

# Proposed Rules

Federal Register

Vol. 65, No. 120

Wednesday, June 21, 2000

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 430

RIN 3206-A157

### Managing Senior Executive Performance

**AGENCY:** U.S. Office of Personnel Management.

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

**SUMMARY:** The Office of Personnel Management (OPM) proposes to amend its regulations governing performance appraisal in the Senior Executive Service (SES). The proposed regulations will help agencies hold senior executives accountable by: reinforcing the link between performance management and strategic planning; requiring agencies to use balanced measures in evaluating executive performance; and increasing agency flexibility to tailor performance management systems to their unique mission requirements and organizational climate.

**DATES:** Comments must be submitted on or before August 21, 2000.

**ADDRESSES:** Send or deliver written comments to Joyce Edwards, Director, Office of Executive Resources Management, U.S. Office of Personnel Management, 1900 E Street NW, Room 6484, Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Anne Kirby, (202) 606-1610, or email to SESmgmt@opm.gov.

**SUPPLEMENTARY INFORMATION:** The 7,000 members of the Senior Executive Service (SES) are dedicated, hard-working public servants. Individually and through the organizations they lead, these senior executives strive to deliver value to Americans.

This results-orientation was central to the original vision for the SES. As envisioned by the Civil Service Reform Act (CSRA) of 1978, SES performance management systems should:

- “Ensure accountability for honest, economical, and efficient Government;”
- “Assure that senior executives are accountable and responsible for the effectiveness and productivity of employees under them;”
- “Ensure that compensation, retention, and tenure are contingent on executive success which is measured on the basis of individual and organizational performance;”
- “Recognize exceptional accomplishment.”

The Government Performance and Results Act (GPRA) of 1993 and the National Partnership for Reinventing Government (NPR) validated the CSRA's original vision and challenged Government to shift its focus from internal processes and outputs to results that are aligned with customer expectations.

In the discussions triggered by OPM's 1998 *Draft Framework for Improving the Senior Executive Service*, executives and other stakeholders indicated that our current regulations discourage results-oriented performance management. In addition, stakeholders told us that agency leaders must drive the effort to strengthen their SES performance management systems. Respondents to the 1999 Survey of the Senior Executive Service reinforced these findings:

- Only 72% believe their performance rating represents a fair and accurate picture of their performance;
- Only 48% believe SES bonus determinations are based on merit; and
- 57% do not think poor performing executives are removed from their positions.

Survey findings are available on OPM's website ([www.opm.gov/SES](http://www.opm.gov/SES)).

The proposed SES performance management regulations give agencies flexibility to reinvigorate their SES performance management systems—to focus on results over process. They also reinforce the agencies—responsibility to communicate performance expectations and to use the results of the performance management process as a basis for performance awards and other personnel decisions.

The proposed regulations also require SES performance management systems to balance organizational results with the needs and perspectives of customers and employees. Introduction of the balanced scorecard concept in 1992 by

Robert Kaplan and David Norton of the Harvard Business School as well as recent studies by the National Partnership for Reinventing Government and others have shown that both the public and private sectors are increasingly and successfully using balanced measurement to help create high-performing organizations. They indicate that an approach to performance planning, management, and measurement that balances the needs and perspectives of customers, stakeholders, employees, or others with the achievement of the organization's business or operational results is critical to successful improvement efforts.

By institutionalizing the use of balanced measures, the Government acknowledges what its best executives have always known: leading people and building customer coalitions are the foundation of organizational success. In the 1999 SES survey, career executives reported that “leading people” and “building coalitions” are the most important contributors to executive success now, and they will be even more important in the future.

### Overall Approach

Subpart C is totally revised to organize the material more logically and to use plain language, as directed by the President in June 1998.

The purpose statement is revised to stress:

- Expecting excellence in senior executive performance;
- Holding executives accountable for results;
- Communicating regularly about goals and expectations;
- Appraising senior executive performance using measures that balance organizational results with customer, employee, or other perspectives; and
- Making performance the basis for pay, awards, and other personnel decisions.

