

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

Personnel

370 DM Addition to FPM

Chapter 302 Employment in the Excepted Service

370 DM 302,1.1

Subchapter 1. General Provisions.

1.1 Appointments in the Excepted Service. Excepted positions in the Department will be filled through the following types of appointments:

A. Excepted Appointment (Career). Appointment without condition of time limitation of persons who have three years of continuous Federal employment without any single break in service in excess of thirty calendar days, including employment in the competitive service.

B. Excepted Appointment (Career-Conditional). Appointment made on a three-year conditional basis. Employees so appointed will automatically become a part of the Department's permanent excepted work force without new examination of qualifications after they complete three years of continuous Federal service, including employment in the competitive service, without any single break in service in excess of thirty calendar days.

C. Excepted Appointment (Schedule C). Appointments made under excepted Schedule C without time limit.

D. Excepted Appointment Schedule C (Indefinite) or (Temporary). Appointments made under excepted Schedule C which are not continuing in nature.

E. Excepted Appointment (Indefinite). Excepted appointment without time limit of persons who will not be part of the permanent excepted work force. The following types of excepted appointments are indefinite:

- (1) Appointments on an indefinite basis to temporary positions.
- (2) Appointment of noncitizens not specifically limited to one year or less.
- (3) Appointments on a part-time, intermittent, or seasonal basis when the incumbents are not considered part of the permanent work force.
- (4) Appointments to positions which were vacated by employees to enter the military service or by employees who transferred with reemployment rights.
- (5) Appointments to positions of reading assistants to blind employees on a without compensation basis, not specifically limited to one year or less.

F. Excepted Appointment (NTE "date"). Appointment made with a specific time limit.

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

Personnel

370 DM Addition to FPM

Chapter 302 Employment in the Excepted Service

370 DM 302,1.2

1.2 Modifications. While the three-year conditional appointment system is generally applicable to excepted positions considered as part of the permanent work force, the Director of Personnel may authorize modifications for a particular position or group of positions. Such modifications could include the length of the career-conditional period or the types of appointments.

1.3 Excepted Service Positions in the Department. The responsibility for the control of the Department's positions in the excepted service under Schedule A, B & C, and the classes of positions under these authorities which are applicable only to the Department are covered in 370 DM 213.

1.4 Exception to Selection Procedure. In addition to the classes of positions covered in FPM 302, and FPM Supplement 990-1, Book III, OPM has authorized the Department to exempt from appointment procedures the selections made for positions under the following Schedule A authorities:

A. Department of the Interior Schedule A Authorities.

Section 213.3112(a) (1) through (11)

Section 213.3112 (b) (1) through (3)

Section 213.3112(c)(1)

Section 213.3112(e) (1) through 4

Section 213.3112(f) (1) through (4)

Section 213.3112(g) (1)

Section 213.3112(h) (1)

Section 213.3112 (i) (1)

(See 370 DM 213, Appendix C)

B. General Schedule A Authorities.

Section 213.3102(a) through (z), and (aa) through (mm)

1.5 Retirement. Excepted employees who are appointed on a career, career-conditional, or Schedule C basis in excess of one year (except those on an indefinite or time limit basis) are subject to Civil Service Retirement. All other excepted appointments are subject to Social Security.

1.6 Trial Period. Persons given excepted (career) appointments or excepted (career-conditional) appointments will serve a trial period for one year. Procedures parallel to those required for the probationary period of competitive service employees are applicable for use in the evaluation of conduct, work performance or suitability of excepted service employees. (See FPM 315 and 370 DM 315)

1.7 Excepted Career Status. A career status obtained in an excepted service position is limited to the excepted service and cannot be credited toward career tenure following competitive appointment unless OPM authorizes an exception to the general rules.

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

Personnel

370 DM Addition to FPM

Chapter 302 Employment in the Excepted Service

370 DM 302,1.7A

A. Special Rule for Indians. The Office of Personnel Management has authorized the Department and the Division of Indian Health, Public Health Service of the Department of Health and Human Services, to make an exception to the general civil service rules and credit excepted service toward career tenure for employees who have established membership in a federally recognized tribe. This special rule allows substantially excepted service performed under a nontemporary appointment under the authority of Schedule A, Section 213.3112(a) (7), rendered by persons who have established membership in a federally recognized tribe to be credited toward career tenure following career- conditional appointment from a competitive register to positions directly and primarily related to the providing of service to Indians. This rule is applicable to such positions in all bureaus of the Department, and to transfer of employees holding that type of position between the Department and the Division of Indian Health, Department of Health and Human Services. (See 370 DM 315 for related information and 370 DM Supplement 296-31 for reporting instructions in connection with the preparation of SF-50 under this rule)

1.8 Short Term Employment. Specified project leaders and field supervisors may be designated to make appointments and administer the declaration on the SF-50A, for appointees in temporary Schedule A positions.

1.9 Employment of the Mentally Retarded. The Department has entered into an agreement with OPM which authorizes the employment of mentally retarded persons in Schedule C excepted positions under Section 213.3102(t) of the civil service regulations. (See FPM 339, and 370 DM 339 for appointment reporting requirements and the Department's agreement with OPM)

1.10 Sources of Additional Information. Refer to the Department's additions to each of the FPM chapters which are cited in FPM 302.

