

General Provisions - Subpart A

Page 7557:

Eligibility and Coverage: It states "DoD will transition to the NSPS human resource system beginning with its General Schedule (GS) employees (and equivalent)." Equivalent should be defined.

Scope of Authority: There is discussion of the title 5 chapters and implementing regulations which may be waived. Where the Federal Register specifically waives portions of both, will component specific regulations also be waived? In order to reap the benefits of NSPS, we advocate that supplemental guidance only be issued at the very minimum.

Classification – Subpart B

How will team leader positions fit into the broad categories of nonsupervisory (full performance), nonsupervisory expert, supervisory or managerial pay schedules described in the Federal Register? Additionally, the Federal Wage System has functional standards that include classification criteria for inspector, apprentice, helper, etc. positions. Will these functional titles be incorporated into the pay bands? Will impact of person on the job also be an element of the NSPS classification system?

How will duty levels within a pay band be described? To assist managers in linking employee pay and performance management with appropriate pay band level duties, we believe that pay bands should have entry, mid and top level descriptors to aid in making pay setting determinations, PPP determinations, and for defining assignments within a band.

Will an automated tool be developed to classify position descriptions? We believe it important to allow an automated classification system to interface with existing component automated systems such as Modern DCPDS or Army's FASCLASS.

Will position titling be consistent with OPM standards? Other demonstration projects specifically mention whether their titling practices follow OPM standards.

Will the implementing instructions define who has classification authority?

There is no mention of position management in the Federal Register - will implementing regulations address it or is position management not significant in a pay for performance system?

When existing demonstration project employees (e.g., employees in other currently existing demonstration projects) are identified to be converted into the NSPS, will there be specific guidance on the conversion procedures? Example: will employees be converted out of their demo to GS and then converted again into NSPS or be converted from their demo directly into the NSPS? We ask because there are financial considerations depending on the conversion procedure. Recommend all DoD elements process conversions in the same manner.

Will students (STEP/SCEP) be eligible for NSPS inclusion? In addition, we hire local interns and interns that work locally, however, belong to our major command and on major command manpower documents. If they are not in the initial spirals, we are concerned that they will work side by side with interns in NSPS.

Section 9901.212(d) - The reference to section 9901.514 is incorrect. Did you mean 9901.513?

Section 9901.222 - This section details the type of employee requests that can be addressed for reconsideration of classification decisions. We suggest that implementing instructions describe what is exempt from reconsideration (such as content of job descriptions or criteria for classifying positions).

Pay and Pay Administration - Subpart C

Page 7559:

Setting and Adjusting Rate Ranges - Need to clarify that there will no longer be what we know as “locality pay” or “special salary rates”. Does the “local market supplement” take the place of special salary rates? Does the “local market supplement” take the place of locality pay? Do locality pay and special salary rates go away upon conversion to NSPS or at some other time?

Page 7560:

Adjusting Rate Ranges and Local Market Supplements - The Federal Register states that “DoD may determine local market areas as well as the timing of these pay adjustments.” DoD needs to consider when they effect rate range pay adjustments as they subsequently impact on performance payouts. There are huge impacts relative to running an accurate performance payout if these rate range pay adjustments are effected just prior to the end of the rating period. For example, we have an annual pay adjustment that is effected in January of each year (this is similar to an NSPS rate range adjustment). One of our demonstration project's pay pool funding is based on a percentage of the base salaries as of 31 January of each year (which is the end of the demonstration rating period). Our experience has been that we cannot get accurate salary data on 31 January to properly set the pay pool dollars due to pay adjustments not being processed, corrections to pay adjustments, or people who were just missed for other reasons. This causes considerable effort to capture the accurate salary data as of 31 January. Recommend there be at least 60-90 days between when a rate range pay adjustment is granted and the end of the NSPS pay for performance rating period end date.

Do employees on retained pay receive a pay increase due to a rate range adjustment or local market supplement adjustment? If so, how is it calculated - what percentage of the increase do they receive?

