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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN 3206-AL27

Locality Pay Areas

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: On behalf of the President's Pay Agent, the Office of Personnel Management is issuing interim regulations on the locality pay program for General Schedule and certain other employees. The interim regulations add Whatcom County, WA, to the Seattle locality pay area, remove the reference to a January effective date for changes made by the President's Pay Agent in locality pay area boundaries, and make a number of changes in the official names of locality pay areas to correspond to revised names of Metropolitan Statistical Areas and Combined Statistical Areas as established by the Office of Management and Budget.

DATES: *Effective Date:* The regulations are effective July 23, 2007.

Applicability Date: The regulations apply on the first day of the first pay period beginning on or after July 23, 2007. (This date governs when the addition of Whatcom County to the Seattle locality pay area is first applicable.)

Comment Date: We must receive comments on or before August 21, 2007.

ADDRESSES: Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415-8200; FAX: (202) 606-4264; or e-mail: pay-performance-policy@opm.gov.

FOR FURTHER INFORMATION CONTACT:

Allan Hearne, (202) 606-2838; FAX: (202) 606-4264; e-mail: pay-performance-policy@opm.gov.

SUPPLEMENTARY INFORMATION: Section 5304 of title 5, United States Code, and 5 CFR part 531, subpart F, authorize locality pay for General Schedule (GS) and certain other employees with official worksites in the 48 contiguous United States and the District of Columbia.

Section 5304(f) of title 5, United States Code, authorizes the President's Pay Agent (the Secretary of Labor, the Director of the Office of Management and Budget (OMB), and the Director of the Office of Personnel Management (OPM)) to determine locality pay areas. The boundaries of locality pay areas must be based on appropriate factors, which may include local labor market patterns, commuting patterns, and the practices of other employers. The Pay Agent must give thorough consideration to the views and recommendations of the Federal Salary Council, a body composed of experts in the fields of labor relations and pay policy and representatives of Federal employee organizations. The President appoints the members of the Council, which submits annual recommendations to the Pay Agent about the locality pay program.

Consistent with recommendations of the Federal Salary Council, the Pay Agent uses Metropolitan Statistical Area (MSA) and Combined Statistical Area (CSA) definitions established by OMB as the basis for locality pay area definitions. The definitions of the terms CSA and MSA in 5 CFR 531.602 and the regulations at § 531.609(d) provide that locality pay area definitions change automatically when OMB adds locations to a CSA or MSA. Under the regulations, the changes in locality pay areas resulting from OMB additions to a CSA or MSA go into effect the first pay period beginning on or after January 1 of the following year.

On April 25, 2006, and May 26, 2006, OMB published corrections to OMB Bulletin 06-01 updating MSAs and CSAs, and, on December 18, 2006, OMB published OMB Bulletin 07-01, an update of statistical areas. These MSA and CSA corrections and updates resulted in changes to the locality pay area definitions effective January 7, 2007. This **Federal Register** notice

revises the locality pay area definitions at 5 CFR 531.603 consistent with these changes. The OMB bulletins added—

- The Providence-New Bedford-Fall River, RI-MA MSA to the Boston-Worcester-Manchester, MA-NH CSA, so we are deleting the reference in the regulations to the Providence MSA as an area of application to the Boston locality pay area since the reference is no longer needed;

- The Sherman-Denison, TX MSA (Grayson County, TX) to the Dallas-Fort Worth, TX CSA, so we added Grayson County, TX to the Dallas locality pay area effective January 7, 2007;

- The Greeley, CO MSA (Weld County, CO) to the Denver-Aurora-Boulder, CO CSA, so we are deleting the reference in the regulations to Weld County, CO, as an area of application to the Denver locality pay area since it is no longer needed;

- The Reading, PA MSA (Berks County, PA) to the Philadelphia-Camden-Vineland, PA-NJ-DE-MD CSA, so we added Berks County, PA, to the Philadelphia locality pay area effective January 7, 2007;

- The Mount Vernon-Anacortes, WA MSA (Skagit County, WA) to the Seattle-Tacoma-Olympia, WA CSA, so we added Skagit County, WA, to the Seattle locality pay area effective January 7, 2007; and

- the Yuba City, CA MSA (Sutter and Yuba Counties, CA) to the Sacramento-Arden-Arcade-Truckee, CA-NV CSA, so we added Sutter and Yuba Counties, CA, to the Sacramento locality pay area effective January 7, 2007.