This emphasis is fundamental to the key changes in the subpart.

The proposals broaden the focus from the annual summary rating aspects of performance appraisal to managing performance on an ongoing basis and shift the emphasis from process to results. The subpart is restructured to establish separate sections on the key components of performance management: planning and communicating, monitoring, appraising,

and rating performance and using performance results.

The proposals pare many of the current regulatory requirements back to the statutory requirements and remove others to give agencies more flexibility to design performance management approaches that better fit their unique and changing mission needs and organizational climate. We have eliminated requirements that are unnecessarily constraining and burdensome to agencies or are process-bound. The changes balance the agencies' desire for maximum flexibility with the need for a corporate approach that safeguards merit principles and contributes to a better, results-oriented Government. This approach is also consistent with OPM's earlier initiative to provide more flexibility in how agencies implement performance management for the general workforce (August 23, 1995 **Federal Register**, 60 FR 43936).

#### Key Changes in Current Requirements

*System requirements* are modified to prescribe a framework for agency systems that identifies key system components, without specifying how these components will be implemented. Within this framework, agencies can design performance management systems to meet their unique mission requirements and organizational climate.

*Minimum appraisal period* is modified to permit agencies to establish minimum appraisal periods that are longer than 120 days. The minimum appraisal period must be at least 90 days, as currently required, provided there is enough information on which to base a rating.

*Performance standards are now called performance requirements* to reflect the term used in statute. Performance requirements will be established for critical elements and any other performance elements that will be used to appraise performance and derive the annual summary rating. The term *noncritical element* is no longer required.

*Appraisal criteria* are amended to require balanced measurement.

*Rating level* requirements are modified to remove the requirement to establish three rating levels for each critical element. The performance of each critical element and any other performance elements must be appraised.

*Summary rating level* requirements are modified to the minimum three summary rating levels prescribed in statute (*i.e.*, fully successful, minimally satisfactory, and unsatisfactory). The current maximum of five levels (*i.e.*, no more than two levels above fully successful) is removed.

*Rating terms* are revised to reflect the statutory requirement for an annual summary rating. There are now only

two rating terms: the *initial rating* becomes *initial summary rating* and the *final rating* becomes the *annual summary rating*. References to other types of ratings are removed.

*Method for deriving summary ratings* is modified to remove the current requirement to give critical elements more weight than non-critical elements in determining a summary rating.

#### Additional Guidance

OPM will issue additional guidance in various formats to help agencies implement the changes, including model performance management systems and examples of ways to use the various flexibilities provided under these regulations. This guidance will address how agencies are to obtain OPM approval of revised performance management systems, in accordance with 5 U.S.C. 4312. We will also share information about how public and private sector organizations are using balanced measurement to evaluate senior executive performance.

#### Table of Changes

The following table lists all of the proposed changes to the current regulations. The "current rule" column lists the regulations in the current subpart C that are affected by the proposed regulations. The "proposed rule" column shows the disposition of the current rules. The third column explains each change.

Current rule	Proposed rule	Explanation of change
430.301(a) .....	430.301(a) .....	Plain language edits.
430.301(b) .....	430.301(b) .....	Revises purpose to emphasize expecting excellence, holding senior executives accountable for results, communicating goals and expectations, factoring balanced measurement into performance appraisal, and making performance the basis for personnel decisions.
430.302(a) .....	430.302(a) .....	Plain language edits.
430.302(b) .....	430.302(b) .....	Plain language edits.
430.303 .....	430.303 .....	Revises definitions as follows: <i>Annual summary rating</i> replaces the term summary rating to reflect the statutory terminology and means the overall rating level the appointing authority assigns at the end of the appraisal period after considering PRB recommendations. <i>Appointing authority</i> is revised to clarify that this individual must be authorized to make SES appointments. <i>Appraisal</i> is replaced with <i>performance appraisal</i> and edited for plain language. <i>Appraisal period</i> reflects plain language edits. <i>Appraisal system</i> is replaced with the term <i>performance management system</i> to broaden the focus from the annual appraisal to managing performance on an ongoing basis. <i>Balanced measures</i> is added because the regulations require agencies to use balanced measurement to evaluate senior executive performance. <i>Critical element</i> is broadened to cover the senior executive's work, which may include more than the duties of the position, and focus on organizational results. <i>Final rating</i> is replaced with the term used in statute, <i>annual summary rating</i> , and edited for plain language. <i>Initial rating</i> is replaced with <i>initial summary rating</i> and revised for clarity. <i>Non-critical elements</i> is replaced with the broader term, <i>other performance elements</i> , which refers to components of an executive's work that are not critical but may be important enough to factor into the executive's appraisal.

