

Comments on Proposed NSPS Regulations—RIN 3206–AK76/0790–AH82

General

I have concern the new system can and will punish good employees with bad supervision and bad management. The old system gave some protection to the bad employee with a supervisor or managers that did not do what was required to correct or remove the bad employee. Watching a small percentage of bad employees get annual cost of living increases and periodic step increases along with the good employees can be bad for the moral, but the good employee will continue to be productive because they also received the increases. But, if a good employee is not rewarded under NSPS due to untrained or bad supervision and management how long will they remain productive? The NSPS punishes the good employee who has untrained or bad supervision and management. I expect with the regular turnover of military supervisors and managers it will be a constant problem with no solution built into the system to redress past problems or to correct ongoing problems.

General

The NSPS takes away the protection of the employee who is doing what is best for the National Security goals and strategic objectives. The only protect for an employee is to do just what the supervisor and management wants at the moment. It is altruistic to expect all supervisors and managers will want all employees to support National Security goals and strategic objectives at all times. There is nothing built into the system to protect the employee who is ‘doing the right thing’ in spite of what he is directed to do by supervision and management. Please address that eventuality.

General

A problem currently exists because locality pay is not given to GS employees when in an overseas location. Currently a ‘rest of the US’ employee would suffer a more than 10% cut in pay and some benefits to voluntarily accept an overseas position. I have read the entire NSPS rules and cannot see where the issue is addressed. I can read where employees may be reassigned, which would solve the need to attract volunteers but it may create a problem of people quitting rater than taking a substantial cut in pay and benefits to accept a reassignment. Please address this issue.

The Case for Action Page 7553

“NSPS is designed to promote a performance culture in which the performance and contributions of the DoD civilian workforce are more fully recognized and rewarded. The system will offer the civilian workforce a contemporary pay banding construct, which will include performance-based pay.”

When the “Cold War” victory was proclaimed the DoD civilian workforce performance was rewarded with a ‘Peace Dividend’ enacted by Congress that resulted in BRAC in 1993 and 1995, RIFs and hiring freezes. I expect when victory in the “War on Terrorism” is declared a ‘Peace Dividend’ will again be enacted on the DoD civilian workforce, there will be no reward for good performance.

The current administration continues to use excuses to not full fund the current pay system by saying, “Full statutory civilian locality pay increases averaging 10.6 percent in 2005 would divert resources from and interfere with the country’s ability to fight the war on terror.” I expect the same explanations will be given to a deserving DoD civilian workforce.

Please change the name to budget-based pay or political-excuse-base pay.

The Case for Action
Page 7553

The Department’s 20 years of experience with transformational personnel demonstration projects, covering nearly 30,000 DoD employees, has shown that fundamental change in personnel management has positive results on individual career growth and opportunities, workforce responsiveness, and innovation; all these things multiply mission effectiveness.

In this regard, the DHS regulations were analyzed by staff-level working groups, as well as senior leadership, and where it made sense—that is, where it was consistent with and supported DoD’s national security mission, operations, and statutory authorities—we adopted many of the concepts and approaches, and even much of the specific language set forth in the DHS regulations.

Two contradictory statements on the same page raise concern that there are problems with NSPS. If DoD has 20 years experience showing “positive results” why are they going to DHS to “adopt many of the concepts and approaches”? The NSPS should adopt the good things learned from 20 years of demonstration projects rather than model itself after a new, untried, system.

Process
Page 7555

“Put mission first—support National Security goals and strategic objectives;”

The advertised (posted on the official web site) Hill AFB Strategic Plan as of a month ago was dated 2000, well before the incident of 11 Sep 01 the contributed to the justification for NSPS. The Installation’s strategic plan is no longer posted on the web site. It is replaced with the mission statement of the office responsible for maintaining the strategic plan. If the Installation I work at cannot even figure out how it fits into the “support Nation Security goals and strategic objective” then how can my supervisor and I figure out how I fit into the mission of the base to properly determine my performance?

“Supporting Infrastructure: Information technology support and training and change management plans are available and funded;”

I just received an email from the AFMC/CC called the Commander's Log - 9 March 2005. I include the following:

FY05 Operations & Maintenance (O&M) Funding Challenges

I want to close with a message from our Chief of Staff on FY05 Operations & Maintenance (O&M) funding challenges. The Air Force faces a \$733M shortfall in military personnel funding which is a result of the Air Force exceeding military authorized end strength. Also, current O&M burn rates project a \$3B shortfall across the Air Force by the end of this fiscal year. These facts will require every Air Force organization to adjust O&M execution guided by the following Chief of Staff priorities which he shared with MAJCOM Commanders last week and we in turn disseminated.

