

HEADQUARTERS, DEPARTMENT OF ENERGY  
PERFORMANCE MANAGEMENT AND RECOGNITION PROGRAM  
GUIDANCE FOR NONSUPERVISORY/NONMANAGERIAL  
POSITIONS GS-15 AND BELOW

1. **OBJECTIVE:** Provide guidance on the Department of Energy's Performance Management System for Non-Supervisory/Non-Managerial employees and in so doing establish requirements and responsibilities for the administration and operation of the Department's performance management system for non-supervisory/non-managerial employees including performance appraisals, performance-related recognition, and other actions related to performance management. Performance management is the systematic process by which DOE Headquarters Departmental Elements (hereinafter referred to as Headquarters Elements) involve their employees, as individuals and members of a group, in improving organizational effectiveness in the accomplishment of the mission and goals. Performance management integrates the processes used to:
  - (a) Communicate and clarify organizational goals to employees;
  - (b) Identify individual and where applicable, team accountability for accomplishing organizational goals;
  - (c) Identify and address developmental needs for individuals and, where applicable, teams;
  - (d) Assess and improve individual, team, and organizational performance;
  - (e) Use appropriate measures of performance as the basis for recognizing and rewarding accomplishments; and
  - (f) Use the results of performance appraisals as a basis for appropriate personnel actions.
  
2. **CANCELLATIONS:** The Department of Energy Headquarters Performance Management Program Implementation Plan effective October 1, 1999, will no longer apply and is hereby superseded for HQ purposes.
  
3. **APPLICABILITY**
  - (a) The Headquarters Performance Management and Recognition Program Guidance for Non-Supervisory/Non-Managerial positions GS-15 and below (hereafter referred to as the Guide) applies to all general schedule non-supervisory employees; excepted service employees in non-supervisory positions for which employment is reasonably expected to continue over one year (EJ and EK); senior-level (SL); scientific and professional (ST) employees; Team Leader or similar quasi-supervisory positions deemed primarily non-supervisory in scope and designated coverage by their DOE element; Administratively Determined (AD) employees; and Wage grade employees.

- (b) Excluded are members of the Senior Executive Service; Managers and Supervisors including those in these positions in the Excepted Service; Team Leader or similar quasi-supervisory positions designated as primarily supervisory in scope by the DOE Element and therefore covered under the Managers and Supervisors performance management system; and employees in the excepted service positions for which employment is not reasonably expected to continue over one year, and experts and consultants.

#### 4 Title 5, Code of Federal Regulations (CFR) Equivalency

In the fulfillment of the requirements of the Departmental Performance Management System for Non-Supervisory Employees the following Performance Management Plan requirements will apply. Note: the individual element rating levels as well as the summary levels (as that term is used by the Office of Personnel Management in its regulations) and patterns for deriving ratings of record, are equivalent to the definitions of rating levels found in Title 5, Code of Federal Regulations (CFR), section 430.208 as follows:

##### Summary Rating Levels:

Ratings of Significantly Exceed Expectations are equivalent to 5 CFR 430.208(d), Level 5, "Outstanding"

Ratings of Meets Expectations are equivalent to 5 CFR 430.208(d), Level 3 "Fully Successful"

Ratings of Needs Improvement are equivalent to 5 CFR 430.208(d), Level 2

Ratings of Fails to Meet Expectations are equivalent to 5 CFR 430.208(d), Level 1 "Unacceptable"

The rating pattern for the summary levels listed above is F.

#### 5. REQUIREMENTS

- (a) Individual employee performance, as measured by individual performance plans, will align individual performance expectations to organizational performance goals and objectives.
- (b) All employees' performance will be measured using individual results based performance plans (elements and standards) that will be communicated to them, monitored and rated in a timely, fair and accurate manner. Rating and reviewing officials are personally responsible for fulfilling this requirement.

- (c) All employees will be placed on performance plans (elements and standards) within the first 30 days of the performance period.
- (d) Performance plans will contain between one to four critical elements that address individual job performance on major functional activities/responsibilities, important mission objectives/goals or key programmatic accomplishments. Performance plans will also contain one generic critical element that addresses the identified attributes, responsibility and accountability, communication, innovation/quality improvements, teamwork, and customer service. Employees and supervisors should meet to review and discuss each attribute to ensure a mutual understanding of the generic performance standards, and further discuss the weights assigned to each attribute to reflect any difference in importance.
- (e) All employees will be given performance ratings within 45 days after the end of the performance period except for the transmittal of required performance ratings as follows:
  - (i) Employees who leave, either through retirement, reassignment, or transfer within 90 days before the end of the performance period will receive a performance rating immediately prior to their departure.
  - (ii) Employees of rating officials who leave, either through retirement, reassignment, or transfer within 90 days before the end of the performance period will receive a performance rating immediately prior to the rating official's departure.
  - (iii) Employees who have established a pattern of performance that fails to meet expectations, who have been on performance plans for a minimum of 90 days, whose waiting period for a within-grade increase is completed, and who have been given an opportunity to improve performance, but have not been successful will be given a rating of "Fails to Meet Expectations" (as outlined in Chapter IV).
- (f) Employees who have not been on performance plans for at least 90 days at the end of the performance period will have their performance period (e.g., for new hires, promotions, reassignments, etc.) extended in order to complete the 90-day minimum requirement.
- (g) Employees who cannot be placed on a performance plan because of compensable injury, extended leave or another reason that renders appraisal under a performance plan impossible will not be given a rating of record for the performance period. The summary rating from a prior performance period will not be carried forward and used as a rating of record for any subsequent performance periods.

- (h) Employees whose performance is at the “Needs Improvement” level will be given a performance counseling memorandum that provides the critical element(s) upon which performance needs to improve, the corresponding performance standards, work expectations and what the employee must do in order to meet performance expectations on such critical elements.
- (i) Employees whose performance is below “Needs Improvement” at any time after a minimum of 90 days on a performance plan will be placed on a Performance Improvement Plan (PIP) and given the opportunity to improve their performance (see Chapter IV for more details) prior to any performance-based action.

## 6. RESPONSIBILITIES

- (a) The Head of each Headquarters Element (Assistant Secretary or equivalent) is responsible for the fulfillment of the organization’s mission and strategic plan, for identifying and pursuing organizational goals that effectuate that plan, and for ensuring that the organization provides an environment that encourages employees and their supervisors to assist the organization and themselves in further accomplishing the work of that organization. The Head of the Headquarters Element will also:
  - (i) Approve monetary awards between \$5,000 and up to \$7,500 for Individual Special Act awards.
  - (ii) Delegate authority to approve monetary awards of up to \$5,000 for individual Special Act awards and up to \$500 for on-the-spot awards to Deputy Assistant Secretaries or their equivalents in their organizations. Note that the authority to approve monetary awards of up to \$5000 for individual Special Act awards and up to \$500 for on-the-spot awards for those employees under the direct supervision of the Heads of Headquarters Elements may only be delegated to a principal deputy, if any.
- (b) Deputy Assistant Secretaries or their equivalents will:
  - (i) Approve monetary awards of up to \$5000 for individual Special Act Awards.
  - (ii) Approve on-the-spot awards for employees under their supervision for up to \$500.
  - (iii) When funds are available, approve Performance-Based Cash Awards for Employees under their supervision.

