

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 Parts 532 and 550

[Docket ID: OPM–2026–0199]

RIN 3206–AO76

Differential Pay for Prescribed Wildland Fire Activities

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is proposing to add prescribed (planned) wildland fire duties as covered activities triggering payment of Hazardous Duty Pay for General Schedule (GS) employees and Environmental Differential Pay for Federal Wage System (FWS) employees. The proposed new differentials would apply to GS and FWS employees participating as a member of a firefighting crew engaged in activities on the fireline directly involving the implementation and control of prescribed wildland fires. This rulemaking would authorize a 25 percent differential.

DATES: Send comments on or before June 15, 2026.

ADDRESSES: You may submit comments on the Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

Please arrange and identify your comments on the regulatory text by subpart and section number. If your comments relate to the supplementary information, please reference the heading and page number in the supplementary section. All comments must be received by the end of the comment period for them to be considered. All comments and other submissions received generally will be posted on the internet at <https://www.regulations.gov>, without change, including any personal information provided. However, OPM retains discretion to redact personal or sensitive information, including but not limited

to, personal or sensitive information pertaining to third parties.

As required by 5 U.S.C. 553(b)(4), a summary of this rule may be found in the docket for this rulemaking at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Ana Paunoiu, by telephone at (202) 606–2858 or by email at paypolicy@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is proposing to establish new Hazardous Duty Pay (HDP) and Environmental Differential Pay (EDP) categories at a 25 percent rate for Federal employees performing prescribed (planned) wildland fire activities. HDP is a pay differential authorized by 5 U.S.C. 5545(d) and 5 CFR part 550, subpart I, for General Schedule (GS)¹ employees performing duties approved by OPM in Appendix A of the regulations that involve unusual physical hardship or hazard. EDP is a pay differential authorized by 5 U.S.C. 5343(c)(4) and 5 CFR 532.511 for Federal Wage System (FWS) employees exposed to working conditions or hazards that fall within one of the categories approved by OPM in Appendix A of 5 CFR part 532, subpart E.

The Forest Service in the United States Department of Agriculture (USDA), which manages the National Forest System comprised of 193 million acres of forest and grasslands, and the Office of Wildland Fire within the Department of the Interior (DOI), which manages 2.6 million acres of forest and grasslands, requested OPM add prescribed wildland fire activities as new HDP and EDP categories. “Prescribed fire” is the planned or controlled application of fire under specific conditions to restore the health of ecosystems that depend on fire.² Prescribed wildland fire activities are not currently included as a covered category of work for HDP and EDP purposes. Based on updated analyses, physical, chemical, and biological

¹ In this proposed rule, the acronym “GS” is used to refer to the General Schedule pay system. Multiple pay plan codes are used for various subcategories of General Schedule employees, including the GW code for wildland firefighters in that system. References to “GS” employees should be understood to include GW wildland firefighters.

² Detailed information regarding “prescribed fires” may be found in USDA’s “The National Prescribed Fire Resource Mobilization and Strategy” at <https://www.fs.usda.gov/sites/default/files/2023-06/Rx-Fire-Strategy.pdf>.

hazards associated with a prescribed fire may affect an employee’s short- and long-term safety and health in unavoidable ways, similar to the hazards found in a wildfire (*i.e.*, an unplanned wildland fire incident) environment.

Certain firefighting work is listed as a hazardous duty in Appendix A to subpart I of part 550 and Appendix A to subpart E of part 532 of title 5 of the Code of Federal Regulations qualifying for HDP and EDP. The language in the HDP regulations includes “Forest and range fires” under the “Firefighting” category. A 25 percent hazard pay differential is authorized for participating as a member of a firefighting crew in “fighting forest and range fires on the fireline.” The language in the EDP regulations describes firefighting work as participating or assisting in firefighting operations where the firefighter is “on the immediate fire scene and in direct exposure to the hazards inherent in containing or extinguishing fires.” Fighting forest fires and range fires on the fireline is considered a “high degree” of hazard and provides for a 25 percent differential rate. These existing HDP and EDP categories were specifically created to cover the fighting of wildfires and not activities related to prescribed fires.

The proposed regulatory changes would provide for—

1. An HDP for GS employees and an EDP for FWS employees participating in prescribed wildland fire operations and engaged in activities on the fireline involving implementation and control of a prescribed wildland fire.