"First, support the requirements of the Global War on Terrorism and ongoing operations in theater. Second, protect efforts that support the next rotation to those operations. Readiness and combat training to include flying hours are a high priority, but if it becomes clearly necessary to slow activities in this area to support the first two needs, then you should do so. Remaining areas, such as facilities, business operations, travel, administrative functions, or other training, must be a lower priority in this context and may be slowed significantly to achieve fiscal compliance. Look hard for ways to reduce cost for this fiscal year before awarding any contracts. Since we are already through five months of the fiscal year, you should consider putting on contract only enough funding to complete the year plus one month. Although this may appear difficult, we fully expect that tough choices will be necessary to achieve balance by 30 September."

I hope the funding for the IT and training is not part of the O&M budget. Usually it is, but the NSPS proposed rules are not clear how the budgeting for the implementation is to be done. Please clarify the NSPS funding plans.

Pay and Pay Administration—Subpart C
Page 5760

The amount of money available within a pay pool is normally based on the money that would have been available for within-grade increases, quality step increases, promotions between grades that have been banded in the NSPS pay system, and applicable across-the-board pay increases.

There is clearly no pay and performance link. The amount of money in a pay pool for an exceptional performing group should be more than in the average pay pool. If the Air Force performs better than the Army and the Navy the Air Force pay pools should be larger. If one of the commands in the Air Force performs better than the other commands then the pay pools for that command should be larger than the others. If one base in that command performs better than the other bases in that command then that base's pay pools should be larger. And so on down to the individual pay pools.

Pay for performance needs to be more than at the pay pool level as described. To be fair it must be at the DoD level. A system of appraising the entire DoD must be developed that eventually works down to the individual pay pool and then finally the single person. Otherwise the pay for performances is only within the scope of a pay pool.

Pay and Pay Administration—Subpart C
Page 5761

Developmental Positions: Employees in developmental positions may receive pay adjustments as they acquire the competencies, skills, and knowledge necessary to advance to the full performance level.

This reads like someone moving from an entry/developmental pay band to the full performance pay band could also be entitled to not only a pay increase from changing bands but also a larger share of the performance pay pool. If it is not that, then it is even worse.

In the old pay system a person could begin in a developmental position as a GS-5 or 7 and in a year or two move to a GS-11 or 12 position as they acquire the competencies, skills, and knowledge necessary to advance to the full performance level. Now that same person will impact the other people in the same pay pool. There is no provision to put more money in the pay pool, only a way to give more money to the new person, which would mean less available for the other good performers.

In the old system a person assigned to train someone in a developmental position would not be directly threatened. Under the proposed rule the better a trainer did training a developmental employee the fewer funds that would be available to reward the trainers good work because a 'pay adjustment' would be going to the developmental employee out of the same pool.

Pay and Pay Administration—Subpart C
Page 7561

Reduction in Band: When an employee moves to a lower pay band, pay will be set depending on whether the move is voluntary or involuntary. If the move is voluntary, pay may generally be set anywhere within the pay band within limits specified in the implementing issuances.

In the past if a person is forced into a voluntary reduction in ‘grade’ by a RIF the Save Pay process would apply. Also if a person accepted a job offer over seas at a lower ‘grade’ Save Pay was an option. I see no direct mention of Save Pay. Has it gone away? Please clarify.

Performance Management—Subpart D
Page 7561

The proposed system builds in the flexibility to modify, amend, and change performance and behavioral expectations during the course of a performance year . . .

A person’s performance and behavior expectation should be based on the requirement to “Put mission first—support National Security goals and strategic objectives;” as described earlier in the rules. It should only be a change to the National Security goals and objectives during the course of a year that would require a change to an individual’s performance and behavior expectations during the course of a performance year.

A person should not have to suffer with changing expectations, and suffer the results of only being appraised on the new expectations, because the supervisor and managers are incapable of making and following long range plans matching the unchanging National Security goals and objectives. When a bad supervisor or manager is removed during a performance year the employee should not be forced to suffer the consequences.

This section should be rewritten to ensure that changes to the performance and behavioral expectations of an employee are not base on bad supervision or bad management but on actual changes of National Security goals and strategic objectives.

Performance Management—Subpart D
Page 7562

“ . . . including a reduction in rate of basic pay or pay band.”