Rating Methodology - The Federal Register states “The rater will prepare and recommend the rating, number of shares, and the distribution of the payout between basic pay increase and bonus, as applicable, for each employee.” Will there be enough flexibility within the automated tools to handle this, and how will pay pool panels level the playing field between easy and hard raters? While flexibility is necessary, deciding how the payout will be distributed should be retained at the pay pool panel/manager level, and the rater’s recommendation on distribution is not really necessary. There should be established guidelines for making these distributions. Is there a set payout formula? If there is no set payout formula, the flexibility at the rater level will perpetuate the employee’s view that the NSPS system is not fair and equitable. It may fuel the “who you know” or “playing favorites” perception with regard to receiving it all in base pay, for example: if the boss doesn’t really like you then you get bonus instead of a base pay increase.

Performance Payout - Control points are actually necessary to maintain cost discipline while ensuring that performance payouts are in consonance with accomplishments and levels of responsibility. Control points have been successful in the laboratory demonstration projects. We do not recommend use of an employee receiving the highest score as a control point as the example shown in the Federal Register. This will only serve to skew the ratings, as the highest performance rating will be assigned just to get someone a payout. Examples of this have occurred in one of the demonstration projects in pay band NH-04 with use of the “Very High” score. Exceeding a particular score would be more appropriate, thus a realistic rating is achieved. Another method

might require exceeding a salary point within the band coupled with the requirement to exceed a certain score to receive a base pay increase in the performance payout.

Prorating performance payouts on an individual employee basis is going to be extremely cumbersome to manage unless sophisticated automation tools are put in place to support this.

Extraordinary Pay Increase - If the pay pool manager has the ability to adjust the distribution of the payout to give someone more in their base pay, then why is this needed? Can't the payout formula be adjusted in these particular cases rather than processing an additional personnel pay action, or is this increase above and beyond what is given in the performance payout?

Organizational Achievement Recognition - Is this above and beyond the performance payout, and when is it granted/effectuated? The Federal Register does not address whether this is in the form of basic pay or bonus. This will be difficult for the personnel office to process. If this is built into the payout formula, there is more control and just one payout to process.

Page 7561

Developmental Positions - This is a good feature as it provides a means to progress within the band other than strictly based on performance. Guidance is needed on how to implement, as this is similar to a career ladder promotion in the General Schedule. Local intern training plans will need to be rewritten to address this feature under NSPS - example: engineering intern training plans which allow for two accelerated promotions. Who determines how much salary increase is given?

Temporary Promotion - The sentence "GS employees will be converted at their current rate of basic pay, including any locality payment, adjusted on a one-time, pro-rata basis, for the time spent towards their next within-grade increase." should be included in the Initial Conversion paragraph.

Promotion - This definition needs clarification in the implementing guidance as to what a higher pay band is in order to help determine proper pay setting. For example: is it a higher pay band if the maximum salary in a band exceeds that of the employee's current pay band? Also, clarification is needed regarding GS to NSPS and what constitutes a higher level of work in NSPS versus GS – is this meant to be work above the pay band that the GS grade is contained in?

Reassignment - This definition needs clarification in the implementing guidance as to what a "comparable pay band" is. Is it the band that the GS grade is contained in? As this is written, may employees receive a WIGI buy in? We are concerned about the possible lack of cost containment for reassignments which increase the base salary of employees.

Reduction in Band - This definition needs clarification in the implementing guidance as to what a lower pay band is. Some demonstration projects have pay bands which overlap GS grade equivalents (Such as DB III which includes GS grades 12/13/14 and DB IV which includes GS grades 14/15). This is necessary in order to properly set pay. For example: is it a lower pay band if the maximum salary range is less than that of the employee's current pay band? Also need clarification regarding GS to NSPS as to what constitutes a lower level of work in NSPS versus GS – is this meant to be work below the pay band that the GS grade is contained in?