2. Assigning the rate of 25 percent for prescribed wildland fire activities for both HDP and EDP.

Generally, HDP is not payable to a GS employee when the hazardous duty has been taken into account in the classification of the position encumbered by the employee. See 5 U.S.C. 5545(d)(1) and 5 CFR 550.904(a)–(b). However, in 2021, 5 U.S.C. 5545(d)(1) was amended to allow, as a special exception, HDP for firefighters who are placed in a separate classification series based on the primary duties of their position involving the prevention, control, suppression, or management of wildland fires—even though firefighting duties are taken into account in the

classification of their positions. (See Pub. L. 117–58, Nov. 15, 2021.) For GS employees in the 0456 Wildland Fire Management occupational series, this statutory exception supersedes OPM’s current regulations at 5 CFR 550.904(a)–(b). Thus, a GS–0456 wildland firefighter can currently receive HDP for working on the fireline of a wildfire. Similarly, this proposed regulation would allow a GS–0456 wildland firefighter to be able to receive HDP for working on the fireline of a prescribed fire despite the classification of the employee’s position. OPM is proposing to amend 5 CFR 550.904 to add a new paragraph (f) to clarify this statutory exclusion. (Note: The EDP authority does not include a similar classification restriction.)

Prescribed fire duties (e.g., ignition, fireline construction, holding, snag felling, mop-up) expose employees to open flame, radiant and convective heat, smoke, unstable terrain, fire-weakened trees, and other physical, chemical, and biological hazards during ignition and patrol phases. Safety practices and Personal Protection Equipment (PPE), as described further in this notice, reduce—but cannot eliminate—these risks. Agency data document thousands of smoke/inhalation exposures during prescribed fire operations (2018–2023) and fatalities associated with prescribed burns (2003–2023).³ Advances in research indicate declines in lung function and increases in biomarkers of systemic inflammation and oxidative stress among wildland firefighters after shifts on both wildfires and prescribed fires. The International Agency for Research on Cancer classifies occupational exposure as a firefighter as carcinogenic to humans. Congress has also provided presumptive illness coverage for certain cancers and cardiac and pulmonary diseases for Federal wildland firefighters.⁴

OPM is responsible for establishing HDP categories for GS employees under 5 U.S.C. 5545(d) and EDP categories for FWS employees under 5 U.S.C. 5343(c)(4). The GS HDP categories are contained in Appendix A to 5 CFR part 550, subpart I, and FWS EDP categories are contained in Appendix A to subpart E of 5 CFR part 532. The proposal to add an EDP of 25 percent for prescribed wildland fire activities was presented to the Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-

management committee responsible for advising OPM on matters concerning the pay of FWS employees, at its July 18, 2024, meeting.⁵ The Committee recommended this change by consensus.

After analyzing data presented by USDA and DOI and reviewing FPRAC’s recommendation, OPM decided to propose an amendment to current regulations to include a 25 percent differential for EDP applicable to the implementation and control of a prescribed wildland fire when performed by FWS employees since these employees are exposed to most of the same physical, chemical, and biological hazards that may affect an employee’s short- and long-term health and safety as employees fighting wildfires. The proposed language reviewed by FPRAC was “participating as a member of a firefighting crew, engaged in activities on the fire line related to the preparation, implementation, and control on prescribed wildland fire.” The language approved by OPM in this proposed regulation replaces “related to” with “directly involves” and does not include activities of “preparation” for a prescribed fire, since the hazards justifying coverage are associated with management of an active fire and its aftermath by employees working on the fireline, not preparatory activities before a fire has been ignited.

OPM’s proposed regulations are consistent with Executive Order (E.O.) 14308, titled “Empowering Commonsense Wildfire Prevention and Response,” (90 FR 23175) signed by President Donald J. Trump on June 12, 2025, directing USDA and DOI to consolidate their wildland fire programs and recommend additional measures to modernize wildland fire prevention efforts.

The proposed change would apply the first day of the first pay period starting after the effective date of a final rule.

