

# Proposed Rules

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

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 591

RIN 3206-AH56

### Cost-of-Living Allowances (Nonforeign Areas); Partnership Pilot Project

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Personnel Management (OPM) is proposing a pilot project to establish a partnership with agencies and employees in administering the nonforeign area cost-of-living allowance (COLA) program. Under the project, COLA partnership committees would be established in Alaska, Hawaii, Puerto Rico, Guam, and the U.S. Virgin Islands to assist OPM in reviewing and improving the COLA program. Involvement in the committees should help OPM, affected agencies, and their employees better understand issues relating to the compensation of Federal employees in these areas. The proposed regulations would also make a technical amendment to clarify the term "agency" as it applies to the COLA program.

**DATES:** Comments must be received on or before September 11, 1996.

**ADDRESSES:** Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415, or FAX to (202) 606-4264.

**FOR FURTHER INFORMATION CONTACT:** Donald L. Paquin, (202) 606-2838.

**SUPPLEMENTARY INFORMATION:** Under section 5941 of title 5, United States Code, and Executive Order 10,000, as amended, certain Federal employees in nonforeign areas outside the 48 contiguous States are eligible for cost-of-living allowances when local living costs are substantially higher than those in the Washington, DC, area. Nonforeign area COLA's are paid in Alaska, Hawaii,

Puerto Rico, the U.S. Virgin Islands, and Guam and the Commonwealth of the Northern Mariana Islands.

OPM conducts living-cost surveys in these areas annually and compares the results with surveys conducted in the Washington, DC, area, as required by 5 U.S.C. 5941 and E.O. 10000. A cost-of-living allowance rate is then derived for each allowance area, which by law cannot exceed 25 percent of the rate of basic pay for eligible employees.

OPM publishes the results of these surveys in the Federal Register. (The most recent survey, for Alaska areas only, was published on February 2, 1996 (61 FR 4070).) Because of the interest in employee involvement shown in comments on the surveys, OPM believes increasing agency and employee participation in the survey process could greatly enhance the COLA program. This coincides with OPM's own desire to introduce partnership into the allowance-setting process in the COLA areas and is responsive to National Performance Review objectives on forming management/employee partnerships.

#### COLA Partnership Pilot Project

OPM proposes to initiate a COLA Partnership Pilot Project that would provide for greater agency and employee involvement in the nonforeign area cost-of-living allowance program. Under this proposal, OPM would establish COLA partnership committees, composed of representatives of OPM, other agencies, and labor organizations in Alaska, Hawaii, Puerto Rico, Guam, and the U.S. Virgin Islands. The committees would—

- (1) Advise and assist OPM in planning COLA surveys;
- (2) Observe data collection during the surveys;
- (3) Advise and assist OPM in the review of survey data;
- (4) Advise OPM on the COLA program and other compensation issues relating to the allowance areas; and
- (5) Assist OPM in the dissemination of information to affected employees about the COLA surveys and the COLA program.

#### Committee Membership

Under the proposed pilot project, OPM would invite the largest Federal agencies and labor organizations in each of the areas to participate on the COLA partnership committees. There may also be subcommittees, particularly in

Alaska and Hawaii, where it might be advantageous to involve employees from each of the allowance areas. All committee and subcommittee members would be current full-time Federal employees performing official business of the Federal Government. Therefore, the Federal Advisory Committee Act is inapplicable.

Committees would be composed of up to five agency representatives and five labor organization representatives from the local area, as well as one or more OPM representatives. The agency and employee representatives would be invited from the four agencies and four labor organizations with the largest number of COLA recipients in each area, as determined by OPM. OPM would further invite one additional agency selected from among the other agencies in each area to designate a representative to serve on the committee on a 1-year rotating basis. Similarly, one additional labor organization would be asked to nominate a representative to serve on a 1-year rotating basis. Alternatively, affected agencies and labor organizations may agree to select committee members using other means.

Each participating agency shall provide the necessary support (including staff time and travel expenses, if needed) for its committee member(s). OPM anticipates that all agency and employee representatives would reside in the immediate area, so non-local travel expenses and per diem should not be necessary. Agencies may have to reimburse employees for local travel. OPM would provide appropriate administrative support and coordination among the committees.

#### Committee Activities

The partnership committees would be involved in survey design and preparation and in survey operation and review. Approximately 3 months prior to the survey, the committees would be asked to review the survey specifications that OPM would provide and assist OPM in planning for the survey. Survey specifications would include the items and outlets to be surveyed and the communities in which data are to be collected. Planning would include deciding when and how to contact outlets to obtain permission to collect prices and who should accompany OPM during data collection activities.

At the time of the survey, the committees would convene to help coordinate survey activities, observe data collection and/or discuss data collection with the observers, and assist OPM in reviewing the survey data. To avoid the appearance of a conflict of interest, OPM staff from outside the area would collect the data. After the survey, the committees may meet again to assess the data collection effort, plan for providing information on the survey to affected employees, and formulate a preliminary schedule of committee activities for the next survey.

The committees would most likely meet at least three times a year. OPM anticipates that, from time to time, the committees would also consider broader issues relating to the COLA surveys and methodology and other issues relating to the compensation of Federal employees in the allowance areas. Some meetings may be via telephone conference or other means, rather than face-to-face. There would be no required committee reports, but the committees may, at their discretion, provide written recommendations to OPM's Assistant Director for Compensation Policy.