- (iv) Hold all employees with performance management responsibilities under their supervision accountable to the standards of performance in leadership and other supervisory functions to which they have been assigned.
  - (v) Lead by personal example.
- (c) The resource managers/administrative officers will ensure that:
- (i) Adequate funds are reserved for payment of monetary awards.
  - (ii) There are sufficient support services to ensure prompt action on awards recommendations and suggestions.
  - (iii) Departmental reporting requirements are fulfilled relative to the organization's performance management program.
- (d) Reviewing Officials will approve performance plans prior to their transmittal to employees, review performance monitoring performed by the rating official, approve performance ratings of record prior to their transmittal to employees, approve award nominations for appropriate employees, evaluate rating officials on their responsibilities for adhering to laws, regulations, provisions of the collective bargaining agreement, and on their performance requirements.
- (e) Rating officials will request employee participation in the development of performance plans (elements and standards); communicate the organization's goal and objectives; transmit finalized performance plans to their employees within 30 days of the beginning of the performance period; document their failure, if any, to meet performance management deadlines; monitor performance throughout the performance period; conduct at least one progress review session during the performance period (see Chapter I); issue finalized ratings of record (after approval/signature by the reviewing official) to employees within 45 days after the end of the performance period or earlier if required (see Chapter I), and ensure that all employees assigned to their supervision during the performance period receive advisory performance ratings within one month of the end of temporary assignments.
- (f) Employees will contribute as appropriate to the development of their performance plans (elements and standards), and keep their rating official aware of issues that affect the performance of their assignments and responsibilities.

## 7. DEFINITIONS

- (a) Advisory Performance Rating is the performance rating given by management officials with authority to assign work to employees who have been on a detail or other temporary assignment. The written rating, which may be in narrative form or linked to the elements on the employee's performance plan, as appropriate to the detail, will be prepared and directed to the employee's rating official at the end of the temporary

assignment. The advisory performance rating will be considered by the rating official when the rating official determines the employee's rating of record at the end of the period.

- (b) Acceptable Performance is performance that meets an employee's performance requirement(s) or standards(s) at a level of performance above "unacceptable" in the critical element(s) at issue.
- (c) Appraisal means the process under which performance is reviewed and evaluated.
- (d) Awards Approving Official is the official with delegated authority to approve the expenditure of funds for awards.
- (e) Base Pay - the definition of base pay has been redefined to include locality pay.
- (f) Critical Element is the work assignment or responsibility of such importance that unacceptable performance on the element would result in a determination that an employee's overall performance is unacceptable.
- (g) Days are calendar days unless otherwise specified.
- (h) Management Official is an individual in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency.
- (i) Performance Attributes are those sub-elements for the generic performance elements that are common to all positions. Performance attributes include responsibility and accountability, communication, innovation/quality improvements, teamwork, and customer service.
- (j) Performance Period is synonymous with "appraisal period". It means the established period of time for which performance will be reviewed and a rating of record will be prepared. The performance period will be 12 months, beginning on October 1 and ending on September 30. There may be circumstances in which it is not possible for the employee's performance to be reviewed for the entire 12 months. In any event, no performance may be rated if the performance period is less than 90 days (see 5 CFR Part 430 and DOE 331.1B).
- (k) Performance Plan is all the written, or otherwise recorded, performance elements that set forth expected performance. A plan includes all critical and non-critical elements and their performance standards.
- (l) Performance Rating is the recorded, appraisal of performance compared to the performance standard(s) for each critical element on which there has been an opportunity to perform for at least the minimum 90 day period.

- (m) Performance Standard is the management-approved expression of the performance threshold(s), requirement(s), or expectation(s) that must be met for the employee to be appraised at a particular level of performance. A performance standard may include, but is not limited to quality, quantity, timeliness, and manner of performance.
- (n) Quality Step Increase is an increase in an employee's rate of basic pay from one step or rate of the grade of his or her position to the next higher step of that grade. The purpose of the quality step increase is to provide appropriate incentives and recognition for excellence in performance by granting faster than normal step increases.
- (o) Rating of Record is the performance rating prepared at the end of the performance period for performance of duties over the entire period and the assignment of a summary level or in accordance with the provisions of the regulations governing within-in-grade increases.
- (p) Rating Official is the person who, as described by express language in his/her position description, is responsible for developing performance plans, for monitoring performance, and/or for rating performance of the employees under his/her supervision. The rating official may be classified as an employee with full supervisory authority or limited supervisory authority, as long as the person is clearly designated to rate employee performance.
- (q) Reviewing Official is the person with full supervisory authority who is responsible for approving performance plans and performance ratings of record prior to their transmittal to employees. The reviewing official is normally the rating official's immediate supervisor.
- (r) Within Grade Increase is the periodic increase in an employee's rate of basic pay from one step of the grade of his/her position to the next higher step of that grade.

## 8. REFERENCES

- (a) Title 5, United States Code, Chapter 43 (Performance Appraisal) and Title 45 (Incentive Awards); Chapter 53 (Pay)
- (b) Title 5, Code of Federal Regulations: Part 430 (Performance Management); Part 432 (Performance Based Reduction in Grade and Removal Actions); Part 451 (Awards); Part 351 (Reduction in Force); Part 531 (Pay Under the General Schedule).
- (c) DOE Departmental Performance Management Document dated October 25, 2005, DOE 3750.1, Work Force Discipline of March 23, 1983. DOE Order 360.1 Training, of March 31, 1995, DOE Order 342.1 Administrative Grievance of February 2, 2006.
- (d) Collective Bargaining Agreement, effective 2001.

## CHAPTER 1: THE FORMAL APPRAISAL PROCESS

In implementing the DOE Performance Management System for Non-Supervisory employees, the Headquarters performance appraisal process will contain the following components: performance planning; performance monitoring; and performance appraisal.

**1. PLANNING FOR PERFORMANCE:** All employees shall be provided with performance plans no later than 30 days into the annual performance period. Performance plans will be recorded on the Non-Supervisory Performance Plan and Appraisal Form. Rating officials will encourage employee participation in establishing individual performance plans.

*Guidance: Employee participation in the performance management process is assumed by law; Federal regulation encourages every agency to include employees in the development of performance management systems and in the development of individual plans. Although employee participation in the development of performance plans is voluntary, participation should be encouraged. The rating official can encourage participation by initiating group discussions, asking questions about the employee's perceptions of his/her work, and providing a draft of the performance plan well in advance of the date of issuance. In any event, employees should be familiar with their performance plans prior to the plan's issuance. At a minimum, the planning process should occur within one month of the beginning of the performance appraisal period.*

*Generally, the employee's position description is the document that should be used to determine appropriate critical elements. Other documents may be used as well, including budget documents, strategic plans, organizational performance plans, etc. Employees may not be rated on elements that are inconsistent with their assigned duties and responsibilities. Accordingly, if it is determined that an employee's elements must differ substantially from the employee's position description, the employee's position description should be modified to correct the imbalance at the earliest possible date, but should not be later than the next rating period.*

*A performance plan must include one to four critical elements that address individual job performance on major functional activities/responsibilities, important mission objectives/goals or key programmatic accomplishments and one critical element addressing generic employee performance attributes (see section 4(a)(2) of the Departmental Performance Management System for Non-supervisory Employees).*

*If very few elements are identified, it is possible that there may be several components in the activities described that may be broken out into other elements. Care should be taken to ensure that each element is discrete and there is no possibility that elements cannot be distinguished from another.*

*It is expected that the critical elements identified for identical-additional positions will be substantially the same. There should be substantial similarities in the identification of critical elements for positions of the same title, grade, and series which require the performance of similar work within. Deviations should be related to identifiable differences in job duties and responsibilities.*

*The assignment of weights to the critical elements that address individual job performance can be adjusted during the performance period in order to convey distinctions in the importance of key job responsibilities. However, weights should remain fixed for the last 90 days of the performance rating period. (see section 4(c) of the Departmental Performance Management System Document for Non-Supervisory Employees).*

(a) Performance Standards: Standards must be based on objective criteria to the greatest extent possible; they must include factors over which the employee has control or substantial influence over the results, as appropriate. They must include expectations of quantity, quality, timeliness, and cost effectiveness, and to the extent feasible include manner of performance.