Current rule	Proposed rule	Explanation of change
		<p><i>Performance</i> is broadened from the focus on critical and non-critical elements of the position to the accomplishment of work described in the senior executive's performance plan.</p> <p><i>Performance appraisal</i> is added to replace <i>appraisal</i> and edited for plain language.</p> <p><i>Performance Appraisal System</i> is replaced with the term <i>performance management system</i>, which refers to a framework of policies and practices for planning, monitoring, developing, evaluating, and rewarding individual and organizational performance and for using performance information as a basis for personnel decisions.</p> <p><i>Performance management plan</i> is deleted.</p> <p>The concepts are covered under <i>performance management systems</i>.</p> <p><i>Performance plan</i> is replaced with the term <i>senior executive performance plan</i> which is expanded to address work the senior executive is expected to accomplish and the requirements against which performance will be evaluated.</p> <p><i>Performance standard</i> is replaced by the term <i>performance requirement</i> used in statute and reflects plain language edits.</p> <p><i>Progress review</i> reflects plain language edits.</p> <p><i>Rating of record</i> is deleted.</p> <p><i>Summary rating</i> is replaced with <i>annual summary rating</i>.</p> <p><i>Strategic planning initiatives</i> is added because of new requirements for aligning performance plans with strategic planning.</p>
430.304 .....	430.304 .....	Retitles section as SES Performance Management Systems; edits substantially and restructures it to include the key components of agency systems. Moves other requirements to other sections in the subpart.
430.304(a) .....	430.304(a) .....	Plain language edits.
430.304(b) .....	430.305(b) .....	Moves critical element requirements to Planning and Communicating Performance.
		Replaces reference to non-critical elements with the broader <i>other performance elements</i> .
	430.307(a) .....	Moves appraisal requirements to Appraising Performance; revises them to reflect deletion of term <i>non-critical elements</i> .
	430.308(d) .....	Moves summary rating requirements to Rating Performance.
430.304(c) .....	430.304(b) .....	Planning performance becomes a key component of performance management systems.
	430.305(a) .....	Moves requirements for individual senior executive performance plans to Planning and Communicating Performance.
430.304(d)(1) .....	430.304(b) .....	Replaces <i>performance standards</i> with the statutory term <i>performance requirements</i> ; some provisions are included in performance management system requirements.
	430.305 .....	Moves establishing and communicating critical elements and requirements to Planning and Communicating Performance.
	430.307(a) .....	Moves annual appraisal requirements to Appraising Performance.
430.304(d)(2) .....	430.304(b)(1) .....	Includes accomplishing organizational objectives in requirements to address organizational performance and to link performance management with GPRA goals and with strategic planning initiatives.
	430.305 .....	
430.304(e) .....	430.305(b) .....	Revises section to eliminate the requirement to establish three rating levels for each critical element. Replaces <i>performance standards</i> with <i>performance requirements</i> and moves it to senior executive plan requirements under Planning and Communicating Performance.
430.304(f) .....	430.304(c)(3) .....	Edits derivation method requirements to remove references to noncritical elements and moves it to system requirements. New section incorporates restriction on rating level distribution.
430.304(g) .....	430.304(c)(2) .....	Modifies summary rating level requirements to reflect the statutory requirement for a minimum of three levels. Removes the 5-level maximum and rating level numbers.
430.304(h) .....	430.306(c) .....	Broadens requirement for performance assistance to require agencies to help senior executives improve their performance, not just those who are rated less than fully successful, to reflect the emphasis on overall performance improvement.
430.304(i) .....	430.309(c) .....	Edits requirements for action on less than successful performance ratings and moves them to the new section, Using Performance Results. This section is added to focus on basing personnel decisions on performance.
	430.305 .....	Adds two new sections on Planning and Communicating Performance and Monitoring Performance, which are key components of performance management systems. Consolidates senior executive plan requirements under Planning and Communicating Performance.
	430.306 .....	Consolidates progress review and performance improvement requirements under monitoring performance.
430.305 .....	430.307 .....	Retitles heading as Appraising Performance, a key component of personnel management systems.
430.305(a)(1) .....	430.304(c)(1) .....	Moves appraisal period requirements to System Requirements.
	430.307(b) .....	Moves rating performance on details and temporary assignments to Appraising Performance. Replaces summary rating requirement with requirement to appraise performance and factor appraisal into initial summary rating.
430.305(a)(2) .....	430.304(c)(1)(ii) .....	Edits provisions for terminating the appraisal period and moves them to System Requirements.

