

FEDERAL REGISTER

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Pages 16521-16579

Agencies in this issue—

Agency for International Development
Agricultural Research Service
Agricultural Stabilization and
Conservation Service
Atomic Energy Commission
Civil Aeronautics Board
Civil Service Commission
Coast Guard
Consumer and Marketing Service
Customs Bureau
Emergency Preparedness Office
Federal Aviation Administration
Federal Communications Commission
Federal Crop Insurance Corporation
Federal Home Loan Bank Board
Federal Insurance Administration
Federal Maritime Commission
Federal Power Commission
Federal Reserve System
Federal Trade Commission
Food and Drug Administration
Immigration and Naturalization
Service
Interim Compliance Panel
(Coal Mine Health and Safety)
Internal Revenue Service
International Commerce Bureau
Interstate Commerce Commission
Securities and Exchange Commission

Detailed list of Contents appears inside.



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Chapter I—Civil Service Commission

PART 352—REEMPLOYMENT RIGHTS

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

Subpart C of Part 352 is revised to implement the amendments made by Public Law 91-175, approved December 30, 1969, to sections 3343 and 3581-3584 of title 5, United States Code relating to detail and transfer of Federal employees to international organizations.

Sec.

- 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.

AUTHORITY: The provisions of this Subpart C issued under 5 U.S.C. 3584, E.O. 10804; 3 CFR, 1959-1963 Comp., p. 328.

§ 352.301 Purpose.

The purpose of this subpart is to encourage details and transfers of employees for service with international organizations as authorized by sections 3343 and 3581-3584 of title 5, United States Code, and to provide procedures for participation in the program.

§ 352.302 Definitions.

In this subpart:

(a) "Agency," "employee," "international organization," and "transfer" have the meaning given them by section 3581 of title 5, United States Code;

(b) "Detail" has the meaning given it by section 3343 of title 5, United States Code; and

(c) "Term of employment" means not more than (1) 5 consecutive years of employment, except that when the Secretary of State determines it to be in the national interest, the detail or transfer may be extended up to an additional 3 years, or (2) the period of less than 5 years specified at the time of consent to transfer or detail, beginning with entrance on duty in the international organization.

§ 352.303 Effective date of equalization allowance.

Section 352.310 applies to employment with an international organization that occurs after December 29, 1969.

§ 352.304 International organizations covered.

Without prior approval of the Commission, an agency may detail or transfer an employee under this subpart to any organization which the Commission has designated in the Federal Personnel Manual as an international organization. An agency may detail or transfer an employee under this subpart to any other public international organization or international organization preparatory commission, only when the Commission, after consultation with the Department of State, agrees that the organization concerned could be designated in the Federal Personnel Manual as an international organization covered by sections 3343 and 3581 of title 5, United States Code.

§ 352.305 Eligibility for detail.

An employee is eligible to be detailed to an international organization with the rights provided for in, and in accordance with, section 3343 of title 5, United States Code, and this subpart.

§ 352.306 Length of details.

A detail or series of details shall not exceed 5 consecutive years, except that when the Secretary of State, on the recommendation of the head of the agency, determines it to be in the national interest, the 5-year detail may be extended for up to an additional 3 years. A detail or series of details or combination of details and transfers shall not exceed 8 years in the aggregate.

§ 352.307 Eligibility for transfer.

An employee is eligible for transfer to an international organization with the rights provided for in, and in accordance with, sections 3581-3584 of title 5, United States Code, and this subpart, except the following:

(a) A Presidential appointee (other than a postmaster, a Foreign Service officer or a Foreign Service Information officer), regardless of whether his appointment was made by and with the advice and consent of the Senate.

(b) A person serving in the executive branch in a confidential or policy-determining position excepted from the competitive service under Schedule C of Part 213 of this chapter, or in a position authorized to be filled by noncareer executive assignment or limited executive assignment under Part 305 of this chapter.

(c) A person serving under a temporary appointment pending establishment of a register.

(d) A person serving under an appointment specifically limited to 1 year or less.

(e) A person serving on a seasonal, intermittent, or part-time basis.

§ 352.308 Effecting employment by transfer.