*Guidance: The term "objective" does not necessarily imply numerical standards or fixed dates which may not be appropriate for many positions. Generally, absolute standards will not be established. In extremely rare instances, a few positions may require that aspects of the incumbent's performance be measured by absolute standards or requirements under conditions in which death, injury, breach of security, or great monetary loss could result from a single failure to meet the requirement measuring performance of a critical element. Thus, even one incident of poor performance of an absolute standard would result in a "fails to meet" rating. By definition, performance cannot be rated higher than that which is described in the absolute standard; therefore, when absolute standards are used, they must be identified as such.*

*Performance standards are defined at the Meets Expectations level for all critical elements. The following is a sample generic standard at the meets expectations level:*

*Demonstrates a quality of work that generally is technically sound, accurate, and thorough; demonstrates initiative by taking responsibility for planning work and handling problems; demonstrates innovative use of available resources ;initiates collaborative efforts where beneficial to task accomplishment; and consistently meets established performance criteria.*

**General Measures.** *Performance standards should be objective, measurable, realistic, and stated clearly. The standards should be written in terms of specific measurers that will be used to appraise performance. In order to develop specific measurers, you first must determine the general measure(s) that are important for*

*each element. General measurers used to measure employee performance include the following:*

- *Quality address how well the work is performed and/or how accurate or how effective the final product is. Quality refers to accuracy, appearance, usefulness, or effectiveness.*
- *Quantity addresses how much work is produced. A quantity measure can be expressed as an error rate, such as number or percentage of errors allowable per unit of work, or as a general result to be achieved. When a quality or quantity standard is set, the Fully Successful standard should be high enough to be challenging but not so high that it is not really achievable.*
- *Timeliness addresses how quickly, when or by what date the work is produced. The most common error made in setting timeliness standards is to allow no margin for error. As with other standards, timeliness standards should be set realistically in view of other performance requirements and needs of the organization.*
- *Cost-Effectiveness addresses dollar savings to the Government or working within a budget. Standards that address cost-effectiveness should be based on specific resource levels (money, personnel, or time) that generally can be documented and measured in agencies' annual fiscal year budgets. Cost-effectiveness standards may include such aspects of performance as maintaining or reducing unit costs, reducing the time it takes to produce a product or service, or reducing waste.*

***Specific Measures.** Once you've decided which general measures are important, you can develop specific measurers. It is these specific measures that will be included in the standard. To develop specific measure(s) for each element, you must determine how you would measure the quantity, quality, timeliness, and/or cost-effectiveness of the element. If it can be measured with numbers, clearly define those numbers. If performance only can be described (i.e., observed and verified), clarify who would be the best judge to appraise the work and what factors they would look for. (The first-line supervisor is often the best person to judge performance, but there may be situations, depending on what is being measured, when a peer or the customer receiving the product or service would be the best judge.)*

*The following questions may help you determine specific measures. For each general measure, ask:*

- *How could [quality, quantity, timeliness, and/or cost effectiveness] be measured?*
- *Is there some number or percent that could be tracked?*

*If there is no number, and the element can only be judged, ask:*

- *Who could judge that the element was done well? What factors would they look for?*

(b) **Communication of Performance Elements and Standards:** Individual performance plans (elements and standards) must be communicated to the employee in writing within 30 days after the beginning of the performance period or within 30 days of an initial assignment. The communication must allow sufficient time for review and discussion. The employee shall be given a reasonable amount of time to prepare for this discussion and present written comments concerning the plan to the rating official. The rating official must give consideration and respond to the employee's comments before finalizing the performance elements and standards. Official transmittal of the performance plan occurs when the plan, signed by both the rating and reviewing officials, is issued to the employee. The employee will have an opportunity to attach comments to the final written elements and standards as defined by the rating official.

*Guidance: Even though performance plans may remain the same year after year, the requirement that the rating official communicate with the employee regarding the new performance period and the renewed issuance of the employee's performance plan, with new signatures of the rating and reviewing officials, provides the opportunity to both the rating official and employee to discuss the upcoming performance expectations. It is inappropriate for rating officials to assume that no discussion is necessary.*

*If there is a likelihood of substantial changes in the employee's performance plan for the upcoming performance period, it might be wise for the rating official to discuss the plan with the employee during the last part of the current performance period. This would decrease the amount of time in the new performance period that the employee would be working without elements and standards.*

*Although each employee will be asked to sign his/her plan, if an employee refuses to sign his/her performance plan, the rating official should initial and date the plan on the employee's signature line indicating that the employee declined to sign.*

(c) **Changes in Performance Elements and Standards:** Performance plans may be changed at any time it is necessary to do so during the period prior to the last 90 days of the appraisal period. Any changes that are made during the appraisal period must be recorded, approved by the reviewing official, and discussed with and communicated to the employee in writing as soon as they occur, so that both the rating official and employee understand what performance is expected in order to meet management's expectations.

*Guidance: Changes in duties, organizational priorities, or available resources may dictate changes in performance plans. If performance plans are revised during the performance appraisal period, unless the changes are clarifying, the*

*performance appraisal period begins again for the revisions. See the section below for length of the performance period.*

**2. MONITORING PERFORMANCE:** Each employee, at the time of his/her placement on a performance plan at the beginning of the performance period, will be assessed on performance based on elements and standards for that rating period, and not on the basis of performance in a prior performance period. The employee performance must be monitored throughout the performance period. The following are the minimum requirements for performance monitoring and feedback:

(a) **Progress Reviews:** Employees must receive at least one progress review at mid-point during the performance appraisal period. Rating officials will provide comments/assessments on each element in the employee's plan. For example, in a twelve month rating cycle, the periodic progress review will be completed by the end of March. In the event that it is necessary to assess the employee's performance for less than six months, the employee shall receive at least one progress review at the mid-point of the rating period. Employees will be requested to sign the Non-Supervisory Performance Plan and Appraisal Form indicating that the progress review has occurred. The employee shall be provided a copy of any written input or feedback prepared in advance of the progress review. The progress review will be conducted between the rating official and the employee only. However, other parties may attend the progress review if the employee and the rating official have agreed in advance.

*Guidance: Progress reviews provide a structured, scheduled time for rating official-employee communications at two points of the performance period to: (1) assess progress made toward achieving performance objectives and meeting performance requirements; (2) identify new or previously unnoticed problems affecting the employee's performance and developing ways to resolve them; and (3) make necessary adjustments in the performance elements and standards.*

*Planning the progress review meeting is essential to its success. In advance of the progress review meeting, the rating official should review the elements and standards and assemble copies of relevant documents to share with the employee.*

*The progress review meeting should not be used as an occasion for congratulating or blaming the employee, rather, these meetings should explore the reasons behind successes and failures.*

(b) **Documenting Declining Performance:** If, at any time, an employee's performance on any critical element falls below (1) a Meets Expectations (ME) level (falls to Needs Improvement (NI) or (2) falls to a Fails to Meet Expectations (FME), the procedures outlined in Chapter IV, will be followed.

*Guidance: Progress reviews and/or communication regarding deficient performance should not be the only occasion that the rating official and employee.*

*discuss the employee's performance. Informal progress reviews can occur more often. The main objective is to set up a communications system between employee and rating official so that information about performance expectations and management response will be frequent and open. If there is little communication between the rating official and employee, notice of deteriorating performance will alarm the employee and create immediate tension. The purpose of the notification of deteriorating performance is to assist the employee to improve. If a notice becomes necessary, communications between rating official and employee should increase rather than decrease.*

### 3. RATING PERFORMANCE:

- (a) Length of performance appraisal period: Employees must be on performance plans for a minimum of 90 days in order to be eligible for a rating of record. The performance appraisal period extends from October 1 to September 30. If circumstances warrant, the performance period may be extended in order to have an employee perform on his/her performance plan for the minimum of 90 days.
- (b) Schedule for appraising performance: Employees will be appraised within 45 days following the end of the performance appraisal period. If there is a delay in the appraisal process (e.g., if the performance period had been extended, or if the reviewing official is not available to sign the rating), the employee and the head of the program will be informed in writing.

