

§ 352.707

geographic area of entitlement, either at the appropriate grade or at a grade other than the one to which entitled.

(d) *Reemployment to an SES position.* When the employee's right is to a position in the SES, reemployment or return may be to any position in the SES for which the employee is qualified. The employee shall be returned at not less than the SES rate of basic pay as determined under 5 CFR part 534, subpart D at which the employee was being paid immediately before his or her transfer.

(e) *Basis for agency refusal to reemploy.* An agency may refuse to reemploy when the employee was last separated from tribal employment for serious cause establishing unsuitability for reemployment.

(f) *Basis for agency inability to reemploy.* An agency may find it is unable to reemploy in the event no position can be found under procedures in this section.

[41 FR 27713, July 6, 1976, as amended at 51 FR 25188, July 11, 1986]

§ 352.707 Employee appeals to the Merit Systems Protection Board.

(a) If an agency denies reemployment to a person claiming reemployment rights under this subpart, the agency shall inform the individual of that denial and of the reasons therefor by a written notice. In the same notice, the agency shall inform the employee of the right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title.

(b) If an employee considers reemployment to be not in accordance with this subpart, the employee is entitled to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations.

(c) Refusal of a tribe to hire a Federal employee is not appealable to the Merit Systems Protection Board.

[44 FR 48953, Aug. 21, 1979]

5 CFR Ch. I (1-1-05 Edition)

Subpart H—Reemployment Rights Under the Taiwan Relations Act

AUTHORITY: 22 U.S.C. 3310; E.O. 12143, 44 FR 37191; Section 352.807 also issued under 22 U.S.C. 3310; E.O. 12143, 45 FR 37452.

SOURCE: 46 FR 8433, Jan. 27, 1981, unless otherwise noted.

§ 352.801 Purpose.

This subpart governs reemployment rights authorized by section 11(a) (1) and (2) of the Taiwan Relations Act (Pub. L. 96-8) after service in the American Institute in Taiwan (AIT) under the Act.

§ 352.802 Definitions.

For the purposes of this subpart: *Act* refers to Taiwan Relations Act (Pub. L. 96-8).

Competitive area is the same as defined in § 351.402 of this title;

Institute means the American Institute in Taiwan.

Specified period of service shall be a period of not more than 6 years.

§ 352.803 Basic entitlement to reemployment rights on leaving Federal employment.

(a) This subpart applies to all executive agencies as defined in section 105 of title 5, United States Code, the U.S. Postal Service, the Postal Rate Commission, and to the employees thereof, and to those positions in the competitive civil service and the employees occupying those positions.

(b) The agency must give employees entitled to reemployment rights under this subpart written notice of these rights at the time of their separation.

(c) *Employees entitled.* The following employees or former employees are granted reemployment rights subject to the conditions of this subpart, if they leave their Federal employment to be employed (on the date of incorporation of AIT or within 30 calendar days following separation from their agency) by the Institute for a specified period of service.

(1) An employee serving in a competitive position under a career or career-conditional appointment;

(2) A non-temporary excepted service employee; or