1.11 Reduction in Force and Adverse Actions. See 370 DM 351 relative to reduction in force and 370 DM 752 for adverse actions in the excepted service.

1.12 Individual Approvals by the Office of Personnel Management. See Appendix A of this 370 DM 302.

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

Appendix A
370 DM 302

Personnel

370 DM Addition to FPM

Chapter 302 Employment in the Excepted Service

370 DM 302

Appendix A. Individual Approvals by the Office of Personnel Management

A.1 Reemployment of Employees Separated Under Public Law 81-733. Requests directed to OPM for approval of the reemployment of a former employee separated from previous Federal employment, or resigned while suspended, under Public Law 81-733 or similar statute, will be prepared for the signature of the Assistant Secretary - Policy, Budget and Administration. (See FPM 732.)

A.2 Additional Sources of Information

A. FPM 304 and 370 DM 304 for the Employment of Experts and Consultants.

B. FPM 213 for the delegation of authority to Regional OPM offices to approve the use of certain Schedule A and B authorities and to approve the qualifications of the appointees for those Schedule B positions. 370 DM 213 for Schedule A, B and C authorities established for the Department, and the procedure for requesting OPM approval of exception of Department positions from the competitive service.

C. See 370 DM 920 for the procedures for obtaining OPM approval of initial career appointments in the Senior Executive Service (SES).

A.3 Date of Birth. Proof of date of birth should be verified for an appointee in an excepted position when there is a discrepancy of dates in the personnel records or when the correct date is an important factor in the selection.

A.4 Appointment Affidavits. Requirements for competitive positions will apply to the completion of appointment affidavits for excepted positions.

A.5 Sources of Additional Information. See FPM Supplement 296-31, 370 DM Supplement 296-31, and FPM 736 for related information.

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

370 DM 302
Appendix B
Page 1 of 2

Personnel

370 DM Addition to FPM

Chapter 302 Employment in the Excepted Service

370 DM 302

Appendix B. Forms Used for Excepted Appointments.

B.1 SF-78, Certificate of Medical Examination. Medical certificates are required for all original excepted appointments other than those specifically exempted by this paragraph. No person will be employed who has apparent defects or communicable disease serious enough to endanger himself, other workers, or property regardless of whether a medical certificate is required for appointment. Medical certificates are not required for the following types of appointments:

A. Appointments under Schedule A limited to one year or less which are not to positions of a hazardous or arduous nature. Where extensions of such appointments would exceed one year, medical certificates will be obtained.

B. Intermittent, part-time or fee basis appointments to Schedule A positions of a temporary or indefinite tenure.

C. Appointments under Schedule C.

B.2 Investigative and Security Forms. The Office of Personnel Management has exempted this Department from the National Agency Check (NACI) requirements of E.O. 10450 for appointees to the following types of positions.

A. All excepted (and competitive) temporary nonsensitive positions of six months or less.

B. Nonsensitive expert and consultant positions which are:

(1) Temporary or intermittent employment specifically limited to one year or less.

(2) Intermittent employment for more than one year but not more than 30 days of service to be performed in any one year.

C. Security investigation forms need not be submitted to the OPM for such appointments. Use of these exemptions from the regulations is optional with the bureau and is granted with the understanding that appointing officers are responsible for determining that the appointment of any employee is consistent with the interests of the national security. Security investigation forms are required for any appointment for which an exception is not specifically approved.

B.3 Date of Birth. Proof of date of birth should be verified for an appointee in an excepted position when there is a discrepancy of dates in the personnel records or when the correct date is an important factor in the selection.

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

370 DM 302
Appendix B
Page 2 of 2

Personnel

370 DM Addition to FPM

Chapter 302 Employment in the Excepted Service

370 DM 302

B.4 Appointment Affidavits. Requirements for competitive positions will apply to the completion of appointment affidavits for excepted positions.

B.5 Sources of Additional Information .

A. FPM Supplements 296-33, 293-31, and FPM Chapters 213 and 736 contain related information.

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

Personnel

370 DM Addition to FPM

Chapter 302 Employment in the Excepted Service

370 DM 302,2.1

Subchapter 2. Eligibility Standards

2.1 Policy. Except for the preference in employment conferred by law upon persons of Indian descent, positions in the excepted service will be filled on the basis of merit without regard to sex, race, color, religion or national origin.

2.2 Veteran Preference. Rights and privileges accorded veterans by laws and regulations will be extended to employees in the excepted service in the Department. The same procedures and forms required for making veteran preference determinations in the competitive service are applicable to the excepted service.

2.3 Citizenship. Noncitizens will not be employed in excepted positions unless qualified citizens are not available and then on a temporary or indefinite basis only. (See FPM 338 and 370 DM 338 for the current appropriations act restrictions on the employment of noncitizens.)

