

FLSA minimum hourly wage, the employee-obligor's earnings may not be garnished in any amount.

(b) There is no limit on the percentage of an employee-obligor's aggregate disposable earnings that may be garnished for a Federal, State or local tax obligation or in compliance with an order of any court of the United States having jurisdiction over bankruptcy cases under Chapter 13 of title 11 of the United States Code. Orders from courts having jurisdiction over bankruptcy cases under Chapter 7 or Chapter 11 of the United States Code are subject to the maximum garnishment restrictions in § 582.402(a).

### Subpart E—Implementation by Agencies

#### § 582.501 Rules, regulations, and directives by agencies.

Appropriate officials of all agencies shall, to the extent necessary, issue implementing rules, regulations, and/or directives that are consistent with this part.

#### APPENDIX A TO PART 582—LIST OF AGENTS DESIGNATED TO ACCEPT LEGAL PROCESS

NOTE: The agents designated to accept legal process are listed in appendix A to part 581 of this chapter. This appendix A to part 582 provides listings only for those executive agencies where the designations differ from those found in appendix A to part 581 of this chapter.

##### I. Departments

Department of Defense. Defense Finance and Accounting Service, Cleveland Center, Office of General Counsel, Attention: Code L, P.O. Box 998002, Cleveland, OH 44199-8002, (216) 522-5301.

Agents for receipt of all legal process for all Department of Defense civilian employees except where another agent has been designated as set forth below.

For requests that apply to employees of the Army and Air Force Exchange Service or to civilian employees of the Defense Contract Audit Agency (DCAA) and the Defense Logistics Agency (DLA) who are employed 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:

*Army Corps of Engineers.* U.S. Army Corps of Engineers, Omaha District, Central Payroll Office, Attn: Garnishments, P.O. Box 1439 DTS, Omaha, NE 68101-1439, (402) 221-4060.

*Army Nonappropriated Fund Employees in Europe.* Commander, 266th Theater Finance Command, NAF Payroll, Unit #29001-07, APO AE 09007-0137, 011-49-6221-57-7752, DSN 379-7752.

*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 Nonappropriated 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

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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 Nonappropriated Fund Employees.* The agents are the same as those designated to receive garnishment orders of Navy and Marine Corps nonappropriated fund personnel for the collection of child support and alimony, published at 32 CFR part 734 (1994 ed.), except as follows:

For non-civil service civilian personnel of the Navy Exchanges or related nonappropriated fund instrumentalities administered by the Navy Exchange Service Command: Commander, Navy Exchange Service Command, ATTN: Human Resources Beverly Building, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23453-5274, (804) 631-3675.

For non-civil service civilian personnel of Marine Corps nonappropriated 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.

**PART 591—ALLOWANCES AND DIFFERENTIALS**

**Subpart A—Uniform Allowances**

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- 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.
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- 591.203 Employees covered.
- 591.204 Establishment of allowance areas.
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- 591.207 Allowance categories, eligibility, and adjustments.
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- 591.209 Eligibility for a differential.
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- 591.211 Periodic review.
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**APPENDIX A OF SUBPART B—PLACES AND RATES AT WHICH ALLOWANCES SHALL BE PAID**

**APPENDIX B OF SUBPART B—PLACES AND RATES AT WHICH DIFFERENTIALS SHALL BE PAID**

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

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

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- 591.401 Purpose and applicability.
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- 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 \$400 a year; or

(b) Furnish a uniform at a cost not to exceed \$400 a year.

**§ 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: 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.

*Date of arrival* means the employee’s first day in a pay status in the allowance or differential area.

*Date of departure* means the employee’s last day in a pay status in the allowance or differential area.

*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.

*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 differentials.

*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 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]

#### § 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 (including employees in positions authorized by § 213.3102(w) of this chapter whose rates of basic pay are established under the General Schedule).

(2) Veterans Health Services and Research Administration (Department of Veterans Affairs).

(3) Foreign Service (where applicable under this subpart).

(4) Postal Service (where applicable under provisions of 39 U.S.C.).

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

(6) Senior Executive Service.

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

(b) This subpart may be applied, at the sole discretion of the employing agency, to civilian employees in positions authorized by 5 CFR 213.3102 (v) or (w) whose rates of basic pay are not established under the General Schedule or under the Federal Wage System.

[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]

#### § 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.

(3) *Commonwealth of Puerto Rico.* The entire Commonwealth.

(4) The U.S. Virgin Islands.

(5) Territory of Guam and Commonwealth of the Northern Mariana Islands.

(c) The head of a department or agency will submit requests in writing to

OPM for the establishment or revision of allowance areas.