Will the employee’s performance plan be lowered to match the reduction in rate of basic pay or pay band? Could the employee then in the next performance year, at the lower basic pay or pay band and with the lowered performance plan, have good performance and receive a good rating and a larger share of the pay pool? Please clarify.

Appeals—Subpart H
Page 7568

Under the current standard, the Department may be required to pay attorney fees based on facts that were not known to management when the action was taken. This is an unreasonable standard that can deter the Department from taking action in appropriate cases and has a chilling effect on the Department's ability to carry out its mission. Accordingly, the proposed regulations provide that a prevailing appellant may recover attorney fees if the Department's action was clearly without merit based upon facts known to management when the action was taken. The proposed regulations also continue to require attorney fees if a prohibited personnel practice was committed by the Department.

This is an unreasonable change that will adversely impact employees. The Department will have no reason to correct an incorrect action when facts are revealed to management, when the facts were not known at the time, because there are no consequences if they do not. The current standard must be retained.

Subpart A—General Provisions
§ 9901.101 Purpose.
Page 7575

“High Performing Workforce and Management—employees and supervisors are compensated and retained based on their performance and contribution to mission;”

How can the different contribution to the mission be determined to establish fair compensation? For years it has been recognized men and women receive different compensation for equal contribution. That problem has not been solved and there is no resolution in site. In the old days we would know any job held by a white male protestant would be compensated higher than others regardless of the contribution to the mission. It will be interesting to see under this new system what category of people will receive high compensation regardless of contribution to the mission. I will not be rude enough to speculate.

Subpart A—General Provisions
§ 9901.101 Purpose.
Page 7575

“Agile and Responsive Workforce and Management—workforce can be easily sized, shaped, and deployed to meet changing mission requirements;”

NSPS may facilitate management in doing those things, but it does not provide the required employee compensations. When the military is deployed there is a housing, medical, community, and etc. system in place to support the dependants left behind. Where are the provisions and compensation for the civilian's dependants left behind in NSPS?

When the military member takes his family with them to the 'deployed' location there are provisions for the dependents including housing, medical, community, spouse preference hiring, and etc. Where are those provisions and compensations for the civilian and his dependents that 'deploy' in NSPS?

The military can be easily sized and shaped because large percentages are in for only four years and then they move on to something else. The rules state, "In order to meet its critical mission requirements in a dynamic national security environment, the Department needs greater flexibility to attract, recruit, shape, and retain a high quality workforce." There is a conflict between "easily sized" and "retain a high quality" workforce. I know both are wanted, but neither will happen with NSPS.

Subpart C—Pay and Pay Administration
Page 7580

Does the EPI come out of the pay pool or does it come from another source. If it comes out of my pay pool and does not go to me I will make certain I do nothing to help that employee get another EPI because it reduces my potential for a fair pay increase.

Subpart C—Pay and Pay Administration
Page 7580

Pay pool. If each employee is only in one at a time then if one changes jobs and locations during an appraisal period, what pay pool do they belong to?

Pay pool becomes more important under NSPS than any other organizational unit. So much for 'unit cohesion', now it will be pay pool cohesion.

Subpart F—Workforce Shaping
Page 7589

§ 9901.605 Competitive area.

(a) Basis for competitive area. The Department may establish a competitive area on the basis of one or more of the following considerations:

- (1) Geographical location(s);*
- (2) Line(s) of business;*
- (3) Product line(s);*
- (4) Organizational unit(s); and*
- (5) Funding line(s).*

(b) Employees included in competitive area. A competitive area will include all competing employees holding official positions of record in the defined competitive area.

Consistency of appraisals across such varied areas is impossible to expect. It is difficult for one supervisor to appraise two equally good employees using the same criteria, without other factors coming into consideration. It is impossible to expect consistent appraisals over lines of business, product lines, organizational units, or funding lines so fair RIFs can occur. A process must be developed to ensure all appraisals are consistent across these various areas prior to considering a RIF over that area.

Subpart G—Adverse Actions

Page 7591

§ 9901.712 Mandatory removal offenses.

(a) The Secretary has the sole, exclusive, and unreviewable discretion to identify offenses that have a direct and substantial adverse impact on the Department's national security mission. Such offenses will be identified in advance as part of departmental regulations, and made known to all employees upon identification.

These must be the same offenses the military can be removed for, so why not list them now. If the list for civilians is different from the list for the military there is a problem that will need to be corrected.