Page 7580

Section 9901.304 - Contribution Assessment - clarify if this is part of the performance payout. What constitutes a pay pool level under the modal rating definition?

Page 7581

Section 9901.304 - Clarify what a higher pay band is under the promotion definition. Clarify what a comparable pay band is under the reassignment definition. In the definition for Reduction in Band, clarify what a lower pay band is - is it a pay band that has a maximum salary that is less than the employee's current pay band?

Need to define aggregate pay. There is no definition of this in the Federal Register.

Section 9901.323(b) - If an employee with an unacceptable rating does not receive a pay increase in connection with a rate range adjustment, and their base pay falls below the minimum of their pay band, will the manager have the option of changing the employee to a lower band without using adverse action procedures? If performance then becomes acceptable, how is the date determined when the employee receives a rate range adjustment?

Section 9901.331 - Does the "local market supplement" take the place of special salary rates or locality pay?

Page 7582

Section 9901.341 - Under performance based pay, the payout can be for an individual, team or organizational performance. Can an employee be rated on both individual and team or organizational performance? If so, will they have separate expectations or will it be rolled into one set of expectations? And how will the pay pool manager do his part on the contribution assessment for an employee who will be rated on both individual and team expectations?

Section 9901.342(d)(4) - Why can't base pay exceed a control point within a band? This is an artificial ceiling. If a control point is salary-based (for example the salary mid point of the payband), and also ties to a certain rating score (if your salary is at the mid point of the band you must receive a score of 30 or higher to receive a base pay increase), you would want the employee to be able to exceed the salary control point.

Page 7583

Section 9901.342(e) - Sophisticated automation tools will be required to deal with prorated payouts. How is the Modern DCPDS going to process the payouts? How will salary actions that occur between the end of the pay for performance rating period and the effective date of the payout be addressed?

Section 9901.353 - Upon promotion, we believe an employee's pay should be allowed to be set above the minimum 6% typical for promotion, yet we also believe there should be a maximum percentage also.

Section 9901.354 (c) - This section relates to allowing an employee to retain higher pay upon the termination of a temporary promotion. We feel this contradicts page 7559, in which NSPS is touted as a new system based on the principle of "equal pay for equal value." We fail to see how still paying an employee a higher salary for a temporary promotion which has terminated conforms to "equal pay for equal value." This should not be allowed.

Page 7584

Section 9901.356(e) - Please define a temporary reassignment.

Section 9901.373(b) - Will a special rate employee's within grade increase (WIGI) buy-in be calculated using the step increment from the special salary table versus the step increase from the General Schedule? Will automation tools be provided to the HR community to accomplish the WIGI buy-ins? Will NSPS allow employees to first convert out of their demonstration projects (for employees currently in other demonstration projects) in accordance with the particular demonstration project's conversion out procedures back to the General Schedule? If so, will they even receive a WIGI buy-in? Or, will NSPS override these "conversion out" procedures and do payband-to-payband reassignments into NSPS?

Section 9901.373(e) - Need clarification of what this paragraph means.

Performance Management - Subpart D

Page 7585

Section 9901.405 (b)(6) - This paragraph discusses how to address the performance of employees that are detailed or transferred into the system. Detail and transfers address only those particular situations, not the large group of employees that move in via reassignment, promotion, etc., of GS or other demonstration project employees into NSPS and how their ratings of record and appraisals will be handled.

Section 9901.406 (b) - We would like clarification regarding the part of this sentence that addresses communicating expectations that may "affect an employee's retention in the job." What does this mean? Unacceptable is defined as failure of 1 or more expectations (part 9901.103 Definitions), therefore, a failure of one expectation would affect an employee's retention in a job.

Page 7586

Section 9901.409 (b) - How will the additional rating of record be handled? Will the additional rating of record cancel the earlier one out of the system or will the earlier rating still be on record (ex. - for RIF)? And how will this additional rating be factored into the contribution process that the pay pool manager accomplishes?