Description of the Hazardous Duty or Physical Hardship

Per USDA and DOI,⁶ duties associated with prescribed fire activities include ignition, fireline construction, holding, snag felling, and mop-up. As in wildfire suppression, prescribed burns expose firefighters to physical, chemical, and biological hazards with short- and long-term health risks. Crews deploy along prepared control lines with standard

gear—PPE (e.g., hard hats, fire-resistant clothing, gloves, boots), hand tools, chainsaws, and hoses—and ignite units using ground devices (e.g., drip torches, Very pistols, fusees, propane or high-pressure torches) and/or aerial ignition (e.g., helicopters, drones). Working directly on the fireline next to a spreading fire, firefighters are exposed to open flame, radiant and convective heat, and smoke throughout implementation. After ignition, patrol and mop-up can continue for days, involving water or foam application, digging out hot material, and felling fire-weakened trees. Smoke exposure peaks during ignition and early mop-up. From 2018–2023, Forest Service eSafety reports recorded 2,142 smoke or inhalation exposure incidents during prescribed-fire operations.⁷

Information on Ways To Mitigate the Hazard

Prescribed fire and wildfire operations use similar hazard mitigation measures. Standard wildland safety practices—briefings on assignments, hazards, weather, and unique risks; posting lookouts; use of PPE; and following established checklists and avoidance procedures—reduce risk but cannot eliminate it. Any fire operation increases the risk of injury or illness, and prescribed burns occur in inherently unpredictable conditions. Their hazards and required actions mirror those of wildfires—unstable terrain, falling trees and rolling material, necessary proximity to fire, and chemical and biological exposures—so risks cannot be fully controlled or mitigated.

The Degree to Which the Employee Is Exposed to Hazard or Physical Hardship

“Degree” in this case is characterized as a qualitative measure of magnitude, expressed over time. “Exposure” in this case is characterized as any occurrence where an employee is directly affected by the hazard and is therefore subject to the consequences of the hazard.

While conducting the implementation and patrol phase of prescribed fire operations, employees are exposed to variable degrees of a discrete or cumulative number of hazards. Not all hazards that employees are exposed to can be fully mitigated. Specific examples are described in the following table.

³ See “Working in Smoke: Wildfire Impacts on the Health of Firefighters and Outdoor Workers and Mitigation Strategies” at <https://pmc.ncbi.nlm.nih.gov/articles/PMC9008597/>.

⁴ See “Carcinogenicity of occupational exposure as a firefighter” at <https://www.thelancet.com/>

[journals/lanonc/article/PIIS1470-2045\(22\)00390-4/fulltext](https://www.opm.gov/journals/lanonc/article/PIIS1470-2045(22)00390-4/fulltext).

⁵ The transcript of the July 18, 2024 Federal Prevailing Rate Advisory Committee can be found at Federal Wage System (<https://www.opm.gov/>

[policy-data-oversight/pay-leave/pay-systems/federal-wage-system/#url=FPRAC](https://www.regulations.gov/document/OPM-2026-0199-0001/policy-data-oversight/pay-leave/pay-systems/federal-wage-system/#url=FPRAC)).

⁶ See supporting information provided by USDA and DOI at <https://www.regulations.gov/document/OPM-2026-0199-0001>.

⁷ See fn 6.

COMMON JOB TASKS PERFORMED ON WILDFIRES AND PRESCRIBED FIRES AND HAZARDS

Job task	Definition	Hazards that cannot be fully mitigated
Firing/ignition operations.	Ignition of burnable materials (fuels) with drip torches filled with a diesel/unleaded gasoline mixture, fusees, flare launchers, or other incendiary devices. How the burn is ignited (through firing patterns) may result in varying fire behavior and smoke production.	<p><i>Physical Hazard</i> Working on slopes and uneven ground (Slips, trips, falls, ground collapse, stobs, stump holes with hot ash). Fire behavior that may lead to increased extreme temperatures. Working in and around fire weakened trees.</p> <p><i>Chemical Hazard</i> Exposure to by-products of combustion (from burning vegetation and ignition devices). Exposure to silica (dirt, dust and ash). Exposure to engine fuel and exhaust.</p> <p><i>Biological Hazard</i> Exposure to biological hazards (poison ivy/oak, animal and insect bites, fungal pathogens).</p>
Holding	Monitor and patrol a section of the fireline (on wildfires and prescribed fires) and ensure that fire does not cross the fireline. Firefighters performing holding can be instructed to stand along a fireline and watch for the fire escaping control lines which can involve being in areas of high smoke and low visibility and around fire weakened trees.	
Mop-up	Extinguish any burning or smoldering material by digging out the burning material or applying water to prevent rekindling and improve the chances the fireline will hold the fire.	
Patrolling	Inspect and monitor a fire perimeter to monitor fire conditions.	

