

### § 352.313

prescribed in § 352.311 begins either with the date of the application or 30 days before the employee's date of separation from the international organization, whichever is later. If the employee applies for reemployment after separation, the application must be received by the employing agency no later than 90 days after separation from the international organization.

[73 FR 64861, Oct. 31, 2008]

### § 352.313 Failure to reemploy and right of appeal.

(a) When an agency fails to reemploy an employee within 30 days of receiving the employee's application, it must notify the employee, in writing, of the reasons and of the employee's right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency must comply with the provisions of § 1201.21 of this title.

(b) If the agency fails to reach and issue a decision to the employee within 30 days from the date of the application for reemployment, the employee is entitled to appeal the agency's failure to issue a decision to the Merit Systems Protection Board under the provisions of the Board's regulations.

(c) An employee may submit 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 part, to the Merit Systems Protection Board under the provisions of the Board's regulations.

[73 FR 64861, Oct. 31, 2008]

### § 352.314 Consideration for promotion and pay increases.

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

(b) When the position of an employee who is absent on detail or transfer to an international organization is upgraded during the employee's absence, the employing agency must place the

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employee in the upgraded position upon return.

(c) The employing agency must consider an employee who is detailed or transferred to an international organization from an ungraded pay system for all pay increases for which the employee would have been considered if not absent. An increase is effective on the date it would have been effective if the employee were not absent.

[73 FR 64861, Oct. 31, 2008]

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

AUTHORITY: Sec. 6(c), 71 Stat. 455; 22 U.S.C. 2025(c); E.O. 10774, 3 CFR, 1954–1958 Comp., p. 418, as amended by E.O. 10804, 3 CFR, 1959–1963 Comp., p. 328.

### § 352.401 Purpose.

The purpose of this subpart is to implement section 6(b) of the International Atomic Energy Agency Participation Act of 1957 and Executive Order 10774 as amended by Executive Order 10804 to protect the civil service rights and privileges, wherever appropriate, of Presidential appointees and elected officers who leave their positions and within 90 days enter employment with the International Atomic Energy Agency.

### § 352.402 Coverage.

This subpart applies to all officers, as defined in § 352.403(b), of any branch of the Federal Government.

### § 352.403 Definitions.

In this subpart:

(a) *Agency* means the International Atomic Energy Agency;

(b) *Officer* means any Presidential appointee or elected officer who leaves his position after August 27, 1957, and within 90 days enters employment with the agency; and

(c) *Term of employment* means not more than 3 consecutive years of employment beginning with entrance on duty in the agency.