

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 250

RIN 3206-AJ92

### Human Resources Management in Agencies

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) is proposing regulations to implement certain provisions of the Chief Human Capital Officers Act of 2002, which set forth new OPM and agency responsibilities and requirements to enhance and improve the strategic management of the Federal Government's civilian workforce, as well as the planning and evaluation of agency efforts in that regard. Further, we are proposing a plain language rewrite of the subpart titled "Authority for Personnel Actions in Agencies."

**DATES:** We will consider comments received on or before July 24, 2006.

**ADDRESSES:** You may submit comments, which are identified by RIN 3206-AJ92, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- E-mail: [employ@opm.gov](mailto:employ@opm.gov). Include "RIN 3206-AJ92, Human Resources Management in Agencies" in the subject line of the message.

- Fax: (202) 606-2329.
- Mail: Ms. Nancy Kichak, Associate Director for Strategic Human Resources Policy, U.S. Office of Personnel Management, Room 6551, 1900 E Street, NW., Washington, DC 20415-9700.

- Hand Delivery/Courier: U.S. Office of Personnel Management, Room 6551, 1900 E Street, NW., Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** For information on proposed subpart A—Authority for Personnel Actions in

Agencies and subpart B—Strategic Human Capital Management, contact Charles D. Grimes by phone at 202-418-3163, by FAX at 202-606-2548, or by e-mail at [charles.grimes@opm.gov](mailto:charles.grimes@opm.gov). You may contact Mr. Grimes by TTY on 202-418-3134.

**SUPPLEMENTARY INFORMATION:** OPM is proposing to change the title of 5 CFR part 250, to read "Human Resources Management in Agencies" to reflect current usage. In addition, we are proposing to revise the current subpart A in plain language, and add regulations on strategic human resources management as new subpart B.

#### Subpart A—Authority for Personnel Actions in Agencies

OPM proposes a plain language revision to make the current subpart A of 5 CFR 250 more readable. This revision is part of a broader effort to make OPM's regulations more readable. The Guide to Processing Personnel Actions referenced in part 250, subpart A, is available at <http://www.opm.gov/feddata/gppa/gppa.asp>.

#### Subpart B—Strategic Human Capital Management

The provisions of Public Law 107-296 include the Chief Human Capital Officers Act of 2002 (Act), which, among other things, amended OPM's authorizing legislation in chapter 11 of title 5, United States Code, requiring OPM to design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies. While OPM has an overarching leadership role in the strategic management of the Federal Government's human capital, employing agencies have ultimate responsibility and accountability for their respective workforces.

To establish accountability in that regard, the Act added in part II of title 5 a new chapter 14, Agency Chief Human Capital Officers, which directs each agency referred to in section 901(b) of title 31, United States Code, (i.e., the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, Treasury, and Veterans Affairs, and the Environmental Protection Agency; National Aeronautics and Space Administration;

Agency for International Development; General Services Administration; National Science Foundation; Nuclear Regulatory Commission; Office of Personnel Management; Small Business Administration; and the Social Security Administration) to appoint or designate a Chief Human Capital Officer (CHCO) to carry out the agency's responsibilities under the law. The CHCO is the senior official accountable for advising the agency head in the development and evaluation of the agency's strategic human capital plan and reports. The Act also establishes a CHCO Council, chaired by the OPM Director, to coordinate the law's implementation and to coordinate Governmentwide and agency strategic human capital management efforts and initiatives.

Finally, the Act amends section 1115 of title 31 to require CHCOs to prepare that portion of their agency's annual performance plan required under the Government Performance and Results Act of 1993, as amended, which describes how human resources and human capital management strategies will contribute to meeting annual performance goals and objectives. It also amends section 1116 of that title to require in the agency's annual performance report a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management.

This regulation implements provisions of the Act, as well as Executive Order 13197, Governmentwide Accountability for Merit System Principles; Workforce Information (January 18, 2001). It describes OPM's leadership role and, in this context, establishes a basic framework for planning and assessing human capital management progress and results, including compliance with relevant laws, rules and regulations, as assessed through agency human capital accountability systems and reported in annual agency human capital accountability reports. That basic framework comprises the Human Capital Assessment and Accountability Framework (HCAAF) and its companion document, HCAAF Systems, Standards, and Metrics (HCAAF-SSM), which are incorporated by reference in this regulation. Both the HCAAF and the HCAAF-SSM are available for review and comment on OPM's Web site at

[http://www.opm.gov/hcaaf\\_resource\\_center/](http://www.opm.gov/hcaaf_resource_center/).

The regulation also establishes requirements for an agency to maintain a current human capital plan and submit to OPM an annual human capital accountability report. To accommodate the special resource constraints of particularly small agencies, the regulation allows OPM to waive these requirements. The requirements set forth in this regulation are by design congruent with the planning and reporting requirements contained in OMB Circular A-11 (under sections 32.1, 32.3 and 51.8) and title 31, United States Code, and support the system of oversight prescribed by § 250.102.

