

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.

OFFICER OF PERSONNEL  
MANAGEMENT

5 CFR Part 550

RIN 3206-A129

Hazardous Duty Pay

**AGENCY:** Office of Personnel Management.  
**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Officer of Personnel Management is issuing a proposed regulation to provide an 8 percent hazard pay differential for General Schedule employees who perform work at a worksite a more than 3900 meters (12,795 feet) in altitude, provided such employees are required to commute to the worksite on the same day from a substantially lower altitude under circumstances in which the rapid change in altitude may result in acclimation problems.

**DATES:** Comments must be received on or before July 30, 1998.  
**ADDRESSES:** Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1300 E Street NW., Washington, DC 20415, FAX: (202) 606-0824, or email at [payleave@opm.gov](mailto:payleave@opm.gov).

**FOR FURTHER INFORMATION CONTACT:** Kevin Kitchelt, (202) 606-2858, FAX: (202) 606-0824, or email at [payleave@opm.gov](mailto:payleave@opm.gov).

**SUPPLEMENTARY INFORMATION:** The Smithsonian Institution asked the Office

of Personnel Management (OPM) to establish a 10 percent hazard pay differential for General Schedule employees for days when they must perform work at the Smithsonian Astrophysical Observatory (SAO) near the 4206 meter (13,800 foot) summit of Mauna Kea, an extinct volcano on the Island of Hawaii. The Smithsonian Institution states that suitable housing is available only near sea level and that SAO employees must commute back and forth from their homes to the SAO worksite each workday. The Smithsonian Institution submitted research evidence which indicates that work at high altitudes can have negative physiological effects such as impaired judgment, increased heart rates, and nausea, especially if employees have not had time to acclimate to the lower atmospheric pressure and oxygen levels that exist at a high altitude.

After discussions with the Smithsonian Institution, OPM has agreed to propose an 8 percent hazard duty pay differential for work at such a high altitude. The reason for proposing a lower differential rate is to conform with a proposed 8 percent environmental differential rate for prevailing rate (wage) employees who work at the same or similar high altitude job sites. The proposal for an 8 percent environmental differential will be provided to the Federal Prevailing Rate Advisory Committee for its consideration.

As stated in 5 U.S.C. 5545(d), OPM is responsible for establishing schedules of hazardous duty pay differentials for General Schedule employees. This proposed regulation would authorize a new hazard pay category for General Schedule employees who must work at worksite more than 3900 meters (12,795 feet) in altitude, provided such employees are required to commute to the worksite on the same day from a substantially lower altitude under circumstances in which the rapid

change in altitude may result in acclimation problems. The establishment of this new category for payment of hazardous duty pay would not relieve an agency of its responsibility to take whatever measures are feasible to minimize the harmful effects of work at a high altitude.

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 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 550

Administrative practice and procedure, Claims, Government employees, Wages.  
Office of Personnel Management.  
**Janice R. Lachance,**  
*Director.*

Accordingly, OPM is proposing to amend subpart I of part 550 of title 5 of the Code of Federal Regulations as follows:

PART 550—PAY ADMINISTRATION  
(GENERAL)

Subpart I—Pay for Duty Involving  
Physical Hardship or Hazard

- 1. The authority for subpart I of part 550 continues to read as follows:  
**Authority:** 5 U.S.C. 5545(d), 5548(b).
- 2. Appendix A to subpart I of part 550 is amended by adding a new category to the Schedule of Hazard Pay Differentials to read as follows:

Appendix A—Schedule of Pay  
Differentials Authorized for Hazardous  
Duty Under Subpart I

HAZARD PAY DIFFERENTIAL, OF PART 550 PAY ADMINISTRATION (GENERAL)

Duty	Rate of hazard pay differential (percent)	Effective date
*	*	*

Exposure to Physiological Hazards:

