§ 316.201 Purpose and duration.

(a) General. OPM may authorize an agency to fill a vacancy by temporary appointment pending establishment of a register (TAPER appointment) when there are insufficient eligibles on a register appropriate for filling the vacancy in a position that will last for a period of more than 1 year and the public interest requires that the vacancy be filled before eligibles can be certified. The agency must follow the provisions of part 333 of this chapter when making a TAPER appointment.

(b) Specific authority for Worker-Trainee positions. Agencies may make TAPER appointments to positions at GS-1, WG-1, and WG-2 and may reassign or promote the appointees to other positions through grade GS-3, WG-4, or equivalent grades in the Federal Wage System.

[60 FR 3058, Jan. 13, 1995]

§ 316.202 Eligibility of TAPER employees for within-grade increases.

A TAPER employee serving 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.

[60 FR 3058, Jan. 13, 1995]
§ 316.301 Purpose and duration.

(a) Appropriate use. An agency may make a temporary limited appointment—

(1) To fill a short-term position (i.e., one that is not expected to last longer than 1 year); and

(2) To meet an employment need that is scheduled to be terminated within the timeframe set out in paragraph (c) of this section for such reasons as abolishment, reorganization, or contracting of the function, anticipated reduction in funding, or completion of a specific project or peak workload; or

(3) To fill positions on a temporary basis when the positions are expected to be vacated as a result of a position reorganization or abolition.

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to be needed for placement of permanent employees who would otherwise be displaced from other parts of the organization.

(b) Certification of appropriate use. The supervisor of each position filled by temporary appointment must certify that the employment need is truly temporary and that the proposed appointment meets the regulatory time limits. This certification may constitute appropriate documentation of compliance with the limits set out in paragraph (c) of this section. The reason(s) for making a temporary limited appointment must be stated on the form documenting each such appointment.

(c) Time limits—general. (1) An agency may make a temporary appointment for a specified period not to exceed 1 year. The appointment may be extended up to a maximum of 1 additional year (24 months of total service). Appointment to a successor position (i.e., to a position that replaces and absorbs the position to which an individual was originally appointed) is considered to be an extension of the original appointment. Appointment to a position involving the same basic duties and in the same major subdivision of the agency and same local commuting area as the original appointment is also considered to be an extension of the original appointment.

(2) An agency may not fill a position by temporary appointment if that position has previously been filled by temporary appointment(s) for an aggregate of 2 years, or 24 months, within the preceding 3-year period.

(d) Exceptions to general time limits. (1) Agencies may make and extend temporary appointments to positions involving intermittent or seasonal work without regard to the requirements in paragraph (c) of this section, provided that:

(i) Appointments and extensions are made in increments of 1 year or less.

(ii) Employment in the same or a successor position under this and any other appointing authority totals less than 6 months (1,040 hours), excluding overtime, in a service year. The service year is the calendar year that begins on the date of the employee's initial appointment in the agency. Should employment in a position filled under this exception total 6 months or more in any service year, the provisions of paragraph (c) of this section will apply to subsequent extension or reappointment unless OPM approves continued exception under this section. An individual may be employed for training for up to 120 days following initial appointment and up to 2 weeks a year thereafter without regard to the service year limitation.

(2) OPM will authorize exceptions to the limits set out in paragraph (c) of this section only when necessitated by major reorganizations or base closings or other unusual circumstances. Requests based on major reorganization, base closing, restructuring, or other unusual circumstances that apply agencywide must be made by an official at the headquarters level of the Department or agency. Requests involving extension of appointments to a specific position or project based on other unusual circumstances may be submitted by the employing office to the appropriate OPM service center.

[59 FR 46898, Sept. 13, 1994]

§ 316.402 Procedures for making temporary appointments.

(a) General rule. Except as provided in paragraph (b) of this section, agencies must make temporary limited appointments either by selection from a register or outside a register, in accordance with the procedures set out in 5 CFR part 333.

(b) Noncompetitive temporary limited appointments. An agency may give a noncompetitive temporary limited appointment without regard to the existence of an appropriate register to an individual in one of the categories set out below, and may renew such temporary limited appointments in accordance with the conditions and time limits for extension of temporary appointments published by OPM in the Federal Personnel Manual. An individual who receives a valid appointment under this paragraph will be eligible for such an extension even if his or her eligibility for a noncompetitive appointment expires or is lost (other than for personal cause) during the authorized period of
temporary employment. Individuals eligible for noncompetitive temporary appointments are:

(1) A person with eligibility for reinstatement;

(2) A person eligible for career or career-conditional appointment under §§315.601, 315.605, 315.606, 315.607, 315.608, or 315.609 of this chapter;

(3) A former temporary employee of the agency who was originally appointed from a register or under the provisions of part 333 of this chapter and whose service meets the time limits for reappointment set out in §316.401;

(4) Any veteran who meets the qualifications for a veterans readjustment appointment is eligible for employment under this paragraph. The Office will prescribe instructions and guidance in FPM Chapter 316 on temporary limited employment for veterans readjustment appointment eligibles.