#### **Executive Order 12866, Regulatory Review**

This proposed rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

#### **Regulatory Flexibility Act**

I certify that these regulations would not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they would only apply to Federal agencies and employees.

#### **List of Subjects in 5 CFR Part 250**

Authority delegations (Government agencies), Government employees. Office of Personnel Management.

**Linda M. Springer,**  
*Director.*

Accordingly, OPM is proposing to revise 5 CFR part 250 to read as follows:

1. Revise part 250 to read as follows:

### **PART 250—HUMAN RESOURCES MANAGEMENT IN AGENCIES**

#### **Subpart A—Authority for Personnel Actions in Agencies**

Sec.

- 250.101 Standards and requirements for agency personnel actions.
- 250.102 Delegated authorities.
- 250.103 Consequences of improper agency actions.

#### **Subpart B—Strategic Human Capital Management**

- 250.201 Coverage and purpose.
- 250.202 Office of Personnel Management responsibilities
- 250.203 Agency responsibilities.

**Authority:** 5 U.S.C. 1101 note, 1103(a)(5), 1103(c), 1104, 1302, 3301, 3302; E.O. 10577, 12 FR 1259, 3 CFR, 1954-1958 Comp., p. 218; E.O. 13197, 66 FR 7853, 3 CFR 748 (2002).

Subpart B also issued under 5 U.S.C. 1401, 1401 note, 1402.

#### **Subpart A—Authority for Personnel Actions in Agencies**

##### **§ 250.101 Standards and requirements for agency personnel actions.**

When taking a personnel action authorized by this chapter, an agency shall comply with qualification standards and regulations issued by the Office of Personnel Management (OPM), the instructions OPM has published in the Guide to Processing Personnel Actions, and the provisions of any delegation agreement OPM has made with the agency. When taking a personnel action that results from a decision or order of OPM, the Merit Systems Protection Board, Equal Employment Opportunity Commission, or Federal Labor Relations Authority, as authorized by the rules and regulations of those agencies, or as the result of a court order, a judicial or administrative settlement agreement, or an arbitral award under a negotiated agreement, the agency shall follow the instructions in the Guide to Processing Personnel Actions and comply with all other relevant substantive and documentary requirements, including those applicable to retirement, life insurance, health benefits, and other benefits provided under this chapter.

##### **§ 250.102 Delegated authorities.**

OPM may delegate its authority, including authority for competitive examinations, to agencies, under 5 U.S.C. 1104(a)(2), through a delegation agreement. The delegation agreement developed with the agency must specify the conditions for applying the delegated authorities. The agreement must also set minimum standards of performance and describe the system of oversight by which the agency and OPM will monitor the use of each delegated authority.

##### **§ 250.103 Consequences of improper agency actions.**

If OPM finds that an agency has taken an action contrary to a law, rule, regulation, or standard that OPM administers, OPM may require the agency to take corrective action. OPM may suspend or revoke a delegation agreement established under § 250.102 at any time if it determines that the agency is not adhering to the provisions of the agreement. OPM may suspend or withdraw any authority granted under this chapter to an agency, including any authority granted by delegation agreement, when OPM finds that the agency has not complied with qualification standards OPM has issued, instructions OPM has published, or the regulations in this chapter. OPM also

may suspend or withdraw these authorities when it determines that doing so is in the interest of the civil service for any other reason.

#### **Subpart B—Strategic Human Capital Management**

##### **§ 250.201 Coverage and purpose.**

The Chief Human Capital Officers (CHCO) Act of 2002 acknowledges the critical importance of Federal employees to the effective and efficient operation of Government. As a part of OPM's overall leadership responsibilities in the strategic management of the Federal civil service, and pursuant to 5 U.S.C. 1103, OPM is responsible for designing a set of systems, including standards and metrics, for assessing the management of human capital by Federal agencies. In this subpart, OPM establishes a framework of those systems, including system components, OPM's role, and agency responsibilities.

##### **§ 250.202 Office of Personnel Management responsibilities.**

(a) As the President's chief human capital officer, the Director of OPM provides Governmentwide leadership and direction in the strategic management of the Federal workforce.

(b) To execute this critical leadership responsibility, OPM defines, and from time to time revises, the *Human Capital Assessment and Accountability Framework (HCAAF)*, to describe the concepts and systems for planning, implementing, and evaluating the results of human capital management policies and practices. The link to the HCAAF is available on the OPM Web site at <http://www.opm.gov>. In addition, OPM issues, and from time to time revises, the related set of assessment systems required by the CHCO Act as the *HCAAF Systems, Standards, and Metrics (HCAAF-SSM)*, also available at the OPM Web site. Each such assessment system associated with the HCAAF consists of:

- (1) A standard against which agencies can assess the results of their management of human capital; and
- (2) Prescribed metrics, as appropriate, for organizational outcomes, employee perspective, and compliance measures with respect to relevant laws, rules and regulations.