Current rule	Proposed rule	Explanation of change
430.305(a)(3) .....	430.304(c)(1)(iii) .....	Edits restriction on appraisals and ratings during Presidential election periods and moves it to System Requirements.
430.305(b) .....	430.304(c)(1)(i) .....	Revises minimum appraisal period to eliminate the 120-day maximum and moves it to System Requirements.
430.305(c) .....	430.307(a)(1) .....	Revises requirement to require appraisal on critical elements only “ appraising other elements is optional.
430.305(d)(1) and 430.305(d)(2).	430.307(b)(1), 430.307(b)(2), and 430.307(b)(3).	Substantially edits requirements for appraising performance on details and temporary assignments. Modifies the current requirement for a rating on critical elements to appraising performance and factoring that appraisal into the initial summary rating.
430.305(e) .....	430.306(b) .....	Edits progress review requirements and moves them to Monitoring Performance.
430.306 .....	430.308 .....	Retitles heading as Rating Performance, a key component of personnel management systems.
430.306(a)(1) .....	430.308(a) .....	Plain language edits.
430.306(a)(2) .....	430.308(a) .....	Plain language edits.
430.306(a)(3) .....	430.308(b) .....	Plain language edits.
430.306(a)(4) .....	430.308(b), 430.308(c) .....	Plain language edits.
430.306(a)(5) .....	430.308(b) .....	Removes specific section; provisions are inherent in higher level review requirements.
430.306(b) .....	430.308(b) .....	Adds requirement that higher level reviewer may not change initial summary rating, but can recommend a different rating to PRB and appointing authority. Plain language edits.
	430.308(c) .....	Adds new section in Rating Performance on PRB review for clarity.
430.306(c) .....	430.308(d) .....	Changes term <i>final rating</i> to <i>annual summary rating</i> for consistency with statutory language and edits for plain language.
430.306(d) .....	430.304(c)(3) .....	Includes requirement in derivation methods under System Requirements and edits for plain language.
430.306(e) .....	430.308(e) .....	Includes under new section, extending the rating period; edits for plain language.
430.306(f) .....	430.308(f) .....	States statutory language regarding appealability of appraisals and ratings.
	430.307(b) .....	Modifies requirement for summary rating on transfer to a written appraisal which the gaining supervisor must factor into the annual summary rating. Plain language edits.
430.306(g) .....	430.308(a) .....	Deletes section; incorporates requirements for executive notification in relevant sections.
	430.308(b) .....	
	430.311(c) .....	Edits documentation maintenance and moves them to Training and Evaluation.
430.307 .....	430.310 .....	Plain language edits.
430.307(a) .....	430.310(a)(1) .....	Plain language edits.
430.307(b) .....	430.310(a)(4) .....	Plain language edits.
430.307(c) .....	430.310(a)(2) .....	Plain language edits.
430.307(d) .....	430.310(a)(3) .....	Deletes reference to OPM authority to waive requirement for career majority on PRBs. Authority is stated in statute.
430.307(e) .....	430.310(b)(1) .....	Plain language edits.
430.307(f) .....	430.310(b)(3) .....	Plain language edits.
430.307(g) .....	430.301(b)(2) .....	Plain language edits.
430.308 .....	430.311(a) 430.311(b) .....	Plain language edits.
430.309(a) .....	430.312(b) .....	Plain language edits.
430.309(b) .....	430.312(c) .....	Plain language edits.
430.310 .....	430.312(a) .....	Moves requirement to section on OPM review of agency systems and edits for plain language.

