

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

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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 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]