temporary duty station associated with that assignment is the employee’s official duty station.

Rate of basic pay means the rate of pay fixed by statute for the position held by an individual before any deductions and exclusive of additional pay of any kind, such as overtime pay, night differential, extra pay for work on holidays, or allowances and differential, except that straight-time pay for regular overtime hours for firefighters under 5 U.S.C. 5545b (as provided in § 550.1305(b) of this chapter) is included as basic pay.

Washington, DC, area or Washington area means the District of Columbia and all other areas in Maryland and Virginia included in the Washington DC–MD–VA Metropolitan Statistical

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Area as defined by the Office of Management and Budget.

[55 FR 1373, Jan. 16, 1990, as amended at 61 FR 59177, Nov. 21, 1996; 62 FR 25425, May 9, 1997; 63 FR 64595, Nov. 23, 1998; 64 FR 69182, Dec. 10, 1999]

§ 591.202 Areas covered.

The following areas are nonforeign areas:

- (a) Alaska (including all the Aleutian islands east of longitude 167 degrees east of Greenwich).
- (b) 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).
- (c) Canton and Enderbury Islands.
- (d) Commonwealth of Puerto Rico.
- (e) Virgin Islands of the United States.
- (f) Guam.
- (g) Commonwealth of the Northern Mariana Islands.
- (h) Hawaii (including Ocean or Kure Island).
- (i) Howland, Baker, and Jarvis Islands.
- (j) Johnston Island and Sand Island.
- (k) Kingman Reef.
- (l) Midway Islands.
- (m) Navassaa Island.
- (n) Palmyra Atoll.
- (o) Wake Island.
- (p) Any small guano islands, rocks, or keys that, in pursuance of action taken under the Act of Congress, August 18, 1856, are considered as appertaining to the United States.
- (q) Any other islands to which the U.S. Government reserves claim, such as Christmas Island.

§ 591.203 Employees covered.

- (a) This subpart applies to civilian employees whose rates of basic pay are fixed by statute and who are employed by an agency. The following pay plans are covered by this subpart:
 - (1) General Schedule.
 - (2) Veterans Health Services and Research Administration (Department of Veterans Affairs).
 - (3) Foreign Service (including the Senior Foreign Service).
 - (4) Postal Service (where applicable under provisions of 39 U.S.C.).

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

(6) Senior Executive Service (including the Federal Bureau of Investigation—Drug Enforcement Administration Senior Executive Service).

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

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

(b) This subpart may be applied, at the sole discretion of the employing agency, to civilian employees in other positions authorized by specific law applicable to such positions, consistent with the intent of 5 U.S.C. 5941.

[55 FR 1373, Jan. 16, 1990, as amended at 56 FR 6209, Feb. 14, 1991; 56 FR 18663, Apr. 23, 1991; 57 FR 10126, Mar. 24, 1992; 58 FR 65537, Dec. 15, 1993; 61 FR 59177, Nov. 21, 1996; 62 FR 63631, Dec. 2, 1997; 66 FR 63909, Dec. 11, 2001]

§ 591.204 Establishment of allowance areas.

(a) The Office of Personnel Management (OPM) designates within nonforeign areas allowance areas where employees are eligible to receive a cost-of-living allowance by virtue of living costs that are substantially higher than those in the Washington, DC, area. In establishing the limits of allowance 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) The following allowance areas have been established where an allowance is authorized to be paid:

- (1) *State of Hawaii.* (i) City and County of Honolulu.
 - (ii) County of Kauai.
 - (iii) County of Maui (including Kalawao County).
 - (iv) County of Hawaii.
- (2) *State of Alaska.* (i) City of Anchorage and 80-kilometer (50-mile) radius by road.
 - (ii) City of Fairbanks and 80-kilometer (50-mile) radius by road.
 - (iii) City of Juneau and 80-kilometer (50-mile) radius by road.