Description of Hazardous Nature of Firefighter Duties and Working Conditions

During implementation and patrol, employees face multiple, sometimes cumulative hazards that cannot be fully mitigated. Smoke exposure on both wildfires and prescribed fires is associated with reduced lung function, increased airway responsiveness, and elevated biomarkers of systemic inflammation, oxidative stress, and urinary mutagenicity after shifts and across seasons. Exposure assessments consistently detect hazardous air pollutants, including carcinogens. In 2022, the International Agency for Research on Cancer (IARC) classified occupational exposure as a firefighter as carcinogenic to humans.⁸

An IARC working group did not differentiate between structural and wildland fire exposures and cancer risk, and many of their studies that provided evidence of carcinogenicity were in wildland firefighters working on wildfires and prescribed fires reporting increases in inflammation and oxidative stress. Congress likewise recognized these hazards in section 5305 (Fairness for Federal Firefighters) of the James M. Inhofe National Defense Authorization Act of 2023, Public Law 117–263 (Dec. 23, 2022), which provides presumptive workers' compensation coverage under 5 U.S.C. 8143b for certain cancers and cardio-pulmonary diseases associated with fire protection activities. In the first year of coverage under this Act, 29 Forest Service wildland firefighters

submitted claims to the Department of Labor, Office of Workers' Compensation Programs under section 5305.⁹ Although the Occupational Safety and Health Administration (OSHA) has no prescribed fire specific standard and the Forest Service applies administrative controls and PPE (training, ignition-safety courses, contingency-based planning), these measures cannot reduce risk below a significant level. The National Wildfire Coordinating Group Risk Management Committee reported 15 prescribed fire fatalities from 2003–2023.¹⁰ Since 2019, Fire Aviation Management Risk Management data show prescribed-fire injuries range from treated-and-released to fatal and, on average, occur with frequency and severity similar to large-fire suppression.

According to USDA and DOI, injury patterns are similar for large-fire and prescribed-fire operations, with fireline work accounting for the largest share in both, but more heavily so during prescribed fires. In large-fire operations, roughly one-third of injuries occur on the fireline, about one-quarter are environmental, around one-fifth are illness-related, and a smaller share are tied to ground transportation, while aviation and other categories make up only a small fraction. In prescribed-fire operations, fireline injuries make up the largest portion at just over 40 percent, followed by ground transportation at a little over 20 percent, with environmental injuries in the mid-teens, aviation near 10 percent, illness below that, and almost none in the "other" category. The average injury severity is

slightly higher for large fires than for prescribed fires, although the overall severity levels are relatively close.¹¹

The Wildland Fire Lessons Learned Center Incident Review Database (IRDB) (<https://lessons.wildfire.gov/search-irdb>) houses hundreds of reports, reviews, and lessons-learned documents, many of which discuss accidents on prescribed fires. The examples included here reflect the interagency, collaborative nature of prescribed fire operations, as well as the wide range of injuries—including fatal injuries—that firefighters can experience on prescribed fires.

- Sam Houston National Forest Prescribed Fire Helicopter Accident Fatality 2019 (<https://lessons.wildfire.gov/incident/sam-houston-nf-prescribed-fire-helicopter-accident-fatality-2019>)
- Clear Creek RX Drip Torch Leg Burn 2021 (<https://lessons.wildfire.gov/incident/clear-creek-rx-drip-torch-leg-burn-2021>)
- East Eagle-Mud Springs Prescribed Fire Hit by Tree 2023 (<https://lessons.wildfire.gov/incident/east-eagle-mud-springs-prescribed-fire-hit-by-tree-2023>)

The Degree to Which Control May Be Exercised Over the Physical Hardship or Hazard

Although it was previously opined that prescribed fires are planned and in "control," this term has not been used by the wildland fire community in public communications or Federal policy. Since 1995,¹² Federal policy has

⁸ See "Carcinogenicity of occupational exposure as a firefighter" at [https://www.thelancet.com/journals/lanonc/article/PIIS1470-2045\(22\)00390-4/fulltext](https://www.thelancet.com/journals/lanonc/article/PIIS1470-2045(22)00390-4/fulltext).

