

Subpart G—Statutory Bar to Appointment of Persons Who Fail to Register Under Selective Service Law

SOURCE: 52 FR 7400, Mar. 11, 1987, unless otherwise noted.

§ 300.701 Statutory requirement.

Section 3328 of title 5 of the United States Code provides that—

(a) An individual—

(1) Who was born after December 31, 1959, and is or was required to register under section 3 of the Military Selective Service Act (50 U.S.C. App. 453); and

(2) Who is not so registered or knowingly and willfully did not so register before the requirement terminated or became inapplicable to the individual, shall be ineligible for appointment to a position in an executive agency of the Federal Government.

(b) The Office of Personnel Management, in consultation with the Director of the Selective Service System, shall prescribe regulations to carry out this section. Such regulations shall include provisions prescribing procedures for the adjudication within the Office of determinations of whether a failure to register was knowing and willful. Such procedures shall require that such a determination may not be made if the individual concerned shows by a preponderance of the evidence that the failure to register was neither knowing nor willful.

§ 300.702 Coverage.

Appointments in the competitive service, the excepted service, the Senior Executive Service, or any other civil service personnel management system in an executive agency are covered by these regulations.

§ 300.703 Definitions.

In this subpart—

Appointment means any personnel action that brings onto the rolls of an executive agency as a civil service officer or employee as defined in 5 U.S.C. 2104 or 2105, respectively, a person who is not currently employed in that agency. It includes initial employment as well as transfer between agencies and subsequent employment after a break in service. Personnel actions that move an employee within an agency without a break in service are not covered. A break in service is a period of 4 or more calendar days during which an indi-

vidual is no longer on the rolls of an executive agency.

Covered individual means a male (a) whose application for appointment is under consideration by an executive agency or who is an employee of an executive agency; (b) who was born after December 31, 1959, and is at least 18 years of age or becomes 18 following appointment; (c) who is either a United States citizen or an alien (including parolees and refugees and those who are lawfully admitted to the United States for permanent residence and for asylum) residing in the United States; and (d) is or was required to register under section 3 of the Military Selective Service Act (50 U.S.C. App. 453). Nonimmigrant aliens admitted under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101), such as those admitted on visitor or student visas, and lawfully remaining in the United States, are exempt from registration.

Executive agency means an agency of the Government of the United States as defined in 5 U.S.C. 105.

Exemptions means those individuals determined by the Selective Service System to be excluded from the requirement to register under sections 3 and 6(a) of the Military Selective Service Act (50 U.S.C. App. 453 and 456(a)) or Presidential proclamation.

Preponderance of the evidence means that degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

Registrant means an individual registered under Selective Service law.

Selective Service law means the Military Selective Service Act, rules and regulations issued thereunder, and proclamations of the President under that Act.

Selective Service System means the agency responsible for administering the registration system and for determining who is required to register and who is exempt.