[55 FR 1373, Jan. 16, 1990, as amended at 57 FR 58124, Dec. 9, 1992; 58 FR 32278, June 9, 1993; 59 FR 53725, Oct. 26, 1994]

**§ 591.205 Comparative cost index.**

(a) OPM calculates allowance rates for each area by comparing costs of four categories of expenses in the area to those in the Washington, DC area. Two allowance rates are calculated for each area; Local Retail and Commissary/Exchange (see § 591.207 of this part). The four categories of expenses are:

- (1) Consumption goods and services.
- (2) Transportation.
- (3) Housing.
- (4) Miscellaneous expenses.

(b) Costs are determined for several income levels and home occupancy types (renter or owner), and averaged.

(1) The cost of consumption goods and services (excluding transportation and housing) will be estimated from appropriate consumer expenditure data at several income levels for a standard family size. The cost of goods and services in the Washington, DC area will be adjusted by a price index reflecting the estimated price difference between the allowance area and the Washington, DC area.

(i) Goods and services surveyed. The types and amounts of consumption goods and services to be surveyed at each income level will be derived from appropriate consumer expenditure surveys. Whenever possible, exact brands and models are priced in each location. Price data are obtained from appropriate retail outlets in each area. Price data from military facilities are provided by the Department of Defense where needed. Individual items are grouped into categories according to common functions or uses.

(ii) The item and category weights are derived from consumer expenditure surveys. The category weights vary by income.

(2) Transportation costs for each income level and area are estimated using data collected by or for OPM on automobile operating expenses and other factors affecting transportation costs.

(3) Housing costs for renters and owners are estimated based on similar housing units. Standard shelter specifications (e.g., type, size, age) are selected for each income level. Appropriate living communities to survey based on the income level and housing type specified are selected for each survey location. Housing data on units within the selected communities meeting the specifications are then collected for newly purchased and previously purchased units. Mortgage interest rate and payment data are collected from lending institutions in the area, utility companies and other sources provide information about utility rates, and local governments provide information on real estate tax rates. These data are then combined to estimate dollar expenditures within each survey area for the specified shelter in the selected community.

(4) *Miscellaneous expenses.* Miscellaneous expenses for health care, gifts, contributions, savings and investments, retirement, and life insurance are estimated from consumer expenditure surveys and other data appropriate for Federal employee for each income level.

(c) The dollar amounts estimated for consumption, transportation, housing, and miscellaneous expenses are combined to produce a total dollar amount for renters and a total dollar amount for home owners at each income level. The dollar amounts for renters are combined with the dollar amounts for home owners for each income level by using weights, derived from appropriate consumer expenditure or census data, representing the proportion of renters and owners at each income level. The dollar amounts for each income level are weighted into one average amount to reflect the GS grade distribution for the allowance area. The average allowance area dollar amount is divided by the average Washington, DC, area dollar amount to generate a comparative cost index. The allowance rate for the area is based upon the index.

(d) OPM will describe in detail the calculation of each allowance rate at

the time the rate is published in the FEDERAL REGISTER for comment.

[59 FR 43705, Aug. 25, 1994, as amended at 60 FR 46750, Sept. 8, 1995]

**§ 591.206 Establishment of allowance rates.**

(a) OPM uses the comparative cost indexes for each allowance area to determine the allowance rates for that area. The range of values within which the index value falls determines the appropriate allowance rate, expressed as a percentage of the rate of basic pay for that category of eligible employee.

(b) The following table shows the comparative index range and corresponding allowance rate to be established for an allowance category under § 591.207 of this part:

COMPARATIVE INDEX AND ALLOWANCE RATE TABLE

Index range	Allowance rate (percent)
Less than 105.0 .....	0
105.0 to 106.2 .....	5
106.3 to 108.7 .....	7.5
108.8 to 111.2 .....	10
111.3 to 113.7 .....	12.5
113.8 to 116.2 .....	15
116.3 to 118.7 .....	17.5
118.8 to 121.2 .....	20
121.3 to 123.7 .....	22.5
123.8 and over .....	25

(c) Allowance area survey summaries, category indexes, and allowance rates are published as notices in the FEDERAL REGISTER.

**§ 591.207 Allowance categories, eligibility, and adjustments.**

(a) Section 205(b) of Executive Order 10,000, as amended, requires adjustments to allowance payments where warranted because of Federal quarters or special purchasing privileges. These adjustments occur only when the quarters or purchasing privileges are made available as a result of Federal civilian employment and result in substantially lower costs when compared to local area costs.

(1) *Special purchasing privileges.* Adjustments for access to commissaries and exchanges are incorporated into the comparative index calculations and the resulting allowance rates.