**E.O. 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 will not have a significant economic impact on a substantial number of small entities because the regulations pertain only to Federal employees and agencies.

**List of Subjects in 5 CFR Part 430**

Government employees, Performance management.

Office of Personnel Management.

**Janice R. Lachance,**  
*Director.*

Accordingly, OPM proposes to amend 5 CFR Part 430 as follows:

**PART 430—PERFORMANCE MANAGEMENT**

1. The authority citation for part 430 continues to read as follows:

**Authority:** 5 U.S.C. chapter 43.

2. Subpart C is revised to read as follows:

**Subpart C—Managing Senior Executive Performance**

Sec.  
430.301 General.

430.302 Coverage.

430.303 Definitions.

430.304 SES performance management systems.

430.305 Planning and communicating performance.

430.306 Monitoring performance.

430.307 Appraising performance.

430.308 Rating performance.

430.309 Using performance results.

430.310 Performance Review Boards (PRBs)

430.311 Training and evaluation.

430.312 OPM review of agency systems.

**Subpart C—Managing Senior Executive Performance****§ 430.301 General.**

(a) *Statutory authority.* Chapter 43 of title 5, United States Code, provides for performance management for the Senior

Executive Service (SES), the establishment of SES performance appraisal systems, and appraisal of senior executive performance. This subpart prescribes regulations for managing SES performance to implement the statutory provisions at 5 U.S.C. 4311–4315.

(b) *Purpose.* The regulations in this subpart require agencies to establish performance management systems that hold senior executives accountable for their individual and organizational performance in order to improve the overall performance of Government by—

- (1) Expecting excellence in senior executive performance;
- (2) Linking performance management with the results-oriented goals of the Government Performance and Results Act of 1993;
- (3) Setting and communicating individual and organizational goals and expectations;
- (4) Systematically appraising senior executive performance using measures that balance organizational results with customer, employee, or other perspectives; and
- (5) Using performance results as a basis for pay, awards, development, retention, removal, and other personnel decisions.

#### **§ 430.302 Coverage.**

(a) This subpart applies to all senior executives covered by subchapter II of chapter 31 of title 5, United States Code.

(b) This subpart applies to agencies identified in section 3132(a)(1) of title 5, United States Code.

#### **§ 430.303 Definitions.**

Terms used in this subpart are defined as follows:

*Appointing authority* means the department or agency head, or other official with authority to make appointments in the Senior Executive Service.

*Appraisal period* means the established period of time for which a senior executive's performance will be appraised and rated.

*Balanced measures* means an approach to performance measurement that balances organizational results with the perspectives of distinct groups, including customers and employees.

*Critical element* means a key component of an executive's work that contributes to organizational goals and results and is so important that unsatisfactory performance of the element would make the executive's overall job performance unsatisfactory.

*Other performance elements* means components of an executive's work that

do not meet the definition of a critical element, but may be important enough to factor into the executive's performance appraisal.

*Performance* means the accomplishment of the work described in the senior executive's performance plan.

