

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 531

RIN 3206-AH65

Pay Under the General Schedule; Locality Pay Areas for 1998

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing proposed regulations to remove two metropolitan areas from the "Rest of U.S." locality pay area and establish two new locality pay areas in January 1998 corresponding to these metropolitan areas. The two metropolitan areas affected by this proposed regulation are Hartford, CT, and Orlando, FL. These proposed changes are based on a recommendation of the Federal Salary Council. The purpose of this notice is to solicit public comments on the boundaries of locality pay areas recommended by the Federal Salary Council before the President's Pay Agent makes a final determination on this matter.

DATES: Comments must be received on or before November 25, 1996.

ADDRESSES: Comments may be sent or delivered 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 (FAX: (202) 606-0824).

FOR FURTHER INFORMATION CONTACT: Jeanne D. Jacobson, (202) 606-2858 or FAX: (202) 606-0824.

SUPPLEMENTARY INFORMATION: Section 5304(a)(1) of title 5, United States Code, provides that locality payments shall be payable within each locality determined to have a pay disparity greater than 5 percent. Section 5304(f)(1) authorizes the President's Pay Agent (consisting of 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 provide for such pay localities as the Pay Agent considers appropriate. In so doing, 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 and representatives of Federal employee organizations. Members of the Federal Salary Council are appointed by the President and meet regularly to consider issues related to the locality pay system for General Schedule employees.

Starting with the January 1996 locality payments, 5 U.S.C. 5304(d)(1) requires the Pay Agent to make recommendations to the President on the locality pay areas no later than 13 months before the start of the calendar year for which the locality payments are paid. In late 1995, the President's Pay Agent adopted the recommendations of the Federal Salary Council concerning locality pay areas for 1997 in their entirety. These recommendations resulted in the establishment of a total of 30 locality pay areas consisting of 29 areas corresponding to Metropolitan Statistical Areas (MSA's) or Consolidated Metropolitan Statistical Areas (CMSA's) (as defined by OMB), including certain "areas of application" contiguous to two areas, plus one area composed of the "Rest of U.S." (See 61 FR 40949, August 7, 1996.) If OMB makes changes in the boundaries of MSA's and CMSA's, the boundaries of the corresponding locality pay areas are automatically changed accordingly.

At its meeting on October 4, 1996, the Federal Salary Council recommended that two areas—Hartford, CT, and Orlando, FL—be removed from the "Rest of U.S." locality pay area and established as separate locality pay areas effective in January 1998. These two new locality pay areas "would be in addition to the 30 locality pay areas established for the 1997 locality payments.

At the direction of the Pay Agent following an earlier recommendation of the Federal Salary Council, the Bureau of Labor Statistics (BLS) conducted additional local salary surveys in 1995-96 in the MSA's for Hartford, CT, and Orlando, FL. The surveys showed that the pay disparity in the Orlando, FL MSA was slightly below the pay disparity in the "Rest of U.S." locality

pay area. Because the pay disparity was less than 2/10ths of a percentage point below the pay disparity for "Rest of U.S.," the Federal Salary Council recommended establishing Orlando, FL, as a separate locality pay area. (Under established policy, any surveyed area with a pay disparity of 2/10ths of a percentage point or more below the "Rest of U.S." pay disparity does not qualify to be established or continued as a locality pay area. Also, a locality pay area must be dropped if its pay disparity is below the "Rest of U.S." pay disparity in three consecutive annual surveys.)

The Federal Salary Council also recommended that the Orlando, FL, locality pay percentage be set equal to the "Rest of U.S." locality pay percentage in 1998 and that the Orlando, FL, pay gap be averaged with the "Rest of U.S." pay gap to determine the combined pay gap for the two areas. This is consistent with past practices for dealing with locality pay areas in which the locality pay percentage is below the "Rest of U.S." percentage.

The BLS surveys showed that the pay disparity in the Hartford, CT MSA was greater than the pay disparity in the "Rest of U.S." locality pay area. Thus, the Federal Salary Council recommended that the Hartford, CT MSA be added as a separate locality pay area. It also recommended that that portion of New London County, CT, outside the Hartford, CT MSA be added to the Hartford locality pay area as an "area of application."

"Areas of application" are areas contiguous to an MSA or CMSA that are included in the corresponding pay locality for locality pay purposes. In 1994, the Federal Salary Council developed the following criteria for consideration as areas of application to pay localities:

a. *County-wide areas of application.*

To be considered, the affected county must meet all of the following criteria:

1. Be contiguous to a pay locality.
2. Contain at least 2,000 GS-GM employees.
3. Have a significant level of urbanization, based on 1990 Census data. (A "significant level of urbanization" is defined as a population density of more than 200 per square mile or at least 90 percent of the population in urbanized areas.)
4. Demonstrate some economic linkage with the pay locality, defined as

commuting at a level of 5 percent or more into or from the areas in question. (The areas in question are the contiguous county under consideration and the central counties—or in the case of New England, the central cores—identified by the Census Bureau for the process of defining the CMSA's or MSA's involved.)

b. *Federal facilities crossing pay locality boundaries.* To be included in a pay locality the portion of a federal facility which crosses pay locality boundaries and which is not in the pay locality must meet all of the following criteria:

1. Have at least 1,000 GS–GM employees.
2. Have the duty station(s) of the majority of GS–GM employees within 10 miles of the prime critical survey boundary area.
3. Have a significant number of its employees commuting from the pay locality.