(2) *Federal quarters.* If the rent charged an employee by an agency for

quarters is less than the net reasonable value rent, after appropriate adjustments, established as prescribed by the Office of Management and Budget, the difference between the rent charged and the reasonable value rent will be deducted from the allowance paid by the employing agency up to, but not exceeding, the amount of the allowance.

(b) The allowance categories that are established in each area are—

(1) "Local Retail," which applies to those Federal employees who purchase goods and services from private retail establishments.

(2) "Commissary/Exchange," which applies to those Federal employees who shop at private retail establishments, but who, as a result of their Federal civilian employment, also have unlimited access to commissary and exchange facilities. This category is established only in those allowance areas that have these facilities.

(c) Eligibility for access to commissary and exchange facilities is determined by the appropriate military department. Agencies shall obtain the information needed from employees to determine the applicable allowance category.

**§ 591.208 Post differential.**

(a) The post differential is based on:

- (1) Extraordinarily difficult living conditions;
- (2) Excessive physical hardship; or
- (3) Notably unhealthful conditions.

(b) The places at which differentials are paid are—

- (1) 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);
- (2) Guam;
- (3) The Commonwealth of the Northern Mariana Islands;
- (4) Johnston Island and Sand Island; and
- (5) Midway Islands and Wake Island.

(c) New or revised post differential rates are published as notices in the FEDERAL REGISTER.

[55 FR 1373, Jan. 16, 1990, as amended at 59 FR 53725, Oct. 26, 1994]

**§ 591.209 Eligibility for a differential.**

A department or agency will determine employee eligibility to receive a differential as follows:

(a) To be eligible to receive a differential:

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

(2) The employee's residence in the area where the differential applies must be attributable to employment by the United States; and

(3) Any prior residence in the area must be because of employment by the United States or by U.S. firms, interests, or organizations.

(b) Subject to paragraph (a) of this section, the classes of persons eligible to receive differentials include, but are not limited to—

(1) Those recruited or transferred from outside the area where the differential applies.

(2) Those employed in the area where the differential applies but who—

(i) 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 differential area concerned; or

(ii) Were at the time of employment temporarily present in the differential area concerned for travel or formal study and maintained residence outside the area during that period.

(3) Those who are not normally residents of the area where the differential applies and who are discharged from the military service of the United States in the area to accept employment there with an agency of the Federal Government.

**§ 591.210 Payment of allowances and differentials.**

(a) Allowances and differentials under this subpart are payable to an employee whose permanent duty station is in a nonforeign area for which an allowance or differential is authorized.

(b)(1) Except as provided in paragraph (b)(2) of this section, allowances and differentials shall be calculated

and paid 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 for which the employee receives basic pay, including all periods of paid leave, detail, or travel status outside the allowance or differential area. Allowances and differentials shall be included in any lump-sum payment for accumulated and current accrued annual leave issued under sections 5551 or 5552 of title 5, United States Code, to an employee who separates while in a duty status in the allowance or differential area.

(2) Payment of a differential during periods of paid leave or travel outside the differential area continues for the first 42 consecutive calendar days of the absence. Payment of allowances and differentials while absent from the post continues only if the employee returns to duty status in the area, unless the agency determines that—

(i) It is in the public interest not to return the employee to the duty station; or

(ii) The employee's failure to return to the duty station was due to compelling personal reasons or to circumstances over which the employee had no control.

(c) An employee assigned to a duty station for which both an allowance and a differential are authorized under this subpart and eligible for both will receive the full amount of the allowance, plus so much of the differential as will not cause the combined total of allowance and differential to exceed 25 percent of the hourly rate of basic pay.

(d)(1) An allowance or a differential is not 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, allowance, or differential under title 5, United States Code.

(2) An allowance or differential is included in an employee's regular rate of pay for computing overtime pay entitlement under the Fair Labor Standards Act of 1938, as amended.

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

(f) Payment of an allowance or differential will begin as of the date of arrival on regular assignment or transfer, or on the date of entrance on duty in the case of local recruitment. Payment of an allowance or differential will cease on separation, or as of the date of departure on transfer to a new post of regular assignment.

[55 FR 1373, Jan. 16, 1990, as amended at 59 FR 66635, Dec. 28, 1994; 60 FR 46750, Sept. 8, 1995]

#### § 591.211 Periodic review.

In accordance with Executive Order 10,000, OPM reviews from time to time, but at least annually, the places designated, the rates fixed, and the regulations in this subpart that are prescribed for payment of allowances and differentials. This review is to make warranted changes to ensure that payments under this subpart will continue only during the continuance of conditions justifying payment of allowances and differentials and will not in any instance exceed the amount justified. However, if program or methodology revisions would substantially reduce an established differential or allowance rate, then the rate of such additional compensation may be reduced gradually.