*Performance appraisal* means the review and evaluation of a senior executive's performance against performance elements and requirements.

*Performance management system* means the framework of policies and practices that an agency establishes under subchapter II of chapter 43 of title 5, United States Code, and this subpart, for planning, monitoring, developing, evaluating, and rewarding both individual and organizational performance and for using resulting performance information in making personnel decisions.

*Performance requirement* means a statement of the performance expected for a critical element.

*Progress review* means a review of the senior executive's progress in meeting the performance requirements. A progress review is not a performance rating.

#### *Ratings:*

(1) *Initial summary rating* means an overall rating level the supervisor derives from appraising the senior executive's performance during the appraisal period and forwards to the Performance Review Board.

(2) *Annual summary rating* means the overall rating level that an appointing authority assigns at the end of the appraisal period after considering a Performance Review Board's recommendations. This is the official rating.

*Senior executive performance plan* means the written summary of work the senior executive is expected to accomplish during the appraisal period and the requirements against which performance will be evaluated. The plan addresses all critical elements and any other performance elements established for the senior executive.

*Strategic planning initiatives* means agency strategic plans, annual performance plans, organizational workplans, and other related initiatives.

#### **§ 430.304 SES performance management systems.**

(a) To encourage excellence in senior executive performance, each agency must develop and administer one or more performance management systems for its senior executives.

(b) Performance management systems must provide for:

(1) Planning and communicating performance elements and requirements that are linked with strategic planning initiatives;

(2) Consulting with senior executives on the development of performance elements and requirements;

(3) Monitoring progress in accomplishing elements and requirements;

(4) At least annually, appraising each senior executive's performance against requirements using measures that balance organizational results with customer and employee perspectives; and

(5) Using performance information to adjust pay, reward, reassign, develop, and remove senior executives or make other personnel decisions.

(c) Additional system requirements.

(1) *Appraisal period.* Each agency must establish an official performance appraisal period for which an annual summary rating must be prepared.

(i) There must be a minimum appraisal period of at least 90 days.

(ii) An agency may end the appraisal period any time after the minimum appraisal period is completed, if there is an adequate basis on which to appraise and rate the senior executive's performance.

(iii) An agency may not appraise and rate a career appointee's performance within 120 days after the beginning of a new President's term of office.

(2) *Summary performance levels.* Each performance management system must have at least three summary performance levels: one or more fully successful levels, a minimally satisfactory level, and an unsatisfactory level.

(3) *Method for deriving summary ratings.* Agencies must develop a method for deriving summary ratings from appraisals of performance against performance requirements. The method must ensure that only those employees whose performance exceeds normal expectations are rated at levels above fully successful. An agency may not prescribe a forced distribution of rating levels for senior executives.

#### **§ 430.305 Planning and communicating performance.**

(a) Each senior executive must have a performance plan that describes the individual and organizational expectations for the appraisal period and sets the requirements against which performance will be evaluated. Supervisors must develop performance plans in consultation with senior executives and communicate the plans to them on or before the beginning of the appraisal period.

(b) Performance plan requirements:

(1) *Critical elements.* At a minimum, plans must describe the critical elements of the senior executive's work and any other relevant performance elements. Elements must reflect individual and organizational performance.

(2) *Performance requirements.* At a minimum, plans must describe the level of performance expected for fully successful performance of the executive's work. These are the standards against which the senior executive's performance will be appraised.

(3) *Link with strategic planning initiatives.* Critical elements and performance requirements for each senior executive must be consistent with the goals and performance expectations in the agency's strategic planning initiatives.

#### **§ 430.306 Monitoring performance.**

(a) Supervisors must monitor each senior executive's performance during the appraisal period and provide feedback to the senior executive on progress in accomplishing the performance elements and requirements described in the performance plan. Supervisors must provide advice and assistance to senior executives on how to improve their performance.

(b) Supervisors must hold a progress review for each senior executive at least once during the appraisal period. At a minimum, senior executives must be informed about how well they are performing against performance requirements.