The appraisal conducted during the first 45 days following the end of the performance appraisal period results in the rating of record for the previous rating year. See Chapter II, Uses of the Performance Appraisal Rating.

- (c) Ratings of record outside the normal schedule: On occasion, a rating of record must be rendered at times other than at the end of the performance period. Those occasions include:
  - (i) When the rating official leaves near the end of the performance appraisal period. A vacating rating official must rate subordinates if he/she leaves during the last 90 days of the performance appraisal period, provided such employees' performance elements and standards have been in place for a minimum of 90 calendar days. These ratings constitute the official annual rating of record.

*Guidance: In this circumstance, it is appropriate for the reviewing official to act as both the rating and reviewing official, especially if a new rating official is unfamiliar with the work evaluated by the rating official who departed.*

- (ii) When the employee leaves his/her position near the end of the performance appraisal period: A rating official must rate an employee who leaves the Department, except for cases involving resignation from Federal Service, death or retirement, when the employee leaves within 90 calendar days of the end of the performance appraisal period. If the employee will have been on a performance plan for the minimum of 90 days at the time of the rating, this rating will constitute a rating of record.
  - (iii) If the employee's waiting period for a within-grade increase is over and if employee's most recent rating of record is "Needs Improvement" or lower (under a previous performance management system), and the employee's performance has improved to "Meets Expectations"; or if the employee's current performance, after a 90-day minimum improvement period, is still at "Fails to Meet Expectations," the rating official must issue a rating of record. See Chapter IV, Dealing with Poor Performance.
- (d) Advisory ratings: In addition to the scheduled annual rating of record, it will sometimes be necessary for an employee to be rated under special circumstances. Advisory ratings must be considered by the rating and reviewing officials when preparing a rating of record at the end of the performance appraisal period. The circumstances appropriate for advisory ratings are as follows:

- (i) When an employee is detailed or temporarily promoted within his/her Headquarters element, or elsewhere in Headquarters. An advisory rating is required upon conclusion of an employee's detail to another position for 90 calendar days or more, or upon the conclusion of an employee's temporary promotion for 90 calendar days or more. This advisory rating is made by the rating official to whom the detailed or temporarily promoted employee reports.

*Guidance: In some instances, input for a rating of record will be required prior to the conclusion of the detail or temporary promotion; therefore, in order to provide appropriate consideration of all performance during the appraisal period, it may be necessary for the temporary supervisor to issue an advisory rating prior to the conclusion of the temporary assignment if the employee has completed at least 90 calendar days in the assignment.*

- (ii) When an employee is on assignment outside Headquarters. When a temporary assignment outside Headquarters is approved for 90 calendar days or more, the program office's administrative office

will contact the supervisor for whom the employee will be working and express the need for a job-related, narrative performance appraisal based on performance-related criteria that are communicated in writing to the borrowed employee at the beginning of the temporary assignment.

*Guidance: If possible, the program office should obtain a copy of the criteria and the narrative performance rating from the borrowing organization to which the employee is temporarily assigned and provide it to the employee's rating official. Even if the rating does not match the terminology used by the rating official, he/she should also take this under consideration when preparing a rating of record.*

- (iii) When the employee transfers to another agency or changes to another position within his/her Headquarters element or the Department of Energy during the performance appraisal period (i.e., the change occurs with more than 90 days left in the performance appraisal period). Rating officials shall prepare an advisory rating when an employee transfers to another agency or changes to another DOE position during the appraisal period, if the employee has met the minimum requirements for a rating in the position that is being vacated.

*Guidance: This requirement generally applies to reassignments and promotions, including temporary promotions; however, it does not include details or reassignments which are essentially re-descriptions or realignments of an existing position with no change in supervisors.*

**The following work place scenarios address the need for advisory ratings:**

1. Permanent reassignment/promotion from one position with a performance plan to another position:

If the reassignment or promotion occurs within the last 90 days of the performance period, the employee will be given a rating of record for the position from which he/she was reassigned or promoted. If the employee has been under a performance plan for more than 90 days and reassignment or promotion occurs with more than 90 days left in the performance period, the employee should be given an advisory rating addressing all the employee's elements and standards; this should be done on the performance plan/appraisal form. If the reassignment or promotion occurs within the first 90 days of the employee's performance plan, the rating official can provide the advisory rating as a narrative but should include a summary rating in that narrative. As noted by the directive, both advisory

ratings must be considered by the rating and reviewing officials when preparing the rating of record at the end of the performance period.

2. Permanent reassignment/promotion from one position without a performance plan to another position:

Regulations under Title 5 Code of Federal Regulations (CFR) Part 430 were modified to allow "re-certification" of an employee's performance if management determines that the employee has continued to perform at the same level as the performance demonstrated during the last performance period for which the employee was rated. Accordingly, if the employee departs to a new position without having been placed on a performance plan in the old position, management may apply the new regulation and give the employee an advisory rating based on an evaluation of current performance. The evaluation and advisory rating should signify the regulatory authority under which the evaluation was prepared, i.e., 5 CFR section 430.208(h).

3. Detail to a position with similar duties to which the current performance plan could apply:

The employee's current performance plan should be used as much as possible, even if some elements cannot be rated because the employee is not performing the duties covered by the elements. If the detail is over 90 days in length, the performance plan/appraisal form should be used and the form marked as an advisory rating.

4. Detail to a position with different duties, i.e., to which the current performance plan could not apply:

If the detail is over 90 days in length, a new plan should be developed for the length of the detail. The employee would be rated at the end of the detail (or earlier if the detail would end after the end of the performance period) on the detail plan's standards and elements. The summary rating would then be considered by the employee's permanent rating official. If the detail were shorter and/or no plan were prepared, a narrative advisory rating is acceptable. The narrative should address activities that might well be used in a number of positions, activities such as writing, speaking, program planning and implementation. Assessment of those activities could be considered, as appropriate, by the rating official who may apply the assessments against corresponding elements; the rating official should take care to avoid applying the job behaviors described to more than one element.

5. Detail to a position from a position without a performance plan:

If an employee is detailed to a position but has no performance plan for his/her permanent position, it is imperative that the employee be placed on a performance

plan; without a plan in place, either at the employee's permanent position or on the detail position, the employee cannot be rated for the period spent on detail. Even if the employee were placed on a plan after returning from the detail, the time on the detail cannot be considered—unless the employee had been on a plan! [Please note the response to item 2. above. The intent of the new regulatory change was not to allow employees to perform for long periods of time, especially in varying employment situations such as details, without a plan. It would be unfair to the employee, and difficult to justify, if management attempted to “re-certify” the employee's performance in his/her permanent position and then to extend that “re-certification” to work on a detail.] If at all possible, the permanent rating official and the detail rating official should consult on a plan; that plan could then be signed by the permanent supervisor and used by the detail supervisor for the purpose of preparing an advisory rating. If that is not possible, the detail rating official should take responsibility for preparing a plan.

6. Detail to a position that covers a period of time in excess of 9 months:

A good rule of thumb to observe is that the longer the person's detail, the more formal the performance process should be. For example, it is possible that some employee's details will cover nearly the entire performance period. If that occurs, the permanent rating official would have no opportunity to assess the employee's performance for the minimum of 90 days. Therefore it is imperative that employees who are going to be on lengthy details be placed on performance plans for the entire time. Then, if the detail is in excess of 9 months, the permanent rating official can simply endorse the detail rating official's rating with his/her initials, as can the permanent reviewing official.