Section 9901.409 (h) - If an additional appraisal is not a rating of record, is it used merely to provide input to a rating? What will this additional appraisal be called - a special rating?

How will matrix management apply in NSPS? We have many matrixed employees and would like to know how their ratings are managed in the proposed NSPS performance management system?

Staffing and Employment - Subpart E

Page 7563

What are the proposed regulations providing DOD with an expanded set of flexible hiring tools to respond effectively to continuing mission changes and priorities? What are the hiring tools? We want to see tools and flexibilities that will prove NSPS to be more flexible and streamlined. Resumix was advertised as such and it has not been a faster method of filling jobs.

What series will be under the Direct Hire Authority and who will determine the series that are added or deleted from this hiring authority?

Is the Rule of 3 abolished under NSPS?

Ensure pay band positions can be cleared properly in the Priority Placement Programs. Prior demonstration projects showed PPP was not well thought out regarding accommodating the new systems.

Page 7587

Section 9901.504 - Career employees serve without time limit in competitive or excepted service positions; the proposed regulations eliminate the category of "career-conditional employment" and under NSPS those employees may be hired directly into the career service. How does this affect reinstatement rights? How will current career conditional employees be converted into NSPS? What entitlements do time-limited employees have (Term as well as Temp)?

Section 9901.510 - Temporary reassignment needs to be defined.

Section 9901.512 - What categories of positions will be subject to the in-service probationary period? Will the supervisory probationary period be abolished in favor of this new probationary period?

Section 9901.515 - In reference to competitive examining procedures, applicants from the local commuting area and other targeted sources may be considered first. How does this work with Veterans, rule of 3, etc.? Why limit the candidate pool? Also, paragraph 515 (a) leads one to believe that every career service position must be advertised via public notice instead of allowing management to decide the area of consideration.

Page 7588

Section 9901.515(c) - Ensure all new rating and ranking procedures are available when NSPS becomes effective and they are compatible with automated systems for optimum use.

Workforce Shaping - Subpart F

Section 9901.603 - How will the rating of record be credited in RIF under the definitions of retention factors?

Sections 9901.603 and 9901.607(a)(1) - Competing employees include employees serving on initial probationary periods. Are employees impacted in this process if they are serving an in-service probationary period?

Section 9901.604(c)(3) - Does seasonal refer to NAF employees?

Adverse Actions - Subpart G

Section 9901.703 - Under definition of Mandatory removal offenses (MRO), is the Secretary of Defense to be the deciding official for any MRO? If not, how would the employee's due process be preserved? Specifically, regardless of the substance of the employee's reply, a lower level deciding official would not have authority to lower the penalty from removal. In addition, if the Secretary of Defense is the only one that can approve the removal of an employee, we see this as a process that will be burdensome and time consuming as such a proposed removal will need to go through component chains of command. One of the reasons given for the MRO is for the substantial impact of the security mission. Having to coordinate a proposed action will take

months, at the least. If removals are for national security reasons, will employees follow 5 USC 7532 procedures?

Appeals - Subpart H

Page 7592

Section 9901.805 - Actions taken under 5 USC 7532 are not appealable to the board, why then does it say otherwise in Section 9901.808? Actions taken under 5 U.S.C. 7532 - do employees appeal through the grievance procedure and then to the Head of Agency for final decision rather than to an arbitrator?

Page 7593

Section 9901.807(d)(2) - Actions that can be appealed to MSPB, can the employee make an appeal to arbitration and MSPB simultaneously? Or are they subject to either one or the other? This is not spelled out.

What do case suspensions mean?

Labor-Management Relations - Subpart I

Page 7596

Section 9901.905 - "The exclusive representative may appeal the Department's determination that a provision is unenforceable to the National Security Labor Relations Board in accordance with the procedures and time limits pursuant to 9901.908." We seek clarification whether we should be forwarding all contracts and our position and comments forward for review in order to make a determination that the contracts are not consistent. If not, who is responsible for initiating the fact that the contracts are not consistent? When does the 60 day time limit commence?