#### **§ 430.307 Appraising performance.**

(a) *Annual appraisals.* Agencies must appraise each senior executive's performance in writing and assign an annual summary rating at the end of the appraisal period.

(1) At a minimum, a senior executive must be appraised on the performance of the critical elements in the performance plan.

(2) Appraisals of senior executive performance must be based on both individual and organizational performance, taking into account such factors as—

- (i) Results achieved in accordance with the goals of the Government Performance and Results Act of 1993;
- (ii) Customer satisfaction;
- (iii) Employee perspectives;
- (iv) The effectiveness, productivity, and performance quality of the employees for whom the senior executive is responsible; and
- (v) Meeting affirmative action, equal employment opportunity, and diversity

goals and complying with the merit system principles set forth under section 2301 of title 5, United States Code.

(b) *Details and job changes.* (1) When a senior executive is detailed or temporarily reassigned for 120 days or longer, the gaining organization must set performance goals and requirements for the detail or temporary assignment. The gaining organization must appraise the senior executive's performance appraised in writing, and this appraisal must be factored into the initial summary rating.

(2) When a senior executive changes jobs or transfers to another agency after completing the minimum appraisal period, the supervisor must appraise the executive's performance in writing before the executive leaves.

(3) The annual summary rating and any subsequent appraisals must be transferred to the gaining agency. The gaining supervisor must consider the rating and appraisals when developing the initial summary rating at the end of the appraisal period.

#### **§ 430.308 Rating performance.**

(a) *Initial summary rating.* The supervisor must develop an initial summary rating of the senior executive's performance, in writing, and share that rating with the senior executive. The senior executive may respond in writing.

(b) *Higher level review.* The senior executive may ask a higher level official to review the initial summary rating before the rating is given to the Performance Review Board (PRB). The senior executive is entitled to one higher level review, unless the agency provides for more than one review level. The higher level official cannot change the supervisor's initial summary rating, but may recommend a different rating to the PRB and the appointing authority. Copies of the reviewer's findings and recommendations must be given to the senior executive, the supervisor, and the PRB.

(c) *PRB review.* The initial summary rating, the senior executive's response to the initial rating, and the higher level official's comments must be given to the PRB. The PRB must review the rating and comments from the senior executive and the higher level official, and make recommendations to the appointing authority, as provided in § 430.310.

(d) *Annual summary rating.* The appointing authority must assign the annual summary rating of the senior executive's performance, in writing, after considering any PRB recommendations. This rating is the official rating.

(e) *Extending the rating period.* When an agency cannot prepare an annual summary rating at the end of the appraisal period because the senior executive has not completed the minimum appraisal period or for other reasons, the agency must extend the executive's appraisal period. The agency will then prepare the annual summary rating.

(f) *Appeals.* Senior executive performance appraisals and ratings are not appealable.

#### **§ 430.309 Using performance results.**

(a) Agencies will use the results of performance appraisals and ratings as a basis for adjusting pay, granting awards, and making other personnel decisions. Performance information will also be a factor in assessing a senior executive's continuing development needs.

(b) A career executive whose annual summary rating is at least fully successful may be given a performance award under part 534, subpart D, of this chapter.

(c) An executive may be removed from the SES for performance reasons, subject to the provisions of part 359, subpart E, of this chapter.

(1) An executive who receives an unsatisfactory annual summary rating must be reassigned or transferred within the Senior Executive Service, or removed from the Senior Executive Service;

(2) An executive who receives two unsatisfactory annual summary ratings in any 5-year period must be removed from the Senior Executive Service; and

(3) An executive who receives less than a fully successful annual summary rating twice in any 3-year period must be removed from the Senior Executive Service.

#### **§ 430.310 Performance Review Boards (PRBs).**

Each agency must establish one or more PRBs to make recommendations to the appointing authority on the performance of its senior executives.