7. Detail to a position with more than one supervisor:

Remember, it is not necessary for a rating official to be in place for the minimum period of 90 days; only the employee must be in place under a plan in order to have a rating. If an employee is detailed to a position and then placed on a plan, a departing rating official may provide an advisory rating, either narrative or using the form, to the employee and to the new rating official for his/her use when preparing the final advisory rating. If the detail employee is not on a formal plan, he/she may accrue a number of narrative plans that must be considered by the permanent rating official at the end of the performance period—provided, of course, that the employee was placed on a plan that would allow consideration of these advisory ratings!

8. Detail to a supervisory position: short term and long term:

Can a person be detailed to a rating official's position? Yes. It is extremely important that the classified position or the statement of duties describe the authority of the person detailed to any job; the authority to rate employees is one of the crucial authorities. If an employee has this authority, then he/she may

prepare an advisory rating of either the narrative sort or the form that corresponds to the detailed supervisor's stay. As stated above, the detail supervisor need not be in place for a minimum period of time. If the detailed rating official is there for a short time (e.g., less than 90 days) use of the appraisal form may not be appropriate; then the preparation of a narrative description of employees' performance, with summary rating designations, is sufficient. If the supervisor is there longer but still leaves the position prior to the last 90 days of the performance period, the advisory rating, which would carry more weight with the permanent rating official, and should be more formal. If the detailed supervisor leaves during the last 90 days, then he/she will act just as a permanent supervisor and prepare a rating of record for all under his/her supervision.

### **Considering the advisory rating:**

An advisory rating must be considered by the rating official if the advisory rating was prepared while the employee was under a performance plan. Although the directive does not say so specifically, it is appropriate for the permanent rating official to consider the following as well: the complexity of the duties of the position to which the employee was detailed (i.e., are the positions at the same grade or would they be if classified?); relationship between the elements and standards on the employee's performance plan and the elements and standards, or the narrative of the advisory rating; the time spent on the detail. Just as it is improper for a rating official to discount advisory appraisals as "too glowing," it is improper to assume that advisory appraisals should be given more weight than they deserve, especially if the detail were a special project, involved much travel, or was different from the employee's usual tasks. It may be useful to consider a "balancing" test' if the employee were on a detail for seven months and was found to be at the "exceptional" level, and the rating official, after the employee's return for the last five months, thought that the employee was at the "fails to meet" level, a balanced approach would probably result in the rating official rating the employee at the "meets or exceeds" level.

(e) Assigning Summary ratings: See Performance Management System for Non-Supervisory Employees Departmental Document, Section 5. Performance Rating Requirements, g. Computing the Summary Performance Rating.

(f) Communicating the Rating of Record:

- (i) Ratings of record must be completed by the employee's rating official using the Non-Supervisory Performance Plan and Appraisal Form. The reviewing official must sign the rating of record prior to its communication to the employee.
- (ii) The rating official will discuss the rating of record personally with the employee, going over each element individually. All documentation used in support of the rating will be furnished to the

employee prior to the communication of the formal rating of record.

- (iii) The employee will be requested to sign the appraisal form. The employee's signature indicates only that he or she has seen the performance rating and was given the opportunity to discuss the element ratings. The date that the rating of record is communicated to the employee is the date of the issuance of the rating.

*Guidance: Performance ratings are valid even when the employee refuses to sign the form, or if the employee refuses to meet with the rating official for communication of the rating of record. When applicable, the rating official should indicate in writing that the employee declined to sign the Performance Plan and Appraisal Form. The rating official should ensure that the employee is provided a copy immediately after the communication of the formal rating of record. If there is a delay in transmitting a copy of the rating to the employee, there may be confusion regarding the actual date of issuance of the rating.*

- (iv) The employee may comment on the performance rating and written comments will be retained with the Performance Plan and Appraisal Form. Employees may submit comments to be attached to their rating within five (5) work days of the issuance of the rating of record.

*Guidance: Documentation or other written comments by the rating official are not appropriate for inclusion in the performance rating record. The rating official's documentation, written comments and summaries are part of the communication process necessary when the employee is given his/her rating. If the employee requests that the rating official's written communication(s) be included as part of the employee rating of record, the rating official should agree; the employee should indicate his/her wishes on the document to be inserted.*

## **CHAPTER II: USE OF RATINGS OF RECORD AS THE BASIS FOR OTHER PERSONNEL ACTIONS**

1. **PERFORMANCE-BASED AWARDS.** Chapter III contains requirements and guidance on performance awards and performance pay for employees under the Headquarters non-supervisory/non-managerial performance management plan.
2. **REDUCTION IN FORCE.** An employee's entitlement to additional service credit and to assignment rights for reduction-in-force purposes is based, in whole or in part, on performance. Determinations of such credit shall be made as follows.

### **INSERT THE SERVICE CREDIT FOR REDUCTION-IN-FORCE PURPOSES ONCE IT HAS BEEN DETERMINED**

- (c) Service credits will be averaged with two most recent ratings of record credits, provided that those ratings were transmitted within the last four years, according to the regulatory requirements in Title 5, CFR, Part 351, to determine how many extra performance years credits will be added to employees service computation date if a reduction-in-force is required.
- (d) Ratings of record may not be given outside the performance appraisal schedule in order to afford an employee an advantage in a reduction in force. If a reduction-in-force becomes necessary, scheduled ratings of record may be postponed if all of the following conditions are met:
  - (i) The Director of the Office of Human Resource Management concurs in a statement by the Head of the specific Departmental Element that the reduction-in-force in that organization cannot be postponed for specific, stated reasons.
  - (ii) The scheduled rating date is so close to the effective date that it will not be possible to process all ratings before the date specific reduction-in-force notices are to be issued.
  - (iii) There are persuasive reasons why ratings cannot be processed prior to the scheduled rating date so that all ratings can be processed before the date specific notices are issued.
  - (iv) The notice period between the issuance of reduction in force notices and the effective date of the reduction-in-force cannot be shortened.

3. **PROMOTIONS. Career Ladder Promotion.** Performance ratings are used as a basis for determining whether employees have demonstrated the capability to perform in a position at the next higher level in a career ladder. Performance in the present position must be rated at least at the Meets Expectations level in order for an employee to receive a career ladder promotion.

*Guidance on Merit Promotion: The Merit Promotion process requires that candidates be appraised on the skills, knowledge, and abilities required for the position to be filled, rather than performance in the candidate's present position. Thus, there is no direct link between the overall performance rating level and merit promotion actions; however, supervisors should give due weight to the performance ratings of job applicants, as an indicator of the quality of prior experience, in making selection decisions.*

4. **TRAINING.** Supervisors may authorize training for two purposes: (a) to improve performance in an employee's present job, and (b) for developmental purposes. Performance rated at a "Fails to Meet Expectations" must be reviewed carefully to identify any training needs. See Chapter IV, Dealing with Poor Performance, for specific training requirements related to performance improvement periods.

*Guidance: The performance appraisal process should be one of the methods used to identify areas where remedial training may be necessary for an employee to meet or surpass specified performance standards. Other methods of identifying training areas are the Employees Skills/Needs Assessment and the Employee's Individual Development Plan addressed in the Departmental directive on training.*

5. **ACTIONS BASED ON PERFORMANCE RATED AT "Fails to Meet Expectations":** The process for addressing performance rated at "Fails to Meet Expectations" is contained in Chapter IV, Dealing with Poor Performance.
6. **PROBATIONARY PERIODS.** New employees must be rated at "Meets Expectations" or higher in order to be retained after their first year in their position.