(5) A disabled veteran who has been retired from active military service with a disability rating of 30 percent or more, or has been rated by the Veterans Administration within the preceding year as having a compensable service-connected disability of 30 percent or more.

(6) A person eligible for acquisition of competitive status for career appointment under section 3304(c) of title 5, United States Code. However, a temporary employee does not acquire a competitive status on the basis of this temporary appointment; nor does this temporary appointment extend or terminate the employee's eligibility under 5 U.S.C. 3304(c).


§316.403 Designation of provisional appointments.

(a) Conditions for designation. An agency may designate a temporary appointment as a provisional appointment only when all of the following conditions are met:

(1) The appointment is made to fill a continuing position by a provisional appointment leading to permanent appointment when the position must be filled more quickly than would be possible under the procedures required for nontemporary appointment or when such a provisional appointment is a requirement of the applicable authority;

(2) The agency must have current budgetary and appointing authority for the nontemporary appointment (assuming satisfactory completion of the required procedures); and

(3) The agency must have a specific intention to convert the appointee to a nontemporary appointment under appropriate authority before the expiration of the temporary appointment, must state this intention in any written offer of employment and document this intention as part of the permanent record of the initial appointment in accordance with instructions issued by OPM in the Federal Personnel Manual.

(b) Authority for provisional appointments. Provisional appointments must be made under an authority established by law, Executive order, or regulation or granted by OPM. Appointments which may be treated as provisional appointments under this paragraph may be made under any appropriate authority, including, but not limited to:

(1) Noncompetitive temporary appointments of disabled veterans under §316.402(b)(2), when the appointments are intended to afford eligibility for conversion in accordance with §315.707 of this chapter and section 3112 of title 5, United States Code;

(2) Temporary appointments of nurses in the Department of Veterans Affairs, when the appointments are made under the provisions of section 4114 of title 38, United States Code, with the intention of converting the appointees to continuing appointments as soon as the appointees obtain required State certification or registration and/or the agency completes necessary verification of references;

(3) Temporary transitional Schedule C appointments made under §213.3302 of this chapter, when the appointees are to be converted to nontemporary Schedule C appointments upon OPM approval and completion of necessary clearances.
§ 316.601 Appointment without competitive examination in rare cases.

(a) An agency may make an appointment without competitive examination when:

(1) The duties and compensation of the position are such, or qualified persons are so rare, that in the interest of good civil service administration the position cannot be filled through open competitive examination;

(2) The person to be appointed meets all applicable qualification requirements for the position; and

(3) The appointment is specifically authorized by the Office or is made under an agreement between the agency and the Office providing for such appointments.

(b) A person appointed under paragraph (a) of this section does not acquire a competitive status on the basis of that appointment.

(c) When a position filled under paragraph (a) of this section becomes vacant, the agency may fill the vacancy by another appointment under paragraph (a) of this section only if the conditions of paragraph (a)(3) of this section are again met.

[44 FR 55132, Sept. 25, 1979]

Subpart G—Retention of Incumbents of Positions Brought Into the Competitive Service

§ 316.701 Public or private enterprise taken over by Government.

(a) When the Office, or an agency acting under an agreement with the Office, finds that the Federal Government has taken over a public or private enterprise, or an identifiable unit thereof, and that a position has thereby been brought into the competitive service, the agency may retain the incumbent of the position.

(b) (1) When an agency retains an employee under paragraph (a) of this section in a position which it determines to be a continuing one, the agency shall decide on a timely basis whether it will convert that individual's employment to career or career-conditional under §315.701 of this chapter.

(2) When an agency decides not to effect conversion under §315.701 of this chapter, or the employee fails to qualify for conversion, the agency, in its discretion, may retain the employee as a status quo employee.

(c) An agency may retain an employee under paragraph (a) of this section in a position that it determines is noncontinuing under a temporary appointment. That appointment may be made for a period not to exceed 1 year and will be subject to the time limits set out in §316.402.

[44 FR 55133, Sept. 25, 1979, as amended at 60 FR 30001, Aug. 1, 1995]
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§ 316.703 Effect on tenure of position change of status quo employees.

(a) A status quo employee who is promoted, demoted, or reassigned becomes:
(1) An indefinite employee when the position change occurs while he is not serving overseas; or
(2) An overseas limited employee when the position change occurs while he is serving overseas.

(b) An employee referred to in paragraph (a) of this section who is changed back to his status quo position becomes a status quo employee.

Subpart H—[Reserved]

PART 317—EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

Subpart A—[Reserved]

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317.801 Retention of SES provisions.