#### Project Commencement

OPM plans to have the COLA partnership committees in operation no later than November 1, 1996, in order to prepare for the COLA surveys to be conducted in January through March 1997. Many of the affected agencies and labor organizations have attended preliminary briefings held by OPM on the pilot project. The proposed regulations reflect several of the comments OPM has received. OPM will continue to coordinate with agencies and labor organizations in the allowance areas to prepare for the project.

#### Definition of "Agency"

The proposed regulations would also make a technical amendment to define "agency" under the definitions section of 5 CFR part 591, subpart B, and remove a corresponding reference in § 591.203 to agencies covered by the subpart.

#### Regulatory Flexibility Act

I certify that this regulation would not have a significant economic impact on a substantial number of small entities because it would affect only Federal agencies and employees.

#### List of Subjects in 5 CFR Part 591

Government employees, Travel and transportation expenses, Wages.

U.S. Office of Personnel Management.  
James B. King,  
*Director.*

Accordingly, OPM proposes to amend 5 CFR part 591 as follows:

### PART 591—ALLOWANCES AND DIFFERENTIALS

#### Subpart B—Cost-of-Living Allowance and Post Differential—Nonforeign Areas

1. The authority citation for subpart B of part 591 continues to read as follows:

Authority: 5 U.S.C. 5941; E.O. 10000, 3 CFR, 1943–1948 Comp., p. 792; E.O. 12510, 3 CFR, 1985 Comp., p. 338.

2. Section 591.201 is amended by adding a definition of "agency" in alphabetical order to read as follows:

#### § 591.201 Definitions.

\* \* \* \* \*

*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.

\* \* \* \* \*

3. Section 591.203 is amended by revising the section heading and the introductory text to paragraph (a) to read as follows:

#### § 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:

\* \* \* \* \*

4. Section 591.212 is added to read as follows:

#### § 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 [the effective date of the final rule.]

(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. 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 committee members, except the OPM 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. OPM will invite up to four agencies each to designate a representative to serve on the committee. OPM will further 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. 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 select 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' employing agencies. However, no committee shall have more than one employee representative from United States Postal Service labor organizations.

(3) *Other members.* In consultation with the committee members, OPM may invite other current full-time Federal employees to serve on the committee. 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.

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### 10 CFR Part 430

[Docket No. EE-RM-93-801]

#### Energy Conservation Program for Consumer Products: Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

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

**SUMMARY:** The Department of Energy provides notice that the comment period is reopened on a proposal to amend the energy conservation standards for refrigerators, refrigerator-freezers, and freezers (refrigerator products). The Department is reopening the comment period on this proposal to obtain further comment on issues related to the appropriate consideration of the relationship between regulations under the Clean Air Act banning manufacture of hydrochlorofluorocarbon-141b (HCFC-141b) and the effective date and revised standard levels for DOE efficiency standards.

**DATES:** The comment period on this proposal is reopened until September 11, 1996. The Department requests 10 copies of the comments and, if possible, a computer disk.

**ADDRESSES:** Written comments are to be submitted to: Refrigerator Rulemaking (Docket No. EE-RM-93-801), U.S. Department of Energy, Office of Codes and Standards, EE-43, 1000 Independence Avenue, S.W., Room 1J-018, Washington, D.C. 20585-0121, (202) 586-7574.

**FOR FURTHER INFORMATION CONTACT:** Michael G. Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE-43, 1000 Independence Avenue, S.W., Washington, D.C. 20585-0121, (202) 586-9611.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC-72, 1000 Independence Avenue, S.W., Washington, D.C. 20585-0103, (202) 586-9507.

#### SUPPLEMENTARY INFORMATION:

##### Background

On July 20, 1995, the Department issued a notice of proposed rulemaking

to amend the energy efficiency standards for refrigerator products. 60 FR 37388 (July 20, 1995). The proposal described two tiers of standards for different products: (1) Standards for products manufactured with the current insulation blowing agent, HCFC-141b (the "Tier 1 standards"); (2) standards for products manufactured with a non-HCFC substitute blowing agent (the "Tier 2 standards"). The Tier 1 standards would be more stringent than Tier 2. Overall, the Tier 1 standards would result in a 30 percent improvement in energy efficiency relative to current standards, although the improvement varied considerably among the different classes of covered products. The Tier 2 standards would be less stringent—they would permit use of 10 percent more energy than the Tier 1 standard for all product classes and sizes to compensate for the assumed energy penalty of the replacement for HCFC-141b. The revised standards would take effect three years after the promulgation of the final rule. The Tier 2 standards would be in effect for six years, after which time all products would be required to meet the Tier 1 standard level. The two tiers were developed to accommodate the interrelationship between the revised DOE standards and regulations of the U.S. Environmental Protection Agency (EPA) to implement the Montreal Protocol on Substances that Deplete the Ozone Layer and the Clean Air Act. The EPA regulations will prohibit production and import of HCFC-141b after January 1, 2003. 40 CFR § 82.4 (l), (m). The July 1995 notice of proposed rulemaking discussed the relationship between the DOE standards and the EPA standards, and acknowledged the uncertainty with regard to what substitutes for HCFC-141b would be available. 60 FR at 37396.

The July 1995 proposed rule was based in large part on a joint comment, filed by manufacturers, efficiency advocates, states and utilities in November 1994, that made a consensus recommendation on revised standards. In September and October of 1995, a number of manufacturers submitted comments on the proposed refrigerator standards indicating that, for a variety of reasons, they no longer supported the imposition of updated standards prior to 2003, and emphasizing the continuing uncertainty surrounding the thermal efficiency characteristics and costs of insulation produced using a blowing agent other than HCFC-141b. Efficiency advocates have indicated that the consensus recommendation on standards was based on estimates of the