(a) *Authority to approve transfers.* On written request by an international organization for the services of an employee, the agency may authorize the transfer of the employee to the organization for any period not to exceed 5 years, except that when the Secretary of State determines it to be in the national interest, a period of employment by transfer may be extended, subject to the approval of the head of the agency, for up to an additional 3 years. A transfer or series of transfers or combination of details and transfers shall not exceed 8 years in the aggregate. Refusal by the head of the agency to authorize the transfer or the extension of the transfer is not reviewable by or appealable to the Commission.

(b) *Letter of consent.* When an agency consents to the transfer of an employee, the agency shall give its consent in writing to the international organization and shall furnish the employee with a copy of the consent.

(c) *Effective date.* The agency and the international organization shall establish the effective date of transfer by mutual agreement.

(d) *Recording requirement.* The agency shall furnish the employee with a statement of his leave account when he is separated for transfer. In addition, the agency shall include on the personnel action form effecting the employee's separation for transfer, (1) identification of the international organization to which he transfers, (2) a clear statement of the period during which he has reemployment rights in the agency under section 3582 of title 5, United States Code, and this subpart, and of the legal and regulatory conditions of his reemployment.

§ 352.309 Retirement, health benefits, and group life insurance.

(a) *Agency and employee action.* At the time of consent to the transfer of an employee, the agency shall notify the employee in writing that it will make agency contributions and he will retain coverage with resulting rights and benefits under the retirement, health benefits, and group life insurance systems or any of them if employee payments are currently deposited in the respective funds. The employee shall acknowledge, in writing, receipt of the notice and state whether or not he wishes to retain his coverage under the retirement, health benefits, and group life insurance systems or any of them by continuing required employee payments.

(b) *Agency responsibility.* A transferred employee is deemed to remain an employee of the agency from which transferred for retirement, health benefits, and group life insurance purposes. For retirement and group life insurance purposes, the agency is responsible for determining the applicable rate of pay in accordance with the provisions of section 3583 of title 5, United States Code. The agency is also responsible for collecting, accounting for, and depositing in the respective funds all retirement, health benefits, and group life insurance employee payments required to be made for the purpose of protecting the rights of the employee so transferred; and for accounting for and depositing in the respective funds all agency contributions. The agency shall furnish the employee with specific information as to how, when, and where the payments are to be submitted.

(c) *Coverage.* Employee payments are currently deposited if received by the agency before, during, or within 3 months after the end of the pay period covered thereby. Failure to deposit the payment currently terminates a transferred employee's retirement, health benefits, and group life insurance coverage on the last day of the pay period for which payments were currently deposited, subject to a 31-day extension of group life insurance and health benefits coverage as provided in Parts 870 and 890 of this chapter and to the conversion benefits provided in Parts 870 and 890 of this chapter. Coverage so terminated may not attach again before the employee actually enters on duty on his first day in a pay status in an agency. However, terminated civil service retirement, health benefits, and group life insurance coverage shall be reinstated retroactively when, in the judgment of the Commission, the failure to make the required current deposit was due to circumstances beyond the control of the employee and the required payments were deposited at the first opportunity. Coverage under a system other than the civil service retirement system shall be reinstated retroactively if the agency which administers the retirement system determines that the failure to make the required current deposit was due to circumstances beyond the control of the employee and the required payments were deposited at the first opportunity.

§ 352.310 Equalization allowance.

(a) An employee transferred to an international organization is entitled to be paid in accordance with subparagraphs (1) through (4) of this paragraph, an amount equal to the difference between the pay, allowances, post differential, and other monetary benefits paid by the international organizations and the pay, allowances, post differential, and other monetary benefits that would have been paid by the agency had he been detailed to the international organization under section 3343 of title 5, United States Code, (i) on reemployment; or (ii) on his death which occurs

during the period of transfer or during the period after separation from an international organization when he is exercising or could exercise his reemployment rights.

(1) To determine the difference, the Secretary of State defines pay (i) for the Federal Government, as the amount paid an employee before deduction of Federal, State, and local taxes; (ii) for international organizations following the Common System of Salaries and Allowances of the United Nations and Specialized Agencies, as the amount paid an employee before deduction of the staff assessment; and (iii) for other international organizations, as the tax-free pay plus a pro rata amount equal to the corresponding U.N. staff assessment. In cases where pay is subject to Federal, State, and local taxes this shall be the pay before deduction of the taxes.