However, because OMB defines CMSA's and MSA's in New England by townships and cities instead of counties, the above-stated criteria for consideration as an "area of application" cannot be fully applied to New London County, part of which is outside the Hartford, CT MSA. Therefore, the Federal Salary Council has adopted the following set of criteria for consideration of partial counties as "areas of application":

Criteria for Partial-County Areas of Application in New England

1. The partial-county area must be contiguous to the pay locality (exclusive of any other areas of application) and must currently be included in the "Rest of U.S." locality pay area.
2. The partial-county area must contain at least 2,000 GS employees.
3. The entire county must have a population density of more than 200 per square mile or at least 90 percent of the population in urbanized areas.
4. The entire county must

demonstrate some economic linkage with the pay locality, defined as commuting at a level of 5 percent or more into or from the areas in question. (The areas in question are the entire county under consideration and the central core of the MSA as defined by the Census Bureau for use in establishing metropolitan areas.)

Because New London County, CT, meets all of the above-stated criteria, the Federal Salary Council has recommended that that portion of New London County, CT, outside the Hartford, CT MSA be included in the Hartford, CT, locality pay area as an "area of application."

The definitions of the MSA's and CMSA's that comprise the locality pay areas are found in OMB Bulletin No. 96–08, June 28, 1996. Based on these definitions, the two proposed locality pay areas for 1998 will be composed of the following geographic areas:

Orlando, FL, Locality Pay Area

Lake County
Orange County
Osceola County
Seminole County

Hartford, CT, Locality Pay Area

Hartford County (part)

Avon town
Berlin town
Bloomfield town
Bristol city
Burlington town
Canton town
East Granby town
East Hartford town
East Windsor town
Enfield town
Farmington town
Glastonbury town
Granby town
Hartford city
Manchester town
Marlborough town
New Britain city
Newington town
Plainville town
Rocky Hill town
Simsbury town
Southington town
South Windsor town
Suffield town
West Hartford town
Wethersfield town
Windsor town
Windsor Locks town

Litchfield County (part)

Barkhamsted town
Harwinton town
New Hartford town
Plymouth town
Winchester town

Middlesex County (part)

Cromwell town
Durham town
East Haddam town
East Hampton town
Haddam town
Middlefield town
Middletown city
Portland town

New London County (all)

Tolland County (part)

Andover town
Bolton town
Columbia town
Coventry town

Ellington town
Hebron town
Mansfield town
Somers town
Stafford town
Tolland town
Vernon town
Willington town

Windham County (part)

Ashford town
Chaplin town
Windham town

The Pay Agent's decision regarding locality pay areas for 1998 must be made no later than November 30, 1996. Therefore, OPM has established a 30-day public comment period for these proposed regulations. After the public comment period, the Pay Agent will consider the comments received from Federal employees, agencies, employee organizations, and other interested parties before making its determination on the establishment of pay localities. The Pay Agent also will consider any additional views and recommendations expressed directly to the Pay Agent by any member of the Federal Salary Council or by employee organizations not represented on the Council. The final regulations issued by OPM will reflect the Pay Agent's final determination on this matter.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget 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.

James B. King,

Director.

Accordingly, OPM is proposing to amend part 531 of title 5, Code of Federal Regulations, 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), 5333, 5334(a), and 7701(b)(2);

Subpart C also issued under 5 U.S.C. 5304, 5305, and 5553; sections 302 and 404 of FEPCA, Pub. L. 101-509, 104 Stat. 1462 and 1466; and section 3(7) of Pub. L. 102-378, 106 Stat. 1356;

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(g)(1), and 5553; and E.O. 12883, 58 FR 63281, 3 CFR, 1993

Comp., p. 682;

Subpart G also issued under 5 U.S.C. 5304, 5305, and 5553; section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101-509, 104 Stat. 1462; and E.O. 12786, 56 FR 67453, 3 CFR, 1991 Comp., p. 376.