*Guidance on probationary employees: New employees must be carefully observed during the probationary period to determine whether they can perform their duties acceptably and have the qualities needed to become successful career employees. Information generated during the performance appraisal process may provide a basis to determine progress during the probationary period and will assist supervisors in deciding whether to retain employees in the Federal service. It would be expected that employees whose performance pattern falls to "Fails to Meet Expectations" at any time after the initial 90-day performance period would be subject to separation. Rating officials should not hesitate to rate probationary employees during the performance period rather than to wait until the end of the*

*performance period when the probationary period may be over. Action to remove probationary employees is taken in accordance with 5 CFR 315.801.*

7. **WITHIN-GRADE INCREASES.** The employee's most recent rating of record will be used to determine the employee's eligibility for a within-grade increase. An employee with a rating of record that is at the Needs Improvement or Fails to Meet Expectations level will not be eligible for a within-grade increase. If it is determined that an employee who had been rated at the Needs Improvement or Fails to Meet Expectations level has raised his/her performance to the Meets Expectations level or higher prior to the date on which the employee would have been eligible for a within-grade increase, a new rating of record must be prepared showing a rating of at least a Meets Expectations. Within-grade increase determinations may not be postponed unless the employee has been in his/her position less than the 90-day required minimum for a rating of record and has no other performance rating of record that covers at least 90 days in the employee's within grade waiting period. See Chapter IV for procedures related to denying a within grade increase.

### CHAPTER III: AWARDS

1. **TYPES OF AWARDS COVERED:** Awards covered by this chapter to be granted in order to recognize and reward individuals and/or teams based on performance, and other noteworthy achievements. All awards or awards nominations will be supported by documentation or performance ratings, as appropriate.
2. **PERFORMANCE-BASED CASH AWARD: TO BE DETERMINED [Include language on awards for former employees who left agency before awards payout]**

*Guidance: Note that the provisions for Performance-Based Cash Awards do not guarantee awards. If a program office has no funds for performance awards, it is possible that none can be paid. However, if there are funds available, the procedure outlined above will be used.*

3. **TIME-OFF AWARD:** This award may be granted, without loss of pay or charge to leave, for performance **with a summary rating point score of 60 -100.**
  - (a) Each employee who is rated from **60 - 79** will be eligible for a Time-Off Award of 20 hours.
  - (b) Each employee who has been rated **80 – 100** will be eligible for a Time-Off Award of 40 hours.
  - (c) Employees may also be eligible for a Time-Off Award based on a special act. The amount of the time off would depend on the benefits associated with the special act. (See #5 below)
  - (d) Each employee who is eligible for a Time-Off Award will be consulted as to his/her preference for either a Time-Off Award or a Performance-Based Cash Award, or Special Act Award, as appropriate. If the employee expresses a preference for a Time-Off Award, the employee's preference will be given serious consideration. However, if management determines that it cannot give the employee the preferred Time-Off Award, it will notify the employee that he/she will be nominated for the cash award instead.
  - (e) Time-Off Awards must be used within one calendar year of the date that the award is granted. It may not be transferred if an employee transfers to another Federal agency, nor is the award payable in a lump sum if the employee leaves Federal service.

*Guidance: Management should calculate the dollar value of performance-based cash award "Award Points" before soliciting employees' preferences regarding Time-Off Awards. Also, management should make very clear to employees that preferences are not guaranteed to be accepted. It is possible that management may not be able to spare employees for long periods of absence if the time off award is combined with "use or lose" leave at the end of the leave year.*

4. **QUALITY STEP INCREASE:** Quality step increases are permanent increases in pay. They are granted to reward continuing exceptional performance and to motivate employees toward increased productivity. The following criteria apply to the granting of Quality Step Increases:
- (a) Quality Step Increases may be granted only to employees who have permanent or indefinite appointments, whose current rate of pay is less than the maximum for their grade, whose current rating of record is a **Significantly Exceeds Expectations (summary rating point score of 80 -100)** (or equivalent under another system) and who are expected to continue to serve in their current position, or in a similar position at the same grade, at the same level of performance, for the foreseeable future.
  - (b) Only one Quality Step Increase may be granted during any 52-calendar-week period.
  - (c) An employee may not receive both a Quality Step Increase and a performance-based cash award for the same performance period.

*Guidance: A Quality Step Increase is not appropriate when: (a) it is known that the employee is about to receive a career promotion, since the promotion itself is a very substantial form of recognition; (b) the employee was detailed to another position for a substantial period of time during the performance period; (c) the Quality Step Increase is used to induce an employee to move from one location to another; (d) the Quality Step Increase is used to solve a difficult personnel situation and continuing exceptional performance is not evident; (e) the employee is about to separate from the agency.*

5. **SPECIAL CATEGORY AWARDS:** These awards include the following: the Special Act or Service Award, the Superior Achievement Award; the Award for Achievement in Equal Employment Opportunity; the Certificate of Appreciation; the Career Service Awards; and the Award for Disclosure of Cost Savings. These awards may be granted as a monetary award, or Time-Off Award, or certificate, as appropriate. They may be granted for a one-time act, service or other nonrecurring accomplishment by an employee, or group of employees, that is related to their employment. This type of recognition is appropriate when performance is substantially beyond expectations on a specific assignment or aspect of an assignment or job function. It is also appropriate for employees who

have performed exceptional service while on Intergovernmental Personnel Act assignment or detail, who have been transferred, or are not otherwise eligible for awards based on performance ratings of record. The procedures for granting a special category award are as follows:

- (a) Nomination for an award may be submitted by rating or reviewing officials in the employee's organization, or in another organization in DOE.
- (b) The nomination for an award should be initiated within 30-60 days of the completion of the performance on which the nomination is based. Justification for the award must be attached to the nomination. The justification must include a brief description of the performance supporting the nomination and it must describe the value of the benefit derived from the performance. That benefit would be used to justify the monetary value of the award or the amount of time-off requested, if the nominating official requests time off.
- (c) If the nominating official is not the rating or reviewing official of the person or persons being nominated, that official should contact the employee(s) rating or reviewing official of the nominated employee, inform that person of the nomination, and request concurrence on the nomination form.
- (d) The nomination should then go to the Office of Headquarters and Executive Personnel Services for review of signatures and regulatory compliance.
- (e) The nomination must then be approved by a management official who is at a higher organizational level than the individual who initiated the award and who has authority to approve awards at the monetary value involved, unless the person being nominated for the award reports directly to the Head of the Departmental Element.
- (f) The approved nomination must then be returned to the Office of Headquarters and Executive Personnel Services for award processing, payout, and recording in the employee(s) Official Personnel Folder. See Chapter VI, Records.
- (g) If an organization other than the employee's nominated the employee(s) for the award, the employee's program office administrative office will arrange for reimbursement from the nominating organization.

*Guidance: Nominating officials should ensure that the performance cited in the nomination for an award does not duplicate or overlap with the duties regularly assigned to the employee(s) for which the employee(s)*

*will be rated at the end of the performance period. Further, the matrix immediately following will serve as a useful guide for determining the appropriate amount of the award: [insert matrix].*

6. **ON-THE-SPOT AWARD:** On-the-spot awards for up to \$500 may be granted to employees for a significant deed or accomplishment performed with exceptional and unanticipated speed and quality under difficult or unusual circumstances. The procedures for affecting such awards are as follows:
  - (a) Because this award might be related to the performance of an employee's regular duties, the performance considered for this award may not be considered at the end of the performance period when annual ratings of record are determined.
  - (b) The nomination for this award must be initiated within one month of the event that supports the award nomination. Ratings officials may nominate an employee. Justification for the award must be in writing and contain information on what was accomplished, the circumstances that were difficult or unusual, and the value of the employee's contribution. The nomination must specify the amount of the on-the-spot award.
  - (d) If an organization other than the nominated employee's nominates the employee for an on-the-spot award, the employee's immediate supervisor must concur with the nomination. After the award is processed by the Office of Headquarters and Executive Personnel Services, the employee's administrative office will work with the nominating organization to effect reimbursement.
  - (e) Approval of the award by the reviewing official must occur before the nomination is forwarded to the Office of Headquarters and Executive Personnel Services for processing, transmittal to payroll, and recording in the employee's Official Personnel Folder.