The bulletins also changed the names of MSAs and CSAs affecting locality pay areas as follows:

- The Boston-Worcester-Manchester, MA-NH CSA was renamed the Boston-Worcester-Manchester, MA-RI-NH CSA, so we are making a corresponding change in the name of the locality pay area in the regulations;

- The Sacramento-Arden-Arcade-Truckee, CA-NV CSA was renamed the Sacramento-Arden-Arcade-Yuba City, CA-NV CSA, so we are making a corresponding change in the name of the locality pay area in the regulations;

- The Santa Barbara-Santa Maria, CA MSA was renamed the Santa Barbara-Santa Maria-Goleta, CA MSA, so we are making a corresponding change in the definition of the Los Angeles locality pay area which already includes the Santa Barbara metropolitan area; and

• The Miami-Fort Lauderdale-Miami Beach, FL MSA was renamed the Miami-Fort Lauderdale-Pompano Beach, FL MSA, so we are making a corresponding change in the name of the locality pay area in the regulations.

New Area of Application

The Federal Salary Council also recommended, and the President's Pay Agent has adopted, criteria for evaluating areas adjacent to a separate locality pay area for inclusion in the pay area. These include criteria for evaluating individual counties that are not part of a multi-county MSA or CSA. Under OPM regulations, the addition of adjacent areas to a locality pay area does not happen automatically but must be approved by the Pay Agent and incorporated in OPM regulations, consistent with the notice and comment requirements of the Administrative Procedure Act. The individual county criteria are as follows:

For adjacent counties that are not part of a multi-county MSA or CSA: To be included in an adjacent locality pay area, an adjacent county that is currently in the Rest of U.S. locality pay area must have at least 400 GS employees and an employment interchange measure of at least 7.5 percent.

Whatcom County, WA, with 787 GS employees, has an 11.07 percent employment interchange measure with the recently redefined Seattle CSA and now passes the criteria, so the President's Pay Agent has decided to add Whatcom County, WA, as an area of application to the Seattle locality pay area. OPM is publishing this notice, which documents and implements the decision of the Pay Agent regarding the addition of Whatcom County to the Seattle CSA, under the authority of 5 U.S.C. 5304(i).

Under § 531.609(d) of the regulations, changes in locality pay areas made by the President's Pay Agent are normally made effective the January following the change—i.e., the January following the date of the **Federal Register** notice making the change. Since OMB changed the Seattle CSA on December 18, 2006, there was not enough time for the President's Pay Agent to review the matter and take action before January 2007 (the date the CSA/MSA changes went into effect). In light of these particular circumstances, we believe it would be appropriate to add Whatcom County to the Seattle CSA effective on the first day of the first pay period beginning on or after 30 days after publication of this regulation, rather than delaying the effective date until January 2008, as anticipated by § 531.609(d).

Because of the possibility of similar situations in the future, we are amending § 531.609(d) to remove the reference to a January effective date for changes made by the President's Pay Agent in locality pay area boundaries. This change recognizes that the President's Pay Agent has authority to specify the effective date of any change in locality pay area boundaries in the regulations implementing the change. While we anticipate that the President's Pay Agent will normally make locality pay area changes effective the following January, it may decide to establish an earlier date in special circumstances, such as those that applied in the Whatcom situation.

Impact and Implementation

The changes in locality pay area boundaries corresponding to changes in CSA definitions moved 187 GS employees in Berks County, PA, 61 GS employees in Grayson County, TX, 47 GS employees in Sutter County, CA, 602 GS employees in Yuba County, CA, and 222 GS employees in Skagit County, WA, from the Rest of U.S. locality pay area to a separate metropolitan locality pay area as explained above, at a total cost of about \$3.0 million per year. Because the regulations specify that locality pay areas correspond to CSA and MSA definitions, these changes became applicable with the first pay period that began on or after January 1, 2007 (i.e., January 7, 2007).

Including Whatcom County, WA, in the Seattle locality pay area will affect 787 GS employees at an annual cost of approximately \$2.5 million. As explained above, this change becomes applicable the first day of the first pay period beginning on or after the date 30 days after publication of this notice.

Waiver of Notice of Proposed Rulemaking

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. The other additions to locality pay areas (those resulting from changes in MSAs and CSAs) already went into effect in January 2007. Because Whatcom County is an important duty station for the Department of Homeland Security, it is undesirable to wait until January 2008 to implement this change. Providing an earlier effective date for Whatcom County will permit employees to receive the higher locality rates sooner and enhance agency recruitment and retention efforts in the county.