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, GA—consisting of the Atlanta, GA MSA;

(2) Boston–Worcester–Lawrence, MA–NH–ME–CT—consisting of the Boston–Worcester–Lawrence, MA–NH–ME–CT CMSA;

(3) Chicago–Gary–Kenosha, IL–IN–WI—consisting of the Chicago–Gary–Kenosha, IL–IN–WI CMSA;

(4) Cincinnati–Hamilton, OH–KY–IN—consisting of the Cincinnati–Hamilton, OH–KY–IN CMSA;

(5) Cleveland–Akron, OH—consisting of the Cleveland–Akron, OH CMSA;

(6) Columbus, OH—consisting of the Columbus, OH MSA;

(7) Dallas–Fort Worth, TX—consisting of the Dallas–Fort Worth, TX CMSA;

(8) Dayton–Springfield, OH—consisting of the Dayton–Springfield, OH MSA;

(9) Denver–Boulder–Greeley, CO—consisting of the Denver–Boulder–Greeley, CO MSA;

(10) Detroit–Ann Arbor–Flint, MI—consisting of the Detroit–Ann Arbor–Flint, MI CMSA;

(11) Hartford, CT—consisting of the Hartford, CT MSA plus that portion of New London County, CT, not located within the Hartford, CT MSA;

(12) Houston–Galveston–Brazoria, TX—consisting of the Houston–Galveston–Brazoria, TX CMSA;

(13) Huntsville, AL—consisting of the Huntsville, AL MSA;

(14) Indianapolis, IN—consisting of the Indianapolis, IN MSA;

(15) Kansas City, MO–KS—consisting of the Kansas City, MO–KS MSA;

(16) Los Angeles–Riverside–Orange County, CA—consisting of the Los Angeles–Riverside–Orange County, CA CMSA; plus Santa Barbara County, CA, and that portion of Edwards Air Force Base, CA, not located within the Los Angeles–Riverside–Orange County, CA CMSA;

(17) Miami–Fort Lauderdale, FL—consisting of the Miami–Fort Lauderdale, FL CMSA;

(18) Milwaukee–Racine, WI—consisting of the Milwaukee–Racine, WI CMSA;

(19) Minneapolis–St. Paul, MN–WI—consisting of the Minneapolis–St. Paul, MN–WI MSA;

(20) New York–Northern New Jersey–Long Island, NY–NJ–CT–PA—consisting of the New York–Northern New Jersey–Long Island, NY–NJ–CT–PA CMSA;

(21) Orlando, FL—consisting of the Orlando, FL MSA;

(22) Philadelphia–Wilmington–Atlantic City, PA–NJ–DE–MD—consisting of the Philadelphia–Wilmington–Atlantic City, PA–NJ–DE–MD CMSA;

(23) Pittsburgh, PA—consisting of the Pittsburgh, PA MSA;

(24) Portland–Salem, OR–WA—consisting of the Portland–Salem, OR–WA CMSA;

(25) Richmond–Petersburg, VA—consisting of the Richmond–Petersburg, VA MSA;

(26) Sacramento–Yolo, CA—consisting of the Sacramento–Yolo, CA CMSA;

(27) St. Louis, MO–IL—consisting of the St. Louis, MO–IL MSA;

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

(29) San Francisco–Oakland–San Jose, CA—consisting of the San Francisco–Oakland–San Jose, CA CMSA;

(30) Seattle–Tacoma–Bremerton, WA—consisting of the Seattle–Tacoma–Bremerton, WA CMSA;

(31) Washington–Baltimore, DC–MD–VA–WV—consisting of the Washington–Baltimore, DC–MD–VA–WV CMSA, plus St. Mary's County, MD; and

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

[FR Doc. 96-27629 Filed 10-24-96; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1005, 1007, 1011, 1046

[Docket No. AO-388-A9, et al.; DA-96-08]

Milk in the Carolina and Certain Other Marketing Areas; Notice of Extension of Time for Filing Comments

7 CFR Part	Marketing area	AO Nos.
1005	Carolina	AO-388-A9
1007	Southeast	AO-366-A38
1011	Tennessee Valley	AO-251-A40
1046	Louisville-Lexington-Evansville.	AO-123-A67

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing comments to the tentative partial decision.

SUMMARY: This notice extends the time for filing comments to the tentative partial decision which would incorporate a transportation credit balancing fund into four Federal milk marketing orders in the southern United States. The amendments are based on the record of a public hearing held May 15-16, 1996, in Charlotte, North Carolina. Carolina Virginia Milk Producers Association requested additional time to observe and evaluate the amendments. The time has been extended forty-five (45) days to November 30, 1996.

DATES: Comments are now due on or before November 30, 1996.

ADDRESSES: Comments (six copies) should be filed with the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1932.

SUPPLEMENTARY INFORMATION:

Prior documents in this proceeding:
Notice of Hearing: Issued May 1, 1996; published May 3, 1996 (61 FR 19861).

Tentative Partial Decision: Issued July 12, 1996; published July 18, 1996 (61 FR 37628).

Interim Amendment of Rules: Issued August 2, 1996; published August 9, 1996 (61 FR 41488).

Notice of Extension of Time for Filing Comments to Tentative Partial Decision: Issued August 16, 1996; published August 23, 1996 (61 FR 43474).