## CHAPTER IV: DEALING WITH POOR PERFORMANCE

1. **REQUIREMENTS OF THE CODE OF FEDERAL REGULATIONS:** Pursuant to Title 5, Code of Federal Regulations, Part 432, once an employee has performed under a performance plan for at least the 90-day minimum performance period, at any time thereafter if an employee's performance is determined to be performance at the Needs Improvement (NI) level on any critical element, the rating official will counsel the employee on deficiencies. The counseling will include the issuance of a counseling memorandum. If at any point during the performance period or at the end of the performance period, an employee is determined to be performing at the "**Fails to Meet Expectations (FME)**" in one or more critical elements, the rating official will prepare a Performance Improvement Plan (PIP) for the employee. The notice of "FME" performance transmitted to the employee must contain the following:
  - a. The PIP should state in writing the specific critical element(s) for which performance is at the "FME" level. A listing and description of specific actions needed to improve performance to an acceptable level. These actions must be specifically linked to the element for which performance was determined to be at "FME".
  - b. The PIP should include the performance requirement(s) or standard(s) that must be attained in order to meet an acceptable level in his/her position. The rating official should also inform the employee that unless the employee's performance in the critical element(s) improves to and is sustained at an acceptable level, the employee may be reduced in grade or removed.
  - c. For each critical element in which the employee's performance is at "FME," the agency shall afford the employee a reasonable opportunity to demonstrate performance at an acceptable level commensurate with the duties and responsibilities of the employee's position. The opportunity period will be a minimum of 90 days. The PIP may be set for a period of more than 90 days if the employee's duties are of a cyclical nature.
  - d. As part of the employee's opportunity to demonstrate acceptable performance, the rating official shall offer assistance to the employee in improving performance that is at "FME." This assistance may include, but is not limited to, formal training, on-the-job training, counseling, and coaching. It is imperative that the assistance promised to the employee be delivered. If the rating official cannot be available to assist the employee, another official of comparable knowledge and/or authority should be designated to perform the duties of assisting the employee. If training is promised, it must be provided; if training funds are scarce, it would be inappropriate to promise the employee training.

e. The rating official should meet with the employee as often as possible to provide feedback during the PIP period. A copy of the PIP will not be placed in the employee's official personnel folder (OPF) or the employee's performance file.

f. If the employee's performance is determined to be at the "FME" level at the conclusion of the PIP period, the rating official must propose a performance-based action that can result in a reduction in grade or removal from Federal service.

g. If the employee's performance at the conclusion of the PIP period is evaluated at an acceptable level, an annual rating of record is issued and a memorandum will be prepared documenting improved performance. The memorandum will state that if the employee's performance lapses to the "FME" level on the same critical element(s) within 1-year from the start of the PIP, the rating official may propose a performance-based action without an additional PIP.

*Guidance: The PIP must allow the employee to perform duties in his/her position. If the employee were reassigned or detailed to another position, the employee would be deprived of the opportunity to improve his/her performance; this would be a violation of Federal regulation.*

2. **IDENTIFYING POOR PERFORMANCE:** The notice to the employee referenced above must be specifically linked to the employee's performance plan. The communication must be supported by documents or a rating official's narrative that shows a pattern of performance that fails to meet expectations on individual elements. These actions by management are not grievable.
3. **LIMITS ON REQUIREMENT FOR RATING OF RECORD:** There is no requirement for the rating official to prepare and transmit a rating of record to an employee who is performing at "FME" level unless:
  - (a) the notice of "FME" performance occurs within 90 days of the end of the performance period. If the notice to the employee occurs within those 90 days, the notice will be accompanied by a rating of record; or
  - (b) the employee would soon be eligible for a within-grade increase and the rating official must make a determination that the employee does not meet the acceptable level of competence (that is, a rating of record of "Meets Expectations") required for such an increase.
4. **NOTICE OF DENIAL OF WITHIN-GRADE INCREASE:** An employee who is performing at "NI" or "FME" or whose latest rating of record is at "NI" or "FME" (or equivalent) is not eligible for a within-grade increase.

- (a) If an employee is on a PIP at the end of his/her within-grade waiting period, the employee must be given a notice denying the increase; the determination regarding a within-grade increase (i.e., an “acceptable level of competence” determination) may not be postponed in order for an employee to complete the PIP.
- (b) If the end of the within-grade increase waiting period is approaching and the employee has a current rating of record of “FME” (or equivalent) transmitted at the end of the previous performance period, but the employee has raised his/her performance to “Meets Expectations (ME)” level, the rating official will prepare another rating of record that reflects the “ME” level of performance, thus justifying the acceptable level of competence determination and the within-in grade increase.

*Guidance: Since Federal regulation now prohibits the delay of an acceptable level of competence determination except under rare circumstances, it is important that the rating and reviewing officials keep careful track of within-grade waiting periods, especially for employees who have begun to demonstrate performance that is less than “ME.” If the end of the within-grade increase waiting period is approaching and the employee is currently performing at “NI,” the rating official should issue the employee a counseling memorandum, or if the employee is performing at the “FME” the rating official should place the employee on a PIP in sufficient time to ensure that a determination regarding the employee’s level of competence can be made prior to the end of the waiting period. Note Article 16, Acceptable Level of Competence, in the HQ/NTEU collective bargaining agreement that gives specific rights to bargaining unit employees. Although the agreement cites 60 days as the minimum opportunity period, all rating and reviewing officials should follow the 90-day minimum requirement for a PIP.*

Note further that performance-based awards may be granted only to employees whose rating of record at the end of the performance period is at the “ME” level (with a rating score of 60 or above) or a Significantly Exceeds Expectations (SE). If an employee raises his/her performance to “ME” after a PIP or is given a rating of record to justify a within-grade increase after having had a rating of record at “FME,” the employee is not eligible for a performance award.

5. **PERFORMANCE-BASED ACTIONS.** If, at the end of a PIP, an employee is still performing at “FME,” or if an employee has raised his/her performance to an acceptable level by the end of the PIP but then slips back into performance at “FME” (in the same critical element) within one year of having been placed on the PIP, management may determine that it must propose a performance-based action. If so, the following steps will be followed:

- (a) the employee will be given a 30-day advance notice of a performance-based action. The notice will contain the specific critical element(s) for which the employee performed at "FME" and examples of poor performance. The 30-day period may be extended for an additional 30 days if warranted.

*Guidance: Rating and reviewing officials should take careful note of the timing of the proposal. The proposal should not address any performance that occurred more than one year earlier than the date of the notice. Further, the 30-day notice can only be extended for a maximum of another 30 days without further permission from OPM; any extension may be granted only under certain circumstances. The purpose of the advance notice is to allow the employee to present a response and an adequate defense against the proposed action. Extensions should not be used simply to defer decisions on proposals.*

- (b) the notice will give the employee an opportunity to respond to the proposal, to have a representative and to raise mitigating issues such as medical conditions.

*Guidance: Please note Article 45, Performance-Based Actions, of the HQ/NTEU collective bargaining agreement, which gives specific rights regarding representation and official time to bargaining unit employees and to NTEU.*

*The specific rights of the employee must be carefully spelled out. Rating and reviewing officials should not attempt to prepare an advance notice without the assistance of employee/labor management relations specialists.*

- (c) at the end of the 30-day notice, the employee is entitled to a final written decision. The decision may consider only performance that occurred within one year of the issuance of the advanced notice. It will also specify the instances of performance at "FME" that led to the decision.

