

## § 300.706

who were certified or otherwise referred by an OPM examining office or other office delegated examining authority by OPM. Instead, an agency will provide, for information as part of its certification report to that office, a copy of its written notice to the individual.

### **§ 300.706 Office of Personnel Management adjudication.**

(a) OPM will determine whether failure to register was knowing and willful when an individual has requested a decision and presented a written explanation, as described in § 300.705. The Associate Director for Career Entry or his or her designee will make the determination based on the written explanation provided by the individual. The burden of proof will be on the individual to show by a preponderance of the evidence that failure to register was neither knowing nor willful.

(b) OPM may consult with the Selective Service System in making determinations.

(c) The Associate Director for Career Entry or his or her designee will notify the individual and the agency in writing of the determination. The determination is final unless reconsidered at the discretion of the Associate Director. There is no further right to administrative review.

(d) The Director of OPM may reopen and reconsider a determination.

(e) The Director of OPM may, at his or her discretion, delegate to an executive agency the authority to make initial determinations. However, OPM may review any initial determination and make a final adjudication in any case. If a delegation is made under this paragraph, the notice in § 300.705(d)(1) will state that the individual may submit a written request that OPM review the agency's initial determination. The agency will forward to OPM copies of all documents relating to the individual's failure to register, including the individual's request for review and his explanation of his failure to register.

### **§ 300.707 Termination of employment.**

A covered individual who is serving under an appointment made on or after November 8, 1985, and is not exempt from registration, will be terminated

## 5 CFR Ch. I (1–1–98 Edition)

by his agency under the authority of the statute and these regulations if he has not registered as required, unless he registers or unless, if no longer eligible to register, OPM determines in response to his explanation that his failure to register was neither knowing nor willful.

## **PART 301—OVERSEAS EMPLOYMENT**

### **Subpart A [Reserved]**

### **Subpart B—Overseas Limited Appointment**

Sec.

- 301.201 Appointment of United States citizens recruited overseas.
- 301.202 Appointment of citizens recruited outside overseas areas.
- 301.203 Duration of appointment.
- 301.204 Status and trial period.
- 301.205 Requirements and restrictions.
- 301.206 Within-grade increases.

### **Subpart C—Overseas Employees Eligible for Noncompetitive Appointment Upon Return to the United States**

- 301.301 Eligibility under the authority of Executive Order 12362.
- 301.302 Overseas appointing procedures.
- 301.303 Performance appraisal.

AUTHORITY: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218, as amended by E.O. 10641, 3 CFR, 1954–1958 Comp., p. 274, unless otherwise noted.

SOURCE: 44 FR 54691, Sept. 21, 1979, unless otherwise noted.

### **Subpart A [Reserved]**

### **Subpart B—Overseas Limited Appointment**

#### **§ 301.201 Appointment of United States citizens recruited overseas.**

An agency may give an overseas limited appointment without competitive examination to a United States citizen recruited overseas, unless there is an adequate and appropriate register resulting from an examination held in the locality where the vacancy exists.

#### **§ 301.202 Appointment of citizens recruited outside overseas areas.**

When an agency determines that unusual or emergency conditions make it infeasible to appoint from a register, it

may give an overseas limited appointment to a United States citizen recruited in an area where an overseas limited appointment is not authorized.

**§ 301.203 Duration of appointment.**

(a) An appointment under this subpart is of indefinite duration unless otherwise limited.

(b) An agency may make an overseas limited term appointment for a period not in excess of 5 years when a time limitation is imposed as a part of a general program for rotating career and career-conditional employees between overseas areas and the United States after specified periods of overseas service.

(c) An agency may make an overseas limited appointment for 1 year or less to meet administrative needs for temporary employment. An agency may extend such an appointment for up to a maximum of 1 additional year.

(d) Upon request from the headquarters level of a Department or agency, OPM may approve, or delegate to agencies the authority to approve, exceptions to the time limits set out in paragraph (c) of this section.

[44 FR 54691, Sept. 21, 1979, as amended at 60 FR 3057, Jan. 13, 1995]

**§ 301.204 Status and trial period.**

(a) An overseas limited employee does not acquire a competitive status on the basis of his or her overseas limited appointment. He or she is required to serve a trial period of 1 year when given an overseas limited appointment of indefinite duration or an overseas limited term appointment.

(b) The agency may terminate an overseas limited employee at any time during the trial period. The employee is entitled to the procedures set forth in § 315.804 or § 315.805 of this chapter as appropriate.

**§ 301.205 Requirements and restrictions.**

The requirements and restrictions in subpart F of part 300 and part 333 of this chapter apply to appointments under this subpart.

**§ 301.206 Within-grade increases.**

An employee serving under an overseas limited appointment of indefinite

duration or an overseas limited term appointment in a position subject to the General Schedule, is eligible for within-grade increases in accordance with subpart D of part 531 of this chapter.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR, 1954-1958 Comp., p. 218, as amended by E.O. 10641, 3 CFR, 1954-1958 Comp., p. 274)

**Subpart C—Overseas Employees Eligible for Noncompetitive Appointment Upon Return to the United States**

AUTHORITY: E.O. 12362, 47 FR 21231, 3 CFR, 1982 Comp., p. 182.

SOURCE: 48 FR 52868, Nov. 23, 1983; correctly designated at 49 FR 5601, Feb. 14, 1984, unless otherwise noted.

**§ 301.301 Eligibility under the authority of Executive Order 12362.**

Employees who serve under overseas local hire appointments as defined in § 315.608(b) of this chapter and meet the eligibility criteria of § 315.608(a) of this chapter are eligible for noncompetitive career-conditional, term, or temporary limited appointment when they return to the United States.

**§ 301.302 Overseas appointing procedures.**

Overseas agencies are required to insure that selection of employees for local hire appointments in the overseas area is made on the basis of the ability, knowledge, and skills of eligible candidates, in accordance with applicable law and regulation.

**§ 301.303 Performance appraisal.**

As soon as practicable, but beginning not later than January 1, 1984, overseas agencies are required to evaluate the performance of employees who serve under overseas local hire appointments as defined in § 315.608(b) of this chapter and who are eligible to meet the criteria established in § 315.608(a), of this chapter in accordance with the agency's performance appraisal plan established under chapter 43 of title 5, U.S. Code, unless the agency is exempt from the provisions of that chapter.