⁹ See fn 6.

¹⁰ See fn 6.

¹¹ See fn 6.

¹² See: Interagency Standards for Fire and Fire Aviation Operations, Jan. 2023.

recognized prescribed fire—and, in 2009 guidance,¹³ planned fire—as the correct term for intentional fire use. In addition, the term “control[led] burn” is not found in the Publication Management System (PMS) 484—Prescribed Fire Planning and Implementation Procedures Guide or in the PMS 205¹⁴ which is the inter-agency standard for wildland fire related definitions.

Within the wildland fire community, control refers to an end state of a wildfire or prescribed fire or to specific tactics/features (e.g., “control line,” “natural control feature”), not to the operation itself. In short, “controlled fire” is a misnomer: any fire on the landscape can exceed intended boundaries and is never fully within human control.

Standard safety practices—thorough briefings on hazards and weather, posting lookouts, and adherence to established checklists and avoidance procedures—mitigate some risks. Nevertheless, any fire, prescribed or wildfire, increases the likelihood of exposure, injury, and illness. Prescribed burns occur in an inherently unpredictable environment with limited ability to control hazards. Required tasks—traversing unstable terrain, working in close proximity to flame, and exposure to chemical and biological hazards—create conditions that cannot be fully mitigated or controlled. Coupled with recent research and congressional mandates recognizing smoke exposure as a hazard, these realities justify additional HDP and EDP compensation for GS and FWS employees engaged in prescribed fire operations.

Expected Impact of This Rule

A. Statement of Need

This proposed regulation is needed because there is currently pay disparity between FWS and GS employees performing prescribed (planned) wildland fire activities and those working wildfire firelines. The purpose of these regulations is to achieve pay parity for Federal employees conducting prescribed wildland fire activities and Federal employees performing duties involving wildfires. As stated previously, while prescribed fire plans contain certain feasible mitigations, unavoidable hazards remain. Because providing a 25 percent HDP/EDP

differential only to Federal firefighters engaged in wildland fire activities could potentially perpetuate a disparate compensation practice, the Federal Government is taking steps to address the compensation policy for those Federal employees who are exposed to unusual health risks caused by working in close proximity to prescribed wildland fires and that cannot be mitigated.

Lack of EDP and HDP compensation is also a persistent barrier in recruiting and retaining FWS and GS employees to carry out prescribed-fire operations.

B. Impact

This proposed rule would provide a 25 percent HDP for GS employees and EDP for FWS employees participating in prescribed wildland fire operations and engaged in activities on the fireline related to implementation and patrol of prescribed wildland fires. The proposed changes would primarily apply to firefighters at USDA Forest Service and DOI. However, other agencies have advised OPM that in limited situations they may also have employees temporarily assigned to prescribed wildland fire activities who may meet the criteria for payment of the proposed 25 percent EDP or HDP differential. The proposed new differentials may apply to employees performing qualifying prescribed wildland fire duties in agencies outside of USDA Forest Service and DOI. Decisions on whether employees meet the criteria for application of the prescribed wildland fire differentials would be made by the employing agencies.

Under 5 U.S.C. 5545(d) and 5343(c)(4), OPM has the authority and responsibility to establish and make changes to HDP and EDP categories to provide additional compensation to GS and FWS employees. Any changes to the HDP and EDP schedules in title 5 will have the long-term effect of increasing pay for Federal employees in affected locations. OPM expects this rulemaking to impact approximately 10,000 GS employees and 2,500 FWS employees at USDA and DOI. Considering the number of employees affected, OPM does not anticipate that this proposed rule will substantially impact local economies or have a large impact in local labor markets.

The Length of Time During Which the Duty Will Continue To Exist

Within known technological limits, the duty of prescribed fire as currently implemented by the U.S. Federal Government has no foreseeable point in time in which it will cease to exist. The role of prescribed fire within natural

ecosystems has been established by over 100 years of relevant science as the only practical mitigation and restoration tool available to professional land managers. The USDA Forest Service Wildfire Crisis Strategy Implementation Plan,¹⁵ the National Wildland Fire Cohesive Strategy,¹⁶ and the Report of the Wildland Fire Mitigation and Management Commission¹⁷ all support expanding the spatial scale of prescribed fires. As such, there is no known end-state to the hazards associated with prescribed fire. The overall magnitude of exposures to prescribed fire-related hazards are likely to increase over time.

