

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 550

RIN 3206-A129

### Hazardous Duty Pay

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing final regulations to provide an 8 percent hazard pay differential for General Schedule employees who perform work at a land-based 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. OPM is creating this new hazard pay differential authority to compensate employees who are exposed to unusual health risks.

**DATES:** *Effective Date:* The regulations are effective on January 11, 1999.

*Applicability Dates:* The regulations apply on the first day of the first pay period beginning on or after January 11, 1999.

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

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management (OPM) is responsible for establishing schedules of hazardous duty pay differentials for General Schedule employees as provided in 5 U.S.C. 5545(d). We published proposed regulations to provide an 8 percent hazard pay differential for high altitude work in the **Federal Register** on June 30, 1998 (63 FR 35543), and we received comments

from two agencies and one individual. The following is a summary of those comments and one change we made in the final regulations.

One agency commented that only "land-based" worksites should be covered by the new hazard pay category. We agree that the phrase "land-based worksite" should be added to clarify that entitlement to a hazard pay differential does not apply to employees who work on an aircraft (i.e., where environmental conditions are controlled). Therefore, we have amended appendix A to subpart I of part 550 to use the term "land-based" worksite.

One individual commented that the altitude threshold for receiving a hazard pay differential should be lowered to 3000 meters to include employees who perform work at an altitude of 3400 meters at an atmospheric monitoring station on Mauna Loa, an extinct volcano on the Island of Hawaii. However, the employing agency does not support this recommendation because the agency has no evidence that employees at the Mauna Loa worksite are exposed to actual physical hazards. While employees at the worksite occasionally have altitude-related discomfort such as headaches, nausea, or shortness of breath, these symptoms are minor and do not reach the threshold of the possibility of hazardous health problems such as high altitude pulmonary edema, high altitude cerebral edema, or acute mountain sickness. Since hazard pay differential is authorized only for duties involving unusual physical hardship or hazard, including extreme physical discomfort or distress, we have not adopted the individual's suggestion.

One agency commented that the phrase "commute to the worksite from a substantially lower altitude" should be more specific and that the term "substantially lower altitude" should be defined. Although different agencies may interpret "substantially lower altitude" differently, we believe each agency is in the best position to apply this regulation based on applicable commuting requirements. A regulatory definition is not feasible. Further, we believe the proposed regulation provides sufficient guidance by indicating that the change in altitude must be sufficiently large and rapid to cause potential acclimation problems

that reach the level of an unusual physical hazard.

### Waiver of Delay in Effective Date

Pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make these regulations effective in less than 30 days. Some General Schedule employees of the Smithsonian Institution are currently commuting from near sea level to a work site near the 4206 meter (13,800 foot) summit of Mauna Kea on the Island of Hawaii. These employees currently meet the criteria in this final regulation for hazardous duty pay. In addition, the Smithsonian Institution has asked that this authority be made effective as soon as possible.

### E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

### Regulatory Flexibility Act

I certify that these regulations will not have a significant impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

### List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Claims, Government employees, Wages.

U.S. Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

Accordingly, OPM is amending 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 hazardous pay differential (percent)	Effective date
* * * * *	*	*
Exposure to Physiological Hazards:		
* * * * *	*	*
(6) Working at high altitudes. Performing work at a land-based 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	January 11, 1999.
* * * * *	*	*

[FR Doc. 99-522 Filed 1-8-99; 8:45 am]  
 BILLING CODE 6325-01-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 98-NM-348-AD; Amendment 39-10988; AD 98-25-11 R1]

RIN 2120-AA64

**Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** This amendment corrects and clarifies information in an existing airworthiness directive (AD), applicable to all McDonnell Douglas Model MD-11 series airplanes, that currently requires a one-time inspection to detect discrepancies at certain areas around the entry light connector of the sliding ceiling panel above the forward passenger doors, and repair, if necessary. The actions specified in that AD are intended to prevent chafing of the electrical wire assemblies, which could result in an electrical fire in the passenger compartment. This amendment corrects and clarifies the requirements of the current AD by specifying the specific area in which the subject inspection must be conducted and by correcting the part number of the ramp deflector assembly. This amendment is prompted by communication received from the manufacturer that the current requirements of the AD are unclear.  
**EFFECTIVE DATE:** December 28, 1998.  
**FOR FURTHER INFORMATION CONTACT:** Brett Portwood, Aerospace Engineer,

ANM-130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627-5350; fax (562) 627-5210.

**SUPPLEMENTARY INFORMATION:** On December 3, 1998, the FAA issued AD 98-25-11, amendment 39-10937 (63 FR 68172, December 10, 1998), which is applicable to all McDonnell Douglas Model MD-11 series airplanes. That AD requires a one-time inspection to detect discrepancies at certain areas around the entry light connector of the sliding ceiling panel above the forward passenger doors, and repair, if necessary. That action was prompted by a report indicating that damaged electrical wires were found above the forward passenger doors due to flapper panels moving inboard and chafing the electrical wire assemblies of this area. The actions required by that AD are intended to prevent such chafing, which could result in an electrical fire in the passenger compartment.

Since the issuance of AD 98-25-11, the FAA has reviewed some of the wording of that AD and finds that clarification is necessary. The FAA's intent in paragraph (a) of the AD was that operators perform a visual inspection "of the aircraft wiring" to detect discrepancies of the subject area. This action revises paragraph (a) of the AD to clarify this point.

The FAA has determined that the area specified in paragraph (a)(1) of that AD is not clear in the way that it is currently worded, and that operators may misinterpret what area needs to be inspected. The FAA finds that the wording of paragraph (a)(1) must be revised to specify that a visual inspection must be accomplished "at the area of the forward drop ceiling just outboard of mod block S3-735, and forward and inboard of the light ballast

for the entry light on the sliding ceiling panel above the forward left passenger door (1L) at station location x = 24.75, y = 435, and z = 64.5." In addition, this action includes a new NOTE 2 following paragraph (a)(1) of the AD to specify that the clarified area is the same area that was identified in AD 98-25-11.

In addition, the manufacturer has informed the FAA that bracket "part number 4225419-1," as specified in paragraph (a)(2) of AD 98-25-11, does not exist. In addition, the FAA finds that the word "bracket" does not clearly describe the area in which the required inspection should be conducted. Therefore, this action revises paragraph (a)(2) of the AD to read, "\* \* \* in the area of the ramp deflector assembly, part number 4223570-501."

The manufacturer also has informed the FAA that the latest revision of Chapter 20, Standard Wiring Practices of the MD-11 Wiring Diagram Manual is dated April 1, 1998. The procedures described in the revision dated April 1, 1998, are essentially identical to those described in the revision dated January 1, 1998, which was referenced in AD 98-25-11 as the appropriate source of service information for accomplishment of the repair requirement. Therefore, this action revises paragraph (b) of the AD to include Chapter 20, Standard Wiring Practices of the MD-11 Wiring Diagram Manual, dated April 1, 1998, as an additional source of service information.

Action is taken herein to clarify and correct these requirements of AD 95-25-11 and to correctly add the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The final rule is being reprinted in its entirety for the convenience of affected operators. The effective date remains December 23, 1998.