E.O. 12866, Regulatory Review

The Office of Management and Budget has reviewed this rule 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 531

Government employees, Law enforcement officers, Wages.

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, OPM amends 5 CFR part 531 as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

■ 1. The authority citation for part 531 continues to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Pub. L. 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316; Subpart B also issued under 5 U.S.C. 5303(g), 5305, 5333, 5334(a) and (b), and 7701(b)(2); Subpart D also issued under 5 U.S.C. 5335(g) and 7701(b)(2); Subpart E also issued under 5 U.S.C. 5336; Subpart F also issued under 5 U.S.C. 5304, 5305, and 5338; and E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682 and E.O. 13106, 63 FR 68151, 3 CFR, 1998 Comp., p. 224.

Subpart F—Locality-Based Comparability Payments

■ 2. In § 531.603, paragraph (b) is revised to read as follows:

§ 531.603 Locality pay areas.

* * * * *

(b) The following are locality pay areas for the purpose of this subpart:

(1) Atlanta-Sandy Springs-Gainesville, GA-AL—consisting of the Atlanta-Sandy Springs-Gainesville, GA-AL CSA;

(2) Boston-Worcester-Manchester, MA-NH-RI-ME—consisting of the Boston-Worcester-Manchester, MA-RI-NH CSA, plus Barnstable County, MA, and Berwick, Eliot, Kittery, South Berwick, and York towns in York County, ME;

(3) Buffalo-Niagara-Cattaraugus, NY—consisting of the Buffalo-Niagara-Cattaraugus, NY CSA;

(4) Chicago-Naperville-Michigan City, IL-IN-WI—consisting of the Chicago-Naperville-Michigan City, IL-IN-WI CSA;

(5) Cincinnati-Middletown-Wilmington, OH-KY-IN—consisting of the Cincinnati-Middletown-Wilmington, OH-KY-IN CSA;

(6) Cleveland-Akron-Elyria, OH—consisting of the Cleveland-Akron-Elyria, OH CSA;

(7) Columbus-Marion-Chillicothe, OH—consisting of the Columbus-Marion-Chillicothe, OH CSA;

(8) Dallas-Fort Worth, TX—consisting of the Dallas-Fort Worth, TX CSA;

(9) Dayton-Springfield-Greenville, OH—consisting of the Dayton-Springfield-Greenville, OH CSA;

(10) Denver-Aurora-Boulder, CO—consisting of the Denver-Aurora-Boulder, CO CSA, plus the Ft. Collins-Loveland, CO MSA;

(11) Detroit-Warren-Flint, MI—consisting of the Detroit-Warren-Flint, MI CSA, plus Lenawee County, MI;

(12) Hartford-West Hartford-Willimantic, CT-MA—consisting of the Hartford-West Hartford-Willimantic, CT CSA, plus the Springfield, MA MSA and New London County, CT;

(13) Houston-Baytown-Huntsville, TX—consisting of the Houston-Baytown-Huntsville, TX CSA;

(14) Huntsville-Decatur, AL—consisting of the Huntsville-Decatur, AL CSA;

(15) Indianapolis-Anderson-Columbus, IN—consisting of the Indianapolis-Anderson-Columbus, IN CSA, plus Grant County, IN;

(16) Los Angeles-Long Beach-Riverside, CA—consisting of the Los Angeles-Long Beach-Riverside, CA CSA, plus the Santa Barbara-Santa Maria-Goleta, CA MSA and all of Edwards Air Force Base, CA;

(17) Miami-Fort Lauderdale-Pompano Beach, FL—consisting of the Miami-Fort Lauderdale-Pompano Beach, FL MSA, plus Monroe County, FL;

(18) Milwaukee-Racine-Waukesha, WI—consisting of the Milwaukee-Racine-Waukesha, WI CSA;

(19) Minneapolis-St. Paul-St. Cloud, MN-WI—consisting of the Minneapolis-St. Paul-St. Cloud, MN-WI CSA;

(20) New York-Newark-Bridgeport, NY-NJ-CT-PA—consisting of the New York-Newark-Bridgeport, NY-NJ-CT-PA CSA, plus Monroe County, PA, and Warren County, NJ;

(21) Philadelphia-Camden-Vineland, PA-NJ-DE-MD—consisting of the Philadelphia-Camden-Vineland, PA-NJ-DE-MD CSA, plus Kent County, DE, Atlantic County, NJ, and Cape May County, NJ;