(c) Together, the HCAAF and the HCAAF-SSM guide agencies in planning, evaluating and improving the efficiency and effectiveness of agency human capital management with respect to:

- (1) Alignment with executive branch policies and priorities, as well as with

individual agency missions, goals, and program objectives, including the extent to which human capital management strategies are integrated into agency strategic plans and performance budgets prepared under OMB Circular A-11;

(2) Identifying and closing competency/skill gaps in the agency's mission-critical occupations; ensuring leadership continuity through the implementation of recruiting, development, and succession plans; sustaining an agency culture that values, elicits, identifies, and rewards high performance; and developing and implementing a knowledge management strategy, supported by appropriate investment in training and technology; and

(3) Holding the agency head, executives, managers and human resources officers accountable for efficient and effective human capital management, in accordance with merit system principles.

#### **§ 250.203 Agency responsibilities.**

(a) To assist in the assessment of the management of human capital in the Federal Government, and to help meet the statutory requirements to prepare that portion of the performance budget for which agency Chief Human Capital Officers are accountable as well as relevant portions of performance and accountability reports, heads of agencies or their designees must maintain a current human capital plan and provide OPM an annual human capital accountability report, as outlined below, based on an approved human capital accountability system. The HCAAF and the HCAAF-SSM provide more specific information on coverage and content for the plan and report.

(1) *Human Capital Plan.* Using a format established by agreement between the agency and OPM, at a minimum the plan must include:

(i) *Human Capital Goals and Objectives.* These are a comprehensive, integrated set of human capital goals and objectives, with detailed policy and program priorities and initiatives as appropriate, consistent with agency strategic plans and annual performance goals. These human capital goals and objectives must address each of the human capital management systems included in the HCAAF.

(ii) *Workforce Analysis.* This analysis of the agency's workforce describes its current state, projects the human resources needed to achieve the agency's program performance goals and objectives during the term of the agency's strategic plan, and identifies potential shortfalls or gaps. An ongoing analysis must, for relevant agency

mission requirements, describe the occupation(s) most critical to agency performance (including associated managerial and executive positions) and describe mission-critical competencies and key demographics (e.g., talent analyses, turnover, and retirement eligibility); and for each such occupation, describe its current and projected staffing levels, attrition and hiring estimates, and proposed training and development investments.

(iii) *Performance Measures and Milestones.* One or more human capital metrics, as well as appropriate program milestones, for each human capital goal or objective, provide a basis for assessing progress and results, including compliance measures with respect to relevant laws, rules and regulations. These metrics must include, but are not limited to, those described in the HCAAF-SSM issued under § 250.202(b). These metrics and milestones must be specifically linked to broader agency program performance measures, to evaluate the impact of the agency's human capital management on its overall mission performance.

(2) *Human Capital Accountability System and Report.* This system provides for an annual assessment of agency human capital management progress and results including compliance with relevant laws, rules, and regulations. That assessment is conveyed in an annual human capital accountability report to OPM. The human capital accountability system must be formal and documented; be approved by OPM; be supported and resourced by agency leadership; measure and assess human capital management systems for mission alignment, effectiveness, efficiency, and compliance with merit system principles, laws, and regulations; include an independent audit process with periodic review of human resources transactions to insure legal and regulatory compliance; ensure that action is taken to improve human capital management programs and processes and to correct deficiencies; and ensure results are analyzed and reported to agency management and OPM. At a minimum, the agency's annual human capital accountability report must:

(i) Provide an evaluation of and report on the agency's existing human capital management policies, programs, and operations, as they relate to the agency's overall mission/program performance. The report must address the performance measures and milestones contained in the agency human capital plan including compliance measures with respect to relevant laws, rules and

regulations. The report must also document actions taken to correct any violations or deficiencies that are identified.

(ii) Inform the development of human capital goals and objectives during the agency's strategic planning and annual performance budget formulation process, as well as the treatment of human capital results during the annual performance and accountability reporting process.

(b) The Director of OPM may, at his or her discretion, grant a variation from any requirement of this section under 5 CFR 5.1. A request for a variation must be submitted by the head of the requesting agency, and must be based on conditions specific to the requesting agency. The Director's decision granting or denying the variation request has no precedential effect under 5 CFR 5.1(a).

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2006-24640; Directorate Identifier 2006-CE-26-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Raytheon Aircraft Company Model 390 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Raytheon Aircraft Company Model 390 airplanes. This proposed AD would require you to inspect the spigot bearing, part number (P/N) MS14104-16, for the proper position in the spigot fitting assembly and to install the wing spigot bearing retainer kit, P/N 390-4304-0001. This proposed AD results from two reports of the spigot bearing not being positioned flush with the fitting assembly, but protruding outside of the fitting assembly. We are proposing this AD to detect spigot bearings that are not positioned flush with the fitting assembly. This condition could result in the spigot bearing becoming disengaged from the fitting assembly, which could cause motion between the wing and the fuselage and degrade the structural integrity of the wing attachment to the fuselage. This could lead to wing