

NSPS FINAL REGULATIONS' ANALYSIS

Typical of every action that the DOD has taken with respect to NSPS, they have specifically ignored any Congressional intention on Collective Bargaining and “gamed” the system to their distinct advantage. On page 56346, middle column, the DOD paraphrases the recent changes that Congress mandated to NSPS. Of course, the DOD centers on the changes that they see fit. The DOD starts with the “government-wide” provision that was the last thing that Congress changed. Five of the nine changes that the DOD addresses specifically mention the word “government-wide” in the discussion of the changes Congress mandated. The DOD does mention the requirement to collective bargain procedures prior to conversion of bargaining unit employees. What the DOD fails to identify is the requirement to collectively bargain existing implementing issuances, the requirement to include the employees in the development of these regulations, the requirement to get employee buy-in on this failed system. (It should be noted that the GAO has basically told the DOD the same thing, but the DOD has obstinately refused to budge on their stance when it comes to these issues dealing with NSPS.

On page 56349, middle column, the DOD makes it painfully obvious that their intent is to limit collective bargaining by using the “government-wide” shield that Congress has given them.

Despite numerous comments and concerns to various areas of the proposed regulations, no major changes were made to the regulations. The DOD is using the same tired (and untrue) arguments that they have been using since day one. “The regulations establish safeguards to prevent favoritism, cronyism, etc” Tell that to our brothers and sisters at GAO, who are all too aware of the favoritism, cronyism, racism, sexism, etc. that creeps into these types of systems.

On page 56355, bottom right column, the DOD has yet again, twisted the Congressional intent to suit their objectives. Quite frankly, we should have an up or down vote to force the members of Congress to show their true colors on this issue. If the DOD is unwilling to meet the true Congressional intent, then those in Congress need to strip them of the ability to continue with NSPS. If there are members in Congress, who continue to allow the DOD to use weasel words to do what they are doing, then we need to flush them out.

On page 56372, the DOD contradicts itself numerous times. In column one, the DOD discusses adding a provision to NSPS that an employee at the maximum rate of the band will receive his or her performance payout as a bonus in lieu of an increase to base salary. Yet, in column two, the DOD discusses that employees under NSPS would not have their retirement pay adversely affected because the same requisite amount of money would be allocated for raises as under the current GS system. The DOD also, incorrectly, states that a GS employee who has reached the top of their pay would be affected equally. Apparently, the DOD has forgotten that all step 10 pays are increased by the same percentage as all other GS steps for that year, as opposed to NSPS. The DOD has even gone as far as saying that receiving a payout “bonus” is a clear advantage under NSPS.

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On page 56372, the DOD denies a suggestion to make sure that employees called to active duty are treated equally as those who aren't.

On page 56373, the DOD makes it quite obvious that full time union officials will not be compensated equally as their co-workers. Assuming that the full timers get the average rating of "3", then the only raise that a full timer will get is 60% of the across the board raise as required by Congress. The performance payouts and bonuses are "NOT" applicable to full timers. In essence, we will be punished for our union activity.

On page 56374, column three, the DOD openly admits that engineers/technicians will not be able to receive the ACDP (Accelerated Compensation for Developmental Positions) into the Pay Band 2. The current accelerated advancement for engineers/technicians goes beyond the Pay Band 1 pay grade. Effectively, NSPS, with respect to engineers/technicians will have the opposite effect of what the DOD is saying it will. We no longer will be able to rapidly advance engineers/technicians to the GS-11/12 equivalent pay. (It should be noted that the DOD's response to this suggestion relates to the WG world, which has been excluded from this system.)

On page 56376, the DOD when responding to a concern about the 5% limit on reassignments and the fact that they can be given without competition for the reassignment says that the purpose of the 5% cap is to prevent abuse of the system. In doing so, the DOD totally ignored the initial concern of unfairness of the non-competitive reassignment and the unfairness when compared to the GS system.

General note about pages 56377 and 56378, isn't ironic that the DOD limits pay increase from reassignments to a maximum of 5% and 12% for promotions, but they allow a 5 to 10% reduction for adverse action.

On page 56379, the DOD has instituted a quarter of an hour as the smallest fraction of an hour to be compensated for overtime. This is in conflict with Local 4's contract and probably a lot of others, as well. The DOD also denies FLAS exempt employees on a flexible work schedule the right to request compensatory time off, as required by the flexible work schedule laws.

On page 56382, the DOD totally ignores the concerns of "a large number of comments" that NSPS will tend to squash people from making dissenting opinions to the supervisor that will be determining their pay. The DOD simply responds with "such behavior may exist with or without this system". No kidding, but it will be much worse with this system. The DOD apparently hasn't read the reports on the space shuttle disasters.

This is just a quick read into the DOD comments. I haven't fully read the context of the final regulations, but my guess would be that it looks almost exactly like the proposed language. From my first glance, the DOD basically ignored 95% of the comments made and/or changed the intent of the comment to suit their program.