2.4 Members of Family. Not more than one member of a family may be employed in the same organizational unit where one would have supervision over the other or their employment would reflect adversely upon the Department. Exceptions may be made in emergency situations such as forest fires, floods, earthquakes, etc., or in a situation involving special scientific needs, or in the case of an immediate family at isolated field stations, or where there is a shortage of quarters. Exceptions in other emergencies may be made with the approval of the head of the Bureau or his/her designated representative.

2.5 Excepted Qualification Standards. The requirements for the establishment and application of excepted qualification standards in the Department are contained in 370 DM 271, 338 and 339.

A. Minimum age limits are prescribed for many excepted positions as a part of the qualification standard. Where minimum age limits have not been established by the Department for a particular position, the minimum age will be the same as that prescribed for similar positions. Local laws relating to the employment of minors and the Fair Labor Standards Act will be observed in filling excepted positions.

B. Established minimum age limits may be waived only with the prior approval for the Director of Personnel in making excepted appointments without time limitation. For temporary or seasonal employment, minimum age limits may be waived upon approval of the Head of the Bureau or his/her designated representative.

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

Personnel

370 DM Addition to FPM

Chapter 302 Employment in the Excepted Service

370 DM 302.2.6

2.6 Movement from Competitive Service to Excepted Position. Competitive service employees may be appointed to excepted positions when the skills and knowledge of such employees will enable the Department to initiate and complete efficiently and expeditiously its programs and responsibilities. An employee serving in a competitive position with civil service status who is moved in the interest of the Department to a Schedule C position or to an overseas or territorial excepted position may be granted reemployment rights by the Head of the Bureau or his designated representative. The employee will be advised in writing that reemployment rights are, or are not granted. See FPM Chapter 352, subchapter 3; 370 DM 301.1 and FPM Chapter 301.

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

Personnel

370 DM Addition to FPM

Chapter 302 Employment in the Excepted Service

370 DM 302.3.1

Subchapter 3. Accepting, Rating, and Arranging Applications

3.1 Applicant File System. Bureaus will establish uniform applicant file systems and procedures for the excepted service which will serve their needs and will comply with the requirements of the Veterans' Preference Act and the rules and regulations governing employment in the excepted service. (See FPM Supplement 990-1, Book III)

A. Acceptance of Applications. Applications will be accepted from competitive status or nonstatus applicants for positions in the excepted service only when vacancies exist or are anticipated.

B. Consolidated Applicant File. In areas where several Department activities are located or are serviced by the same personnel office or a special examining unit, a consolidated applicant file system may be established to serve the needs of all the activities.

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

Personnel

370 DM Addition to FPM

Chapter 302 Employment in the Excepted Service

370 DM 302,4.1

Subchapter 4. Selection and Appointment; Reappointment; and Qualifications for Promotion

4.1 Passing Over Veteran Preference Eligibles. The head of the Bureau or his/her designated representative is authorized to approve actions which involve passing over a preference applicant for excepted appointment as provided in FPM 302 and Supplement 990-1, Book III.

4.2 Position Changes. The appointing officers may recommend for approval the filling of any excepted position by the promotion, demotion, or reassignment of any excepted employee who meets the standards and requirements for the position.

4.3 Restriction in Promotion. The Secretary or his/her designee is responsible for administering the regulations as they pertain to excepted positions in the Department. The Department is delegated authority to waive the time-in-grade requirements based on a determination of either hardship to the agency or inequity to the employee.

A. Requests for exception to the requirements for actions in the excepted service (except 300.603(a)(4) cases) will be submitted through appropriate bureau channels to the Director of Personnel for prior approval.

4.4 Selection Procedures for Excepted Service Positions. When selecting for any position in the excepted service within the Department of the Interior, the following procedures may be used in lieu of "the rule of three", as described in Subchapter 4-1b, FPM Chapter 302:

A. Numerically rate all applications as described in FPM Chapter 302, Subchapter 3-2.

B. Place all eligibles who have a service-connected disability of 10 per cent or more (CP) and are entitled to 10 points veteran preference ahead of all other eligibles in the score range 95 and above.

C. Group ratings of all other eligibles including those of veteran eligibles entitled to 5 points and 10 point XP veteran preference, in descending score order into score ranges of 95 and above; 90-94; 85-89; 80-84; 75-79; 70-74.

D. When eligibles are rated and ranked as described in 370 DM 302,4.4A, B and C, all applicants within the highest existing score range as described in 370 DM 302,4.4C at the time an appropriately constituted selection certificate is used are eligible for selection, provided nonveteran preference eligibles are not selected ahead of veterans with the same or higher scores. Regular veteran passover procedures may be used as appropriate (see FPM 302, Subchapter 4-1c, and 370 DM 302, 4.1). When there are fewer than three eligibles in the highest existing score range, the next lower group will be eligible for selection.

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DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

Personnel

370 DM Addition to FPM

Chapter 302 Employment in the Excepted Service

370 DM 302,4.4E

E. All applicants on the reemployment list (FPM Chapter 302, Subchapter 3) will be given any preference to which they are entitled.

F. No other procedures of FPM Chapter 302 may be modified without prior approval of OPM.