(a) *Membership.* (1) Each PRB must have three or more members who are appointed by the agency head, or by another official or group acting on behalf of the agency head. Agency heads are encouraged to include women, minorities, and people with disabilities on PRBs.

(2) PRB members must be appointed in a way that assures consistency, stability, and objectivity in SES performance appraisal.

(3) When appraising a career appointee's performance or recommending a career appointee for a performance award, more than one-half

of the PRB's members must be SES career appointees.

(4) The agency must publish notice of PRB appointments in the Federal Register before service begins.

(b) *Functions.* (1) Each PRB must review and evaluate the initial summary rating, the senior executive's response, and the higher level official's comments on the initial summary rating, and conduct any further review needed to make its recommendations.

(2) The PRB must make a written recommendation to the appointing authority about each senior executive's annual summary rating.

(3) PRB members may not take part in any PRB deliberations involving their own appraisals.

#### **§ 430.311 Training and evaluation.**

(a) To assure that agency performance management systems are effectively implemented, agencies must provide appropriate information and training to supervisors and senior executives on performance management, including planning and appraising performance.

(b) Agencies must periodically evaluate the effectiveness of their performance management system(s) and implement improvements as needed.

(c) Agencies must maintain all performance-related records for no less than 5 years from the date the annual summary rating is issued, as required in § 293.404(b)(1) of this chapter.

#### **§ 430.312 OPM review of agency systems.**

(a) Agencies must submit proposed SES performance management systems to OPM for approval.

(b) OPM will review agency systems for compliance with the requirements of law, OPM regulations, and OPM performance management policy.

(c) If OPM finds that an agency system does not meet the requirements and intent of subchapter II of chapter 43 of title 5, United States Code, or of this subpart, it will direct the agency to take corrective action, and the agency must comply.

[FR Doc. 00-15641 Filed 6-20-00; 8:45 am]

BILLING CODE 6325-01-P

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. 99-CE-66-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Cessna Aircraft Company Model 402C Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

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

**SUMMARY:** This document proposes to supersede Airworthiness Directive (AD) 99-11-13, which currently requires inspecting (one-time) the forward, aft, and auxiliary wing spars for cracks on certain Cessna Aircraft Company (Cessna) Model 402C airplanes, and repairing any cracks found. AD 99-11-13 also required reporting the results of the inspection to the Federal Aviation Administration (FAA) to provide data to help FAA determine whether the inspection should be repetitive. After re-evaluating the fatigue analysis for the wing spars on the affected airplanes, FAA has determined that spar cap cracking is not an isolated condition and could continue to develop over the life of the affected airplanes. Therefore, the proposed AD would retain the inspection required in AD 99-11-13, and would make the inspection repetitive. The actions specified by the proposed AD are intended to continue to detect and correct any cracks in the forward, aft, and auxiliary wing spars, which could result in reduced or loss of control of the airplane.

**DATES:** The FAA must receive any comments on this rule on or before August 24, 2000.

**ADDRESSES:** Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-CE-66-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in the proposed AD from the Cessna Aircraft Company, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 941-7550, facsimile: (316) 942-9008. You may examine this information at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Eual Conditt, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas

67209, telephone: (316) 946-4128; facsimile: (316) 946-4407.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

The FAA invites comments on the proposed rule.

You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. The FAA will consider all comments received on or before the closing date specified above, before taking action on the proposed rule. We may change the proposals contained in this notice in light of the comments received.

The FAA is re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at <http://www.plainlanguage.gov>.

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might necessitate a need to modify the proposed rule. You may examine all comments we receive before and after the closing date for comments in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this proposal.

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 99-CE-66-AD." We will date stamp and mail the postcard back to you.

##### **Availability of NPRMs**

You may obtain a copy of this NPRM by submitting a written request to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-CE-66-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

##### **Discussion**

*Has FAA taken any action to this point?* The FAA issued AD 99-11-13, Amendment 39-11184 (64 FR 29781, June 3, 1999), in order to detect and