#### § 591.212 COLA Partnership Pilot Project.

(a) *Purpose and duration of COLA Partnership Pilot Project.* The COLA Partnership Pilot Project is designed to assess the efficacy of a plan to increase agency and employee involvement in the allowance program. The pilot project shall be in effect for a period not to exceed 2 years from November 21, 1996.

(b) *Purpose and establishment of committees.* To assist OPM in reviewing and improving the allowance program and to help OPM, affected agencies, and their employees better understand issues relating to the compensation of Federal employees in the allowance areas, OPM may establish one or more COLA partnership committees in the allowance areas and in the Washington, DC, area. Committees established under this section function at the discretion of OPM and may be disestablished at any time. A committee may

represent agencies and employees in more than one allowance area and will meet from time to time as requested by OPM.

(c) *Composition of committees.* Each committee shall be composed of one or more representatives of Federal agencies and labor organizations. All committee members shall be current full-time Federal employees performing official business of the Federal Government and will serve at their agencies' and OPM's discretion. All non-OPM committee members shall be from the area represented by the committee. The representatives shall be selected as follows:

(1) *Agency representatives.* (i) OPM will identify the largest agencies (in terms of allowance recipients) in the area represented by the committee. For the Washington, DC, area committee, if established, OPM will identify the largest agencies in terms of allowance recipients in all of the allowance areas. OPM will invite up to four agencies each to designate a representative to serve on the committee. In areas where a Federal Executive Association (FEA) or Federal Executive Board (FEB) is located, OPM will invite the FEA or FEB to nominate an FEA or FEB member employed by an agency not otherwise represented on the committee, and OPM will select the nominee in consultation with the nominee's employing agency. In areas where there is no FEA or FEB, or where an FEA or EB declines to participate, OPM will invite one additional agency selected from among the other agencies in each committee area to designate a representative to serve on the committee on a 1-year rotational basis. To select this agency, OPM will use sampling with probability proportional to the size of the agency. If mutually agreeable among the agencies, they may select representatives using other means and may rotate committee positions among agencies on other than a 1-year rotational basis.

(ii) OPM will appoint one or more of its employees to serve on each COLA partnership committee.

(2) *Employee representatives.* OPM will identify the largest labor organizations (in terms of allowance recipients) in the area represented by the committee.

For the Washington, DC, area committee, if established, OPM will identify the largest labor organizations in terms of allowance recipients in all of the allowance areas. OPM will invite up to four labor organizations each to nominate a representative to serve on the committee. OPM will further invite one additional labor organization selected from among the other labor organizations in each committee area to nominate a representative to serve on the committee on a 1-year rotational basis. To select this labor organization, OPM will use sampling with probability proportional to the size of the labor organization. If mutually agreeable among the labor organizations, they may nominate representatives using other means and may rotate committee positions among labor organizations on other than a 1-year rotational basis. OPM will select committee members from among the nominees in consultation with the nominees' employing agencies.

(3) *Postal Service.* No committee shall have a representative from the United States Postal Service (USPS) unless USPS labor organizations have the opportunity to participate as provided by paragraph (g) of this section. No committee shall have more than one employee representative from USPS labor organizations.

(4) *Other members.* In consultation with the committee members, OPM may invite other current full-time Federal employees to serve on the committees. OPM will coordinate such invitations with the employing agencies.

(d) *Functions of committees.* COLA partnership 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 other issues relating to the compensation of Federal employees in the allowance areas; and

(5) Assist OPM in the dissemination of information to affected employees about the living-cost surveys and the COLA program.

(e) *Data collection observers.* In consultation with the committees, OPM will determine the number of observers required to accompany OPM officials during the collection of living-cost data. All observers shall be from the local area and shall be full-time Federal employees performing official business of the Federal Government. The committees will nominate observers, and OPM will select from among these nominations in consultation with the nominees' employing agencies.

(f) *Subcommittees.* In consultation with the committees, OPM may establish one or more subcommittees to advise the committee on issues relating to the allowance areas and survey areas within the geographic area represented by the committee. If such subcommittees are established, they shall be composed of up to two agency representatives and two employee representatives from the local area, as well as one or more OPM representatives. OPM may, in consultation with the committee and subcommittee, invite additional Federal employees to serve on the subcommittee. Subcommittee agency and employee representatives shall be nominated and appointed in the same manner as committee members. All subcommittee members shall be current full-time Federal employees performing official business of the Federal Government.