C. Costs

Utilizing current GS and FWS pay rates, USDA has estimated that providing HDP and EDP for prescribed fires would cost the Government \$20 million, while the DOI has estimated it to be \$12.5 million in FY2026.

All Forest Service employees engaged in prescribed fires and wildfire response are paid from a single salary line for firefighters. The Forest Service sees on average roughly 80 percent of the operational firefighters participating in prescribed fire in any given fiscal year. The cost estimate of \$20 million for the Forest Service for FY26 is based on approximately 250 hours of prescribed fire operations. These numbers can fluctuate heavily depending on burn conditions, weather, frequency of wildfires (which take priority), etc.

Using the FY25 total as the baseline, DOI compared FY25 prescribed fire accomplishments (acres treated) with draft FY26 and FY27 targets, which are about 10 percent higher than FY25 accomplishments. To accommodate both the expected increase in work and labor costs—including a 1 percent pay increase from FY25 to FY26, DOI increased the FY26 Hazard Pay (“H-pay”) estimate by 11 percent over FY25 actual obligations, resulting in \$8.95 million, rounded up to \$9.0 million. For FY27, DOI increased the estimate from \$9.0 million to \$9.5 million (a 5.6 percent increase) to account for

¹⁵ USDA Forest Service. “Wildfire Crisis Implementation Plan,” Jan. 2022, <https://www.fs.usda.gov/sites/default/files/Wildfire-Crisis-Implementation-Plan.pdf>.

¹⁶ USDA Forest Service; Department of the Interior, Office of Wildland Fire Coordination. 2011. “A national cohesive wildland fire management strategy,” 2011, https://www.fs.usda.gov/rm/pubs_other/rmrs_2011_usda_fs001.pdf. Wildland Fire Leadership Council.

¹⁷ Wildland Fire Mitigation and Management Commission. “ON FIRE: The Report of the Wildland Fire Mitigation and Management Commission,” Sept. 2023, <https://www.usda.gov/sites/default/files/documents/wfmmc-final-report-09-2023.pdf>.

¹³ National Interagency Fire Center. “Guidance for Implementation of Federal Wildland Fire Management Policy,” Feb. 13, 2009, http://www.nifc.gov/policies/policies_documents/GIFWFMP.pdf.

¹⁴ NWCG Publication Management System document 205: Glossary of Wildland Fire, <https://www.nwcg.gov/publications/pms205>.

potential additional labor cost increases and further increases in targets and accomplishments, reflecting DOI leadership and administration priorities around fuels management and the expectation of a departmental performance target in the FY26/FY27 timeframe. Note that these costs to the Government are considered transfers rather than societal resource costs.

If this rulemaking is finalized, agency payroll providers will need to properly assign EDP and HDP time and attendance, payroll, and/or other internal codes and documentation necessary to ensure payment of the differential for qualifying work. Payroll providers may establish their own payroll codes as needed, as long as they report the required data based on OPM's established Enterprise Human Resources Integration data elements. This is not anticipated to be a significant additional cost burden or to require additional funding as agency payroll systems are often updated as a routine business matter.

D. Benefits

This proposed rule has important benefits. As already stated, the hazards faced by FWS and GS employees conducting prescribed fire activities mirror those faced by FWS and GS employees managing wildfires; however, employees conducting prescribed fire activities do not receive any differential in pay. Recent research has heightened awareness of smoke and other environmental risks during prescribed burns. Providing commensurate pay for prescribed fire operations will help with recruiting and retaining FWS and GS employees. Providing the differential pay also shows a recognition of the risks associated with the position and places a higher value on the needed service.

E. Alternatives

OPM considered not providing differential pay and, instead, allowing Federal agencies to rely on their discretionary authority to provide pay and leave flexibilities to address significant recruitment and retention problems. However, pay and leave flexibilities would not solve the underlying pay inequities between Federal employees exposed to similar types of fire hazards because such incentives are optional, uneven, and not tightly tied to hazard exposure. Two employees performing the same risky work may still end up paid very differently depending on location, local management decisions, or budget.

OPM also considered providing a lower percentage than a 25 percent

differential, however this approach would underappreciate the hazards involved in prescribed fire activities, which are equivalent to wildland fire hazards.