(2) Allowances, post differential, and other monetary benefits are defined by the Secretary of State as follows: (i) Federal Government: The amount that would have been paid under sections 5921-5925 of title 5, United States Code, applicable provisions of chapters 100, 200, and 500 of the Standardized Regulations (Government Civilians Foreign Areas) and implementing agency regulations had the employee been detailed to the international organization under section 3343 of title 5, United States Code; (ii) International organizations following the Common System of Salaries and Allowances of the United Nations and Specialized Agencies: The amount paid under pertinent provisions of the Staff Regulations and Rules of the United Nations and the Specialized Agencies; (iii) Other international organizations not under the Common System of Salaries and Allowances of the United Nations and Specialized Agencies: The amount paid under pertinent conditions of service applied by the organizations as determined to be appropriate by the releasing agency with the concurrence of the Secretary of State.

(3) Travel and subsistence expenses, transportation of effects, and leave are not considered monetary benefits for purposes of this section.

(4) In exceptional circumstances where a hardship or an inequity would otherwise occur the Secretary of State, on the recommendation of the head of the agency, may specify allowances or other monetary benefits in lieu of or in addition to those specified above.

(b) Authoritative information on pay, allowances, post differential, and other monetary benefits as defined in paragraph (a) of this section for the Federal Government and the international organizations is maintained currently by the Department of State and is made available on request to any Federal department, agency, or employee concerned.

(c) Agency and employee responsibilities for reporting and documenting payments received from international organizations are specified in the Federal Personnel Manual.

§ 352.311 Reemployment.

A transferred employee is entitled to be reemployed in his former position or one of like seniority, status, and pay within 30 days of his application for reemployment if he meets the following conditions:

(a) He is separated, either voluntarily or involuntarily, within his term of employment with the international organization; and

(b) He applies for reemployment to his former agency or its successor not later than 90 days after his separation.

§ 352.312 When to apply.

An employee may apply for reemployment either before or after separation by the international organization. If he applies before separation, the 30-day period prescribed in § 352.311 begins either with the date of the application or 30 days before the employee's date of separation, whichever is later.

§ 352.313 Failure to reemploy and right of appeal.

(a) When an agency fails to reemploy an employee within 30 days of his application, it shall notify him in writing of the reasons and of his right to appeal within 15 calendar days to the Appeals Examining Office, U.S. Civil Service Commission, Washington, D.C. 20415. The Commission may extend this time limit on an appeal on a showing by the employee that he was not notified of the applicable time limit, and was not otherwise aware of the limit, or that circumstances beyond his control prevented him from filing an appeal within the prescribed time limit.

(b) If the agency fails to reach and issue a decision to the employee within 30 days from his application for reemployment, the employee is entitled to appeal the failure of the agency to the Commission within a reasonable time thereafter.

(c) An appeal alleging that the agency has failed to comply with any of the other provisions of sections 3343 and 3581-3584 of title 5, United States Code, or of this subpart may be submitted to the Commission only within a reasonable time after the alleged violation occurred.

(d) The decision of the Commission is final, and there is no further right of appeal. When corrective action is recommended, the agency shall report promptly to the Commission that the corrective action has been taken. A decision favorable to the appellant may be made retroactively effective to the date the employee was entitled to reemployment under § 352.311.

(e) When an appeal under this subpart is filed properly before the death of an appellant, the Commission shall process it to completion and adjudicate it. The Commission, in recommending corrective action in the decision on such an appeal, may provide for amendment of the agency's records to show retroactive restoration and the appellant's continuance on the rolls in an active duty status to the date of death.

§ 352.314 Consideration for promotion.

(a) Each agency shall consider each employee detailed or transferred to an international organization for all promotions for which he would be considered were he not absent. A promotion based on this consideration is effective on the date it would have been made if the employee were not absent.

(b) When the position of an employee absent on detail or transfer to an international organization is regraded upward during his absence, his agency shall place him in the regraded position.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[P.R. Doc. 70-14330; Filed, Oct. 22, 1970;
8:50 a.m.]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 7]

PART 728—WHEAT

Subpart—Regulations Pertaining to Farm Acreage Allotments, Yields, Wheat Certificate Program for Crop Years 1968-70, and Wheat Diversion Program for Crop Years 1969-70

MISCELLANEOUS AMENDMENTS

The regulations pertaining to farm acreage allotments, yields, wheat certificate program for 1968 and subsequent crop years, and wheat diversion program for crop years 1969-70, 33 F.R. 6508, as amended, are further amended as follows:

1. Section 728.315 is amended as follows: Paragraph (b)(1) and the first sentence of paragraph (b)(2) are amended; paragraph (c) is amended by adding two new sentences at the end thereof, and paragraph (d) is amended by adding a new subparagraph (4):

§ 728.315 Determination of preliminary allotments for old farms.

