

(3) Placement opportunities within the employee's own or other Federal agencies in the local commuting area are limited or nonexistent; and

(4) If eligible for optional retirement, the employee has not filed a retirement application or otherwise indicated in writing an intent to retire.

(c) A certification is to be addressed to each individual eligible employee and must be signed by an appropriate agency official. A certification must contain the expected date of reduction in force, a statement that each factor in paragraph (b) of this section has been satisfied, and a description of Workforce Investment Act of 1998, title I, programs, the Interagency Placement Program, and the Reemployment Priority List.

(d) A certification may not be used to satisfy any of the notice requirements elsewhere in this subpart.

(e) An agency determination of eligibility for certification may not be appealed to OPM or the Merit Systems Protection Board.

(f) An agency may also enroll eligible employees on the agency's Reemployment Priority List up to 6 months in advance of a reduction in force. For requirements and criteria, see subpart B of part 330 of this chapter.

[60 FR 2678, Jan. 11, 1995, as amended at 60 FR 44254, Aug. 25, 1995; 65 FR 64134, Oct. 26, 2000; 66 FR 29896, June 4, 2001]

Subpart I—Appeals and Corrective Action

§ 351.901 Appeals.

An employee who has been furloughed for more than 30 days, separated, or demoted by a reduction in force action may appeal to the Merit Systems Protection Board.

[52 FR 46051, Dec. 4, 1987]

§ 351.902 Correction by agency.

When an agency decides that an action under this part was unjustified or unwarranted and restores an individual to the former grade or rate of pay held or to an intermediate grade or rate of pay, it shall make the restoration retroactively effective to the date of the improper action.

Subpart J [Reserved]

PART 352—REEMPLOYMENT RIGHTS

Subpart A [Reserved]

Subpart B—Reemployment Rights Based on Movement Between Executive Agencies During Emergencies

Sec.

- 352.201 Letter of Authority.
- 352.202 Request for Letter of Authority.
- 352.203 Standards for issuing Letters of Authority.
- 352.204 Basic eligibility for reemployment rights.
- 352.205 Appeal of losing agency.
- 352.205a Authority to return employee to his or her former or successor agency.
- 352.205b Authority to return an SES employee to his or her former or successor agency.
- 352.206 Expiration of reemployment rights.
- 352.207 Exercise or termination of reemployment rights.
- 352.208 Agency's obligation to reemploy.
- 352.209 Employee appeals to the Merit Systems Protection Board.

Subpart C—Detail and Transfer of Federal Employees to International Organizations

- 352.301 Purpose.
- 352.302 Definitions.
- 352.303 Effective date of equalization allowance.
- 352.304 International organizations covered.
- 352.305 Eligibility for detail.
- 352.306 Length of details.
- 352.307 Eligibility for transfer.
- 352.308 Effecting employment by transfer.
- 352.309 Retirement, health benefits, and group life insurance.
- 352.310 Equalization allowance.
- 352.311 Reemployment.
- 352.312 When to apply.
- 352.313 Failure to reemploy and right of appeal.
- 352.314 Consideration for promotion and pay increases.

Subpart D—Employment of Presidential Appointees and Elected Officers by the International Atomic Energy Agency

- 352.401 Purpose.
- 352.402 Coverage.
- 352.403 Definitions.
- 352.404 Retirement and insurance.

§ 352.201

352.405 Resumption of Federal service.

Subpart E—Reinstatement Rights After Service Under Section 233(d) and 625(b) of the Foreign Assistance Act of 1961

- 352.501 Purpose.
- 352.502 Coverage.
- 352.503 Definitions.
- 352.504 Basic entitlement.
- 352.505 Proposed termination.
- 352.506 Application for reinstatement.
- 352.507 Reinstatement.
- 352.508 Appeals to the Merit Systems Protection Board.

Subpart F [Reserved]

Subpart G—Reemployment Rights of Former Bureau of Indian Affairs and Indian Health Service Employees After Service Under the Indian Self-Determination Act in Tribal Organizations

- 352.701 Purpose.
- 352.702 Definitions.
- 352.703 Basic entitlement to reemployment rights on leaving Federal employment.
- 352.704 Duration of reemployment rights.
- 352.705 Return to Federal employment.
- 352.706 Agency response to reemployment application.
- 352.707 Employee appeals to the Merit Systems Protection Board.

Subpart H—Reemployment Rights Under the Taiwan Relations Act

- 352.801 Purpose.
- 352.802 Definitions.
- 352.803 Basic entitlement to reemployment rights on leaving Federal employment.
- 352.804 Maximum period of entitlement to reemployment.
- 352.805 Position to which entitled on reemployment.
- 352.806 Return to Federal employment.
- 352.807 Appeals.

Subpart I—Reemployment Rights After Service With the Panama Canal Commission

- 352.901 Purpose.
- 352.902 Definitions.
- 352.903 Effecting a detail or transfer.
- 352.904 Eligibility.
- 352.905 Employees on detail.
- 352.906 Termination of transfer.
- 352.907 Exercise or termination of reemployment rights.
- 352.908 Agency obligation.
- 352.909 Appeals.

SOURCE: 33 FR 12433, Sept. 4, 1968, unless otherwise noted.

5 CFR Ch. I (1–1–06 Edition)

EDITORIAL NOTE: Nomenclature changes to part 352 appear at 69 FR 2050, Jan. 13, 2004.

Subpart A [Reserved]

Subpart B—Reemployment Rights Based on Movement Between Executive Agencies During Emergencies

AUTHORITY: 5 U.S.C. 3101 note, 3301, 3131 *et seq.* 3302; E.O. 10577, 3 CFR 1954–1958 Com., p. 218; sec. 352. 209 also issued under 5 U.S.C. 7701, *et seq.*

§ 352.201 Letter of Authority.

(a) *Definition.* A Letter of Authority is an authorization from OPM to an agency appointing officer to grant reemployment rights.

(b) *Scope of authority.* A Letter of Authority shall specify the conditions under which it may be used, including the types of positions covered and the organizational and geographic areas to which it is restricted.

(c) *Time limit of authority.* A Letter of Authority shall remain in force for one year from date of issuance unless earlier revoked by OPM. Renewals or extensions will not be issued unless justified by exceptional circumstances.

§ 352.202 Request for Letter of Authority.

When an agency believes that an emergency situation is so critical as to justify offers of reemployment rights, it may request OPM to issue a Letter of Authority. In submitting the request the agency shall present its justification in terms of the standards provided in § 352.203.

§ 352.203 Standards for issuing Letters of Authority.

OPM will determine the standards to be used in issuing Letters of Authority, which shall include the following:

(a) The positions to be filled must be related to emergency situations for which the usual recruiting methods are inadequate.

(b) The positions must be a part of a specific program immediately essential to the national interest.

(c) The positions must be essential to the functioning of the program.