Request for Comments

OPM requests public comments from local businesses on the implementation and impacts of USDA and DOI paying an additional compensation of 25 percent HDP to GS employees and EDP to prevailing rate employees participating in prescribed wildland fire operations and whether these changes would be likely to affect them.

Regulatory Compliance

A. Regulatory Review

OPM has examined the impact of this rule as required by E.O.s 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for rules that have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rulemaking does not reach that threshold but has otherwise been designated as a "significant regulatory action" under section 3(f) of E.O. 12866. This rule is not expected to be considered an E.O. 14192 regulatory action because it imposes no more than de minimis costs.

B. Regulatory Flexibility Act

The Director of OPM certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

C. Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, the Director of OPM certifies that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Civil Justice Reform

This rulemaking meets the applicable standard set forth in section 3(a) and (b)(2) of E.O. 12988.

E. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

F. Paperwork Reduction Act

This rulemaking does not impose any reporting or record-keeping requirements subject to the Paperwork Reduction Act, as amended (44 U.S.C. Chapter 35).

List of Subjects

5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

5 CFR Part 550

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

Signing Statement

The Director of OPM, Scott Kupor, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

Accordingly, OPM is proposing to amend 5 CFR parts 532 and 550 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346, Sec. 532.707 also issued under 5 U.S.C. 552.

■ 2. In appendix A to subpart E of part 532, amend the table by adding a new activity to the schedule of environmental differentials under

category "10. Firefighting" in the table titled "Part II—Payment on Basis of Hours in Pay Status" to read as follows:

**Appendix A to Subpart E of Part 532—
Schedule of Environmental
Differentials Paid for Exposure to
Various Degrees of Hazards, Physical
Hardships, and Working Conditions of
an Unusual Nature**

* * * * *

PART II—PAYMENT ON BASIS OF HOURS IN PAY STATUS

Differential rate (percent)	Category for which payable	Effective date
*	*	*
25	10. <i>Firefighting</i> . Participating or assisting in firefighting operations on the immediate fire scene and in direct exposure to the hazards inherent in containing or extinguishing fires. <i>High degree.</i> —Fighting forest and range fires on the fireline —Participating as a member of a firefighting crew engaged in activities on the fireline directly involving the implementation and control of a prescribed wildland fire.	July 1, 1972. July 1, 1972. [The first day of the first pay period starting after the effective date of a final rule]
*	*	*

* * * * *

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart I—Pay for Duty Involving Physical Hardship or Hazard

- 3. The authority citation for subpart I of part 550 continues to read as follows:
Authority: 5 U.S.C. 5545(d), 5548(b).
- 4. In § 550.904, paragraph (f) is added to read as follows:

§ 550.904 Authorization of hazard pay differential.

* * * * *

(f) The provisions of this section concerning payment of a hazard pay differential when a hazard or physical hardship is taken into account in the classification of an employee's position does not apply to an employee in an occupational series covering positions for which the primary duties involve the prevention, control, suppression, or management of wildland fire.

■ 5. In appendix A to subpart I of part 550—Schedule of Pay Differential Authorized for Hazardous Duty Under Subpart I, amend the table by revising the "Firefighting" category in the Hazard Pay Differential to read as follows:

**Appendix A to Subpart I of Part 550—
Schedule of Pay Differentials
Authorized for Hazardous Duty Under
Subpart I**

* * * * *

Duty	Rate of hazard pay differential (percent)	Effective date
*	*	*
Firefighting:.		
(1) <i>Forest and range fires</i> . Participating as a member of a firefighting crew in fighting forest and range fires on the fireline.	25	First pay period beginning after July 1, 1969.
(2) <i>Prescribed wildland fire operations</i> . Participating as a member of a firefighting crew engaged in activities on the fireline directly involving the implementation and control of a prescribed wildland fire.	25	[First pay period beginning after the effective date of a final rule].
(3) <i>Equipment, installation, or building fires</i> . Participating as an emergency member of a firefighting crew in fighting fires of equipment, installations, or buildings.	25	First pay period beginning after July 1, 1969.
(4) <i>In-water under-pier firefighting operations</i> . Participating in in-water under-pier firefighting operations (involving hazards beyond those normally encountered in firefighting on land, e.g., strong currents, cold water temperature).	25	Do.
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