(b) * * *

(1) For a regular rotation farm, the wheat history for the preceding year when such history is equal to the allotment for the preceding year, and when the wheat history is less than the allotment for the preceding year, the smaller of the allotment for the preceding year or the average of the allotment for the preceding year and the highest planted and considered planted acreage of wheat in any one of the 3 years immediately preceding the year for which the allotment is being determined.

(2) For an established odd and even crop-rotation farm, the wheat history for the preceding year when such history is equal to the allotment for the preceding year, and when the wheat history is less than the allotment for the preceding year, the smaller of the allotment for the preceding year or the average of the allotment for the preceding year and the highest planted and considered planted acreage of wheat in the first or third year preceding the year for which the allotment is being determined, adjusted upward or downward by application of an adjustment factor determined under § 728.15a(b)(2) of the regulations for the 1964 and subsequent crops of wheat. * * *

(c) * * * Effective for 1971, a zero allotment shall also be established for each farm with zero wheat history in the 3 years immediately preceding the year for which allotments are being established. Such a farm is no longer eligible for an old farm allotment.

(d) * * *

(4) The preliminary allotment shall not be adjusted upward to offset the effects of failure to plant at least 75 percent of the farm allotment in 3 successive years or to offset the effects of having zero history in 3 years immediately preceding the year for which allotments are being established; however, if it is established to the satisfaction of the county committee that wheat was planted in any one of the 3 prior years, the farm will be restored to old farm status.

2. Section 728.324 is added to read as follows:

§ 728.324 Increase in acreage allotments for production of Durum wheat.

(a) In accordance with Public Law 91-220, this section provides for increased allotments for the 1970 and subsequent crops of wheat for privately owned farms in the irrigable portion of the area known as the Tululake division of the Klamath project located in Modoc and Siskiyou Counties, Calif. The area is that defined by the U.S. Department of the Interior, Bureau of Reclamation. The maximum acreage available is 12,000 acres less the amount of wheat allotments already established for approved farms in the Tululake area. The allotments shall be established by the county committees for which applications for increased acreages are made on the basis of tillable acres, crop rotation practices, type of soil and topography, and the original allotment for the farm. The increased allotments made available shall be in addition to National, State, and county allotments established under this chapter, and the acreage planted to wheat pursuant to such increases in allotments shall not be taken into account in establishing future State, county, and farm acreage allotments except as may be desirable in providing increases in allotments for subsequent years under this section for the production of Durum wheat. Such increased allotment is subject to the condition that Durum wheat is produced on the original

allotment and on the increased allotment. (Durum wheat includes the three subclasses: Hard Amber Durum, Amber Durum, and Durum.)

(b) Producers on farms for which an increased wheat allotment is approved under this section may participate in the 1970 Wheat Certificate Program under the following conditions:

(1) Producers on such farms may earn wheat certificate payments based on 48 percent of the original 1970 wheat allotment;

(2) The minimum required diversion of 30.3 percent of the original allotment shall be reduced by the amount of the increased allotment;

(3) Producers on such farms shall not be eligible for wheat diversion payments.

(Secs. 334, 339(g), 375(b), 379j, 52 Stat. 53, as amended; 76 Stat. 624, 76 Stat. 630, as amended; 7 U.S.C. 1334, 1339(g), 1375(b), 1379j)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 16, 1970.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[P.R. Doc. 70-14257; Filed, Oct. 22, 1970;
8:47 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Expenses of the Walnut Control Board and Rates of Assessment for the 1970-71 Marketing Year

Notice was published in the October 8, 1970, issue of the FEDERAL REGISTER (35 F.R. 15836) regarding proposed expenses of the Walnut Control Board for the 1970-71 marketing year and rates of assessment for that year. This action approves such expenses and assessment rates. It is pursuant to §§ 984.68 and 984.69 of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984). The amended marketing agreement and order regulate the handling of walnuts grown in California, Oregon, and Washington, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Walnut Control Board, and other available information, it is found that the expenses of the Board