*Guidance: Decisions on performance-based actions need not include an analysis of the determination regarding a removal versus a demotion. Note, however, that if the advance notice of performance based action proposed a demotion, the decision cannot be more severe than a demotion.*

- (d) if the decision is to remove or demote the employee, the employee will be given appropriate appeal rights under the regulations promulgated by the Merit Systems Protection Board and/or the collective bargaining agreement, as appropriate.

## CHAPTER V: GRIEVANCES AND APPEALS

### 1. PERFORMANCE APPRAISALS:

- a. Bargaining unit employees: Bargaining unit employees who wish to challenge their performance appraisals must use the negotiated grievance procedure described in the Headquarters/NTEU collective bargaining agreement. The grievance must be filed at the first step with the reviewing official. The first step meeting will include the grievant, his/her representative, the reviewing official, and a representative of the Labor/Management function at Headquarters.

If agreement on the issue(s) raised in the grievance is reached at the first step meeting, management (the rating/reviewing officials or a representative of the Labor/Management function at Headquarters as appropriate) will draft an agreement documenting its terms for signature by all affected parties.

If agreement on the issues raised is not reached at the first step, management officials will issue a joint decision on the grievance. If the decision does not afford the remedy [or remedies] requested, the grievant, and the grievant's second step official (i.e., the management official in the management level above the reviewing official) will be told their options, which are mutually exclusive.

The grievant's options are:

- (1) Accept the decision as rendered. If the grievant chooses this option, the grievance process is terminated.
- (2) File a second step grievance with the official at the next highest management level above the reviewing official. The second step grievance would be processed as outlined in Article 11 and would include either agreement at the second step meeting or a written decision from the second step official. If the written decision does not afford the grievant the remedy [or remedies] requested, the grievant would be informed of the arbitration procedures outlined in Article 12 of the collective bargaining agreement.

*Guidance: Note that this option may be preferable for grievances that include multiple issues and/or issues that are not related to the employee's performance appraisal rating. The intent is to simplify the grievance process and not to bifurcate grievances into issues proceeding through the standard grievance route and those proceeding through the route described immediately below.*

- b. Non-bargaining unit employees: Appeals of performance ratings of record by non-bargaining unit employees will follow the procedures outlined in DOE O 342.1, GRIEVANCE POLICY AND PROCEDURE.

2. **WITHIN GRADE INCREASES:** No appeal or grievance of the denial of a within-grade employee can be made before a reconsideration process is undertaken. Upon denial of a within-grade increase, the affected employee must request consideration of the denial by the reconsideration official, who is the official at least one level higher than the reviewing official of the effected employee. Request for reconsideration must occur within 15 days of the denial of the within-grade increase. The reconsideration official has 5 days to respond to the request; the reconsideration official must follow all provisions of Title 5, CFR, section 531.410. If the request is denied, the reconsideration official must inform the requester of his/her appeal rights: non-bargaining unit employees may challenge denial by filing an appeal with the Merit Systems Protection Board; bargaining unit employees must use the negotiated grievance procedure outlined in Article 11 of the collective bargaining agreement.

3. **PERFORMANCE AWARDS:**

- a. Any bargaining unit employees who is not satisfied with the amount of a performance award, or, if the employee was eligible, the failure to be granted a performance award, may file a grievance through the negotiated grievance procedure outlined in Article 11, Grievances, of the collective bargaining agreement. The grievance must be limited to a claim of violation of the awards procedures outlined in Article 29, Employee Awards.

*Guidance: a successful grievance cannot result in a mandatory award, since the right to reward employee performance is reserved to management. If a grievance on this subject were successful, it would likely result in the re-running of the procedures referenced above and/or a recomputation of awards data.*

- b. Non-bargaining unit employees are covered by DOE O 342.1, GRIEVANCE POLICY AND PROCEDURES. That order lists matters related to the receipt of performance awards, quality step increases, and adoption of suggestions as non-grieveable.
- c. Progress Reviews and performance counseling are non-grieveable.

## **CHAPTER VI: EMPLOYEE PERFORMANCE RECORD SYSTEM**

The following requirements will apply to the Headquarters Performance Record System.

1. **OFFICIAL EMPLOYEE PERFORMANCE RECORDS:** The official employee performance records consist of the following documents pertaining to employee performance, including:
  - (a) performance plans (standards and elements) signed by the rating official, the reviewing official, and the employee;
  - (b) official performance appraisal ratings; these ratings may include advisory ratings as well as ratings of record;
  - (c) any narrative that the employee wishes to add to his/her performance plan or rating;
  - (d) narrative comments that the rating and reviewing officials submit, at the employee's request; and
  - (e) records of performance-based awards.
  
2. **PRIVACY ACT REQUIREMENTS:** The records maintained in this system are covered by the Privacy Act System of Records established by OPM. The Headquarters servicing personnel office will assure that such documents are retained in accordance with OPM's Privacy Act regulations, DOE 1700.1, and DOE 1800.1A. Since records maintained in an automated system are a part of the employee performance record, they are also subject to the same requirements as those relating to manual records. Any performance-related documents maintained by any employee's rating or reviewing official are releasable under the Freedom of Information Act, Title 5, United States Code, section 552.
  
3. **OFFICIAL EMPLOYEE PERFORMANCE RECORD STORAGE AND RETENTION:**
  - (a) Official employee performance records must be retained in the Headquarters servicing personnel office in performance folders especially marked and used for this purpose.
  - (b) Performance ratings or documents supporting them are generally not permanent records and shall be retained as prescribed:
    - (i) Performance ratings of record, including the performance plans on which they are based, shall be retained for 4 years; subject to reduction-in-force regulations.

- (ii) Performance plans and ratings superseded (e.g., through an administrative or judicial procedure) and performance-related records pertaining to a former employee need not be retained for a minimum of 4 years. Rather, in the former case they are to be destroyed immediately following completion of the process that caused them to be superseded, and in the latter case they are to be destroyed within 90 days, usually at the time the Official Personnel Folder is transferred.
- (iii) Except where prohibited by law, retention of automated records longer than the maximum prescribed here is permitted for purposes of statistical analysis so long as the data is not used in any action affecting the employee when the manual record has been or should have been destroyed.
- (iv) When the Official Personnel Folder of an employee is sent to another servicing personnel office in the Department of Energy, to another agency, or to the National Personnel Records Center, the Headquarters servicing personnel office shall include in the Official Personnel Folder all performance ratings of record that are 4 years old or less, including the performance plan on which the most recent rating was based, and any summary rating prepared because the employee is changing positions. The Headquarters servicing personnel office shall purge from the Official Personnel Folder all performance ratings and performance plans that are more than 4 years old. Destruction of performance records will be accomplished by shredding, burning, or deleting an online file in accordance with applicable regulations.

4. **SUPPORTING DOCUMENT SYSTEM:** Documents supporting individual employee's performance include the documents listed below. In order for these documents to be used to support any performance-based decision, all supporting performance documents must be shared with the employee prior to the implementation of that decision:

- (a) employees' skills needs assessment;
- (b) employees' Individual Development Plans (if applicable);
- (c) documents supporting the employees' current performance.

*GUIDANCE: All supporting performance documents will be retained for no more than three years for records-keeping purposes only. No document in the supporting document record should be used to support actions in other than the current performance period. Employees should*

*be encouraged to review their supporting document file and to add to it as necessary.*

*Note the collective bargaining agreement's provision requiring that all bargaining unit employees be given a skills needs assessment on a yearly basis. See Article 23, Training and Development, Section 23.07.B.*

