OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 430, 432, 451 and 531

RIN 3206-AG34

Performance Management

AGENCY: Office of Personnel Management. ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations to deregulate performance management and incentive awards, including provisions allowing agencies to use as few as two levels for critical element appraisals and summary ratings for non-SES employees, and to make conforming changes to related regulations. These changes are proposed to provide agencies additional flexibility as called for by the National Performance Review.

DATES: Comments must be submitted on or before March 28, 1995.

ADDRESSES: Comments may be sent or delivered to: Allan D. Heuerman, Assistant Director for Labor Relations and Workforce Performance, U.S. Office of Personnel Management, Room 7412, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Barbara Colchao, (202) 606–2720.

SUPPLEMENTARY INFORMATION: To pursue the flexibility and decentralization called for by the National Performance Review (NPR), OPM proposes amending its regulations to remove many of the current regulatory requirements and permit agencies to implement performance management systems and programs for non-SES employees that better fit their organizational climate and needs. (OPM is conducting a separate review of SES performance appraisal regulations.) These proposed changes are intended to increase system flexibility and not to suggest the superiority of the newly available options. OPM advises agencies to examine their individual circumstances carefully before making any major changes to their performance management systems and programs.

Partnership and Successful Performance Management

Agencies are strongly urged to develop their performance management systems and programs in partnership with their employees and union representatives in accordance with law. Many studies have shown that the success of a performance management system in achieving its goals is

dependent upon acceptance by the management and employees who use it. There is no better way to garner support for a system than by giving all stakeholders a role in developing it. Further, the National Performance Review stated in its accompanying report, Reinventing Human Resource Management, that under the ideal performance management system 'Employees and their representatives will be involved in design and implementation of performance management programs and in development of performance expectations." Consequently, OPM advises agencies that these regulatory changes in performance management should be implemented through full partnership with employees and their union representatives.

Performance Management Systems and Programs

The recommendations of the National Performance Review for reforming the Government's performance management system contemplated a policy environment that would permit "complete decentralization of performance management within a framework of broad, governmentwide principles." OPM is establishing that framework in these proposed regulations for appraisal and awards, which would remove many previous regulatory constraints and implement flexible Governmentwide systems for appraisal and awards. This approach will permit the implementation of the NPR recommendation for the development of agency-based performance management and incentive award programs tailored to meet each agency's unique needs.

The law governing performance appraisal provides that agencies must establish one or more appraisal systems, and that OPM must review and approve an agency's system(s). OPM is proposing to define an agency appraisal system as the agency's framework of policies and parameters (i.e., guidelines, boundaries, limits) for the administration of performance appraisal. (See § 430.204.) Although an agency would be authorized to establish more than one system, OPM anticipates that most agencies will not find it necessary to do so. OPM goes on to propose that within that OPM-approved framework, an agency would be free to establish and adapt one or more appraisal programs of specific procedures and requirements. (See § 430.205.)

Consequently, when an agency has determined it can more effectively meet the objectives for performance management to improve individual and organizational performance by establishing different specific performance appraisal procedures and requirements tailored to the mission, work technology, and/or employees of its organizational subcomponents or for subsets of positions, the proposed regulations would authorize the agency to develop appropriate, separate appraisal programs under the framework of its appraisal system.

Deregulating Performance Management

OPM is proposing implementation of NPR recommendations for flexible, decentralized performance management through deregulation of appraisal and awards. That deregulation would be achieved in at least three ways.

First, the regulations have been reviewed to eliminate unnecessary or redundant requirements. A number of requirements had been set forth in regulation, but were not required by statute. Many of these that have come to be unnecessarily constraining or burdensome (e.g., specifying required procedures for employees on details, requiring an SF–50 for a time-off award) would be eliminated. On the other hand, several regulations that merely repeat requirements that are already clearly stated in statute would also be eliminated. In these instances, of course, the statutory requirements will still be in effect.

Second, a number of regulatory requirements would be removed, not because they were necessarily ineffective or redundant, but because agencies should be free to use them without being required to use them. For example, the proposal to eliminate the requirement for second-level review of performance plans should not be taken as an indication that OPM has concluded that second-level review is a bad idea. In many instances, the reverse is true. However, OPM is proposing to achieve a shift in policy perspective under which an agency's use of secondlevel review in its performance management programs would reflect the agency's program design choice rather than compliance with a Governmentwide regulatory requirement. A similar situation can be found in OPM's proposal to eliminate most restrictions on the use of time-off awards. Many agencies may choose to retain some limits, and they would be free to do so.

Another example of this form of deregulation that would implement an authority without establishing a requirement is OPM's proposal to delete subpart E (Performance Awards) of part 430 and integrate provisions for ratingbased cash awards into part 451