

injury or military duty) is creditable up to a total of 22 workdays. Absence (whether on or off the rolls) due to compensable injury or military duty is creditable in full upon restoration to Federal service. Nonpay time in excess of 22 workdays extends the probationary period by an equal amount.

(d) Service during a probationary period from which an employee was separated or demoted for performance or conduct reasons does not count toward completion of probation required under a subsequent appointment. In other situations in which an employee does not complete probation, service is creditable as determined by agency policy.

(e) Temporary service in a supervisory or managerial position under temporary appointment, promotion, or reassignment *prior to probation* is creditable as determined by agency policy. Prior service under a detail to a supervisory or managerial position is made permanent without a break in service.

[44 FR 44811, July 31, 1979, as amended at 60 FR 53505, Oct. 16, 1995]

#### **§315.907 Failure to complete the probationary period.**

(a) Satisfactory completion of the prescribed probationary period is a prerequisite to continued service in the position. An employee who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period is entitled to be assigned, except as provided in paragraph (b) of this section, to a position in the agency of no lower grade and pay than the one the employee left to accept the supervisory or managerial position.

(b) A nonsupervisory or nonmanagerial employee who is demoted into a position in which probation under §315.904 is required and who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period is entitled to be assigned to a position at the same grade and pay as the position in which he or she was serving probation. The employee is eligible for re-promotion in accordance with agency promotion policy.

(c) The agency must notify the employee in writing that he or she is

being assigned in accordance with this section.

[49 FR 39287, Oct. 5, 1984, as amended at 60 FR 53505, Oct. 16, 1995]

#### **§315.908 Appeals.**

(a) An employee who, in accordance with the provisions of this subpart, is assigned to a nonmanagerial or non-supervisory position, has no appeal right.

(b) An employee who alleges that an agency action under this subpart was based on partisan political affiliation or marital status, may appeal to the Merit Systems Protection Board.

#### **§315.909 Relationship to other actions.**

(a) If an employee is required to concurrently serve both a probationary period under this subpart and a probationary period under subpart H of this part, the latter takes precedence and completion of the probationary period for competitive appointment and fulfills the requirements of this subpart.

(b) An action which demotes an employee to a lower grade than the one the employee left to accept the supervisory or managerial position, and an action against an employee for reasons other than supervisory or managerial performance, is governed by part 432 or part 752 procedures, whichever is applicable. If the employee believes an action under this subpart was based on improper discrimination or other prohibited practices under 5 U.S.C. 2302, he or she may appeal to the Merit Systems Protection Board or the Equal Employment Opportunity Commission, as appropriate.

## **PART 316—TEMPORARY AND TERM EMPLOYMENT**

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

### **Subpart B—TAPER Employment**

Sec.

316.201 Purpose and duration.

316.202 Eligibility of TAPER employees for within-grade increases.

### **Subpart C—Term Employment**

316.301 Purpose and duration.

316.302 Selection of term employees.

316.303 Tenure of term employees.