## HAZARD PAY DIFFERENTIAL, OF PART 550 PAY ADMINISTRATION (GENERAL)—Continued

Duty					Rate of hazard pay differential (percent)	Effective date
*	*	*	*	*	*	*
(6) <i>Working at high altitudes.</i> Performing work at a worksite more than 3900 meters (12,795 feet) in altitude, provided the employee is required to commute to the worksite on the same day from a substantially lower altitude under circumstances in which the rapid change in altitude may result in acclimation problems.					8	[Date of effectiveness of the final rule].
*	*	*	*	*	*	*

[FR Doc. 98-17318 Filed 6-29-98; 8:45 am]

BILLING CODE 6325-01-M

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 52****[FV-98-327]****Processed Fruits and Vegetables****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would revise the regulations governing inspection and certification for processed fruits, vegetables, and processed products made from them by increasing by approximately three to seven percent fees charged for the inspection services. These revisions are necessary in order to recover, as nearly as practicable, the costs of performing inspection services under the Agricultural Marketing Act of 1946. The fees charged to persons required to have inspections on imported commodities in accordance with the Agricultural Marketing Act of 1937 would also be affected. This rule would also incorporate miscellaneous changes to revise a citation number and revise a statement in a footnote in regards to sample size.

**DATES:** Comments must be postmarked or courier dated on or before July 30, 1998.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Branch Chief, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, DC 20090-6456. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made

available for public inspection in the above office during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Mr. James R. Rodeheaver at the above address or call (202) 720-4693.

**SUPPLEMENTARY INFORMATION:****Executive Order 12866 and Regulatory Flexibility Act**

This rule has been determined not significant for purposes of Executive Order 12866, and has not been reviewed by the Office of Management and Budget. Also, pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, the required analyses are set forth below.

AMS regularly reviews its user fee financed programs to determine if the fees are adequate. The existing fee schedule will not generate sufficient revenues to cover lot, and year round and less than year round inspection program costs while maintaining an adequate reserve balance (four months of costs) as called for by Agency policy (AMS Directive 408.1). Current revenue projection for work in regards to these inspection programs during FY 1998 is \$11.7 million with costs projected at \$13.1 million and an end-of-year reserve balance of \$3.9 million. The PPB trust fund reserve balance for these programs will be approximately \$0.5 million under the four-month level of approximately \$4.4 million, which is called for by Agency policy. Further, PPB's cost of operating the user fee financed programs are expected to increase to approximately \$13.5 million during FY 1999 and to approximately \$13.9 million in FY 2000. These cost increases will result from inflationary increases with regard to current PPB operations and services.

The Processed Products Branch (PPB) estimates that without a fee increase the trust fund reserve as called for by

Agency policy (four-months) will significantly decrease, that will result in an operating reserve balance of approximately \$3.0 million in FY 1999 and \$2.6 million in FY 2000. This relates to only 2.9 months and 2.3 months of operating reserve for the respective years.

Employee salaries and benefits are major program costs that account for approximately 85 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 2.30 to 7.11 percent depending on locality, effective January 1997, significantly increased program costs. Another locality salary increase ranging from 2.30 to 7.27 percent depending on locality, effective January 1998, also increased program costs. These increases have increased PPB's cost of operating these programs by \$400,000 per year.

The proposed fee increase of approximately 3 to 7 percent, should result in an estimated \$500,000 in additional revenue per year and should enable PPB to cover its costs and re-establish program reserves (current operating reserves are being maintained at a level below that provided for by Agency policy).

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The objective of the proposed rule is to increase user fee revenue generated under the lot inspection program, and the year round and less than year round inspection programs by approximately \$500,000 annually. This action is authorized under the AMA of 1946 [see 7 U.S.C. 1622(h)] which states that the Secretary of Agriculture may assess and collect "such fees as will be reasonable and as nearly as may be to cover the costs of services rendered \* \* \*".

There are more than 1239 users of PPB's lot, and less than year round and year round inspection services (including applicants who must meet