(g) *Agency release of employees for committee/subcommittee activities.* Employers shall cooperate and release nominated employees for committee/subcommittee proceedings and activities unless the employers can demonstrate that exceptional circumstances directly related to the accomplishment of the work units' missions require their presence on their regular jobs. Employees serving as committee or subcommittee members are considered to be on official assignment to an interagency function, rather than on leave.

[61 FR 59177, Nov. 21, 1996]

APPENDIX A OF SUBPART B—PLACES AND RATES AT WHICH ALLOWANCES SHALL BE PAID

This appendix lists the places where a cost-of-living allowance has been approved and

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shows the allowance rate to be paid to employees along with any special eligibility requirements for the allowance payment. The allowance percentage rate shown is paid as a percentage of an employee's rate of basic pay.

Geographic coverage/allowance category	Authorized allowance rate (percent)
<b>State of Alaska</b>	
City of Anchorage and 80-kilometer (50-mile) radius by road:	
All Employees .....	25.0
City of Fairbanks and 80-kilometer (50-mile) radius by road:	
All Employees .....	25.0
City of Juneau and 80-kilometer (50-mile) radius by road:	
All Employees .....	25.0
Rest of the State:	
All Employees .....	25.0
<b>State of Hawaii</b>	
City and County of Honolulu:	
All Employees .....	22.5
County of Hawaii:	
All Employees .....	15.0
County of Kauai:	
All Employees .....	20.0
County of Maui and County of Kalawao:	
All Employees .....	22.5
<b>Territory of Guam and Commonwealth of the Northern Mariana Islands</b>	
Local Retail .....	22.5
Commissary/Exchange .....	20.0
<b>Commonwealth of Puerto Rico</b>	
All Employees .....	10.0
<b>U.S. Virgin Islands</b>	
All Employees .....	17.5

DEFINITIONS OF ALLOWANCE CATEGORIES

The following are definitions of the allowance categories used in the tables in this appendix.

*All Employees:* This category covers all Federal employees eligible for an allowance under 5 U.S.C. 5941.

*Local Retail:* This category covers all Federal employees eligible for an allowance who do *not* have unlimited access to commissary and exchange facilities by virtue of their Federal civilian employment.

*Commissary/Exchange:* This category covers all Federal employees eligible for an allowance who have unlimited access to commissary and exchange facilities by virtue of their Federal civilian employment.

NOTE: Eligibility for access to military commissary and exchange facilities is determined by the appropriate military department. If an employee is furnished these privileges for reasons associated with his or her Federal civilian employment, he or she

will receive an identification card that authorizes access to such facilities. Possession of such an identification card is sufficient evidence that the employee uses the facilities.

[59 FR 53725, Oct. 26, 1994]

APPENDIX B OF SUBPART B—PLACES AND RATES AT WHICH DIFFERENTIALS SHALL BE 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 Island and Sand Island .....	25.0
Midway Islands .....	25.0
Territory of Guam and Commonwealth of the Northern Mariana Islands .....	20.0
Wake Island .....	25.0

[59 FR 53726, Oct. 26, 1994]

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 by 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 Man-

agement 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

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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

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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 non-commuting 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 OF SUBPART C—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

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

Round trip distance in excess of 50 miles	Degree A commuting conditions	Degree B commuting conditions	Degree C commuting conditions
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	<sup>1</sup> 10.00

<sup>1</sup> 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	<sup>1</sup> 10.00
130 to 139 .....	<sup>1</sup> 10.00	<sup>1</sup> 10.00	<sup>1</sup> 10.00
140 to 149 .....	<sup>1</sup> 10.00	<sup>1</sup> 10.00	<sup>1</sup> 10.00
150 to 159 .....	<sup>1</sup> 10.00	<sup>1</sup> 10.00	<sup>1</sup> 10.00
160 to 169 .....	<sup>1</sup> 10.00	<sup>1</sup> 10.00	<sup>1</sup> 10.00
170 and over .....	<sup>1</sup> 10.00	<sup>1</sup> 10.00	<sup>1</sup> 10.00

<sup>1</sup> 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

SCHEDULE III—EFFECTIVE ON OR AFTER DECEMBER 28, 1980—Continued

Round-trip distance in excess of 80 kilometers (50 miles)	Degree A commuting conditions	Degree B commuting conditions	Degree C commuting conditions
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 OF SUBPART C—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.

*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, 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 the spouse 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 spouse 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 spouse, 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; or

(4) Spouse, excluding a spouse 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]

**§ 591.403 Amount of payment.**

(a) The annual rate of the separate maintenance allowance paid to an employee shall be determined by the number of individuals, including a spouse and/or one or more other family members, that 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]

**§ 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