(22) Phoenix-Mesa-Scottsdale, AZ—consisting of the Phoenix-Mesa-Scottsdale, AZ MSA;

(23) Pittsburgh-New Castle, PA—consisting of the Pittsburgh-New Castle, PA CSA;

(24) Portland-Vancouver-Beaverton, OR-WA—consisting of the Portland-Vancouver-Beaverton, OR-WA MSA,

plus Marion County, OR, and Polk County, OR;

(25) Raleigh-Durham-Cary, NC—consisting of the Raleigh-Durham-Cary, NC CSA, plus the Fayetteville, NC MSA, the Goldsboro, NC MSA, and the Federal Correctional Complex Butner, NC;

(26) Richmond, VA—consisting of the Richmond, VA MSA;

(27) Sacramento-Arden-Arcade-Yuba City, CA-NV—consisting of the Sacramento-Arden-Arcade-Yuba City, CA-NV CSA, plus Carson City, NV;

(28) San Diego-Carlsbad-San Marcos, CA—consisting of the San Diego-Carlsbad-San Marcos, CA MSA;

(29) San Jose-San Francisco-Oakland, CA—consisting of the San Jose-San Francisco-Oakland, CA CSA, plus the Salinas, CA MSA and San Joaquin County, CA;

(30) Seattle-Tacoma-Olympia, WA—consisting of the Seattle-Tacoma-Olympia, WA CSA, plus Whatcom County, WA;

(31) Washington-Baltimore-Northern Virginia, DC-MD-VA-WV-PA—consisting of the Washington-Baltimore-Northern Virginia, DC-MD-VA-WV CSA, plus the Hagerstown-Martinsburg, MD-WV MSA, the York-Hanover-Gettysburg, PA CSA, and King George County, VA; and

(32) Rest of U.S.—consisting of those portions of the continental United States not located within another locality pay area.

■ 3. In § 531.609, paragraph (d) is revised to read as follows:

§ 531.609 Adjusting or terminating locality rates.

* * * * *

(d) In the event of a change in the geographic coverage of a locality pay area as a result of the addition by OMB of a new area(s) to the definition of an MSA or CSA, the effective date of any change in an employee's entitlement to a locality rate of pay under this subpart is the first day of the first pay period beginning on or after January 1 of the next calendar year. Any area removed by OMB from coverage within an MSA or CSA that serves as the basis for defining a locality pay area must be reviewed by the Federal Salary Council and the President's Pay Agent before a decision is made regarding the locality pay status of that area.

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[FR Doc. E7-12096 Filed 6-21-07; 8:45 am]

BILLING CODE 6325-39-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2007-28432; Directorate Identifier 2007-CE-056-AD; Amendment 39-15115; AD 2007-13-11]

RIN 2120-AA64

Airworthiness Directives; Eclipse Aviation Corporation Model EA500 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Eclipse Aviation Corporation (Eclipse) Model EA500 airplanes. This AD requires you to incorporate information into the Limitations section of the airplane flight manual (AFM) that will require operation only in day visual flight rules (VFR), allow only a VFR flight plan, and maintain operation with two pilots. This AD is being issued because of three instances of loss of primary airspeed indication due to freezing condensation within the pitot system. The loss of air pressure in the pitot system could cause the stall warning to become unreliable and the stick pusher, overspeed warning, and autopilot to not function. The concern is heightened by the aerodynamic characteristics of the Eclipse Model EA500 airplane, which relies on the stall warning and the stick pusher to alert the pilot prior to the loss of aircraft control. The standby airspeed is reliable and not affected by this failure mode. A temporary AFM revision prohibits operation in instrument meteorological conditions (IMC), requires two pilots, and limits the airspeed and altitude envelope if the event occurs in flight. The AFM limitations and FAA operational rules allow Model EA500 flight crews to file an instrument flight rule (IFR) flight plan even though the airplane is not approved for flight in IMC. This potentially causes an undue workload burden and confusion when the pilot has to refuse any instructions that take them into IMC. We are issuing this AD to prevent an unsafe condition when Air Traffic Control's (ATC's) ability to maintain traffic separation is compromised because an airplane on an IFR flight plan cannot accept a flight plan into IMC.

DATES: This AD becomes effective on June 27, 2007.

We must receive any comments on this AD by August 21, 2007.