

**U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)**

<b>MD 10.14</b>		<b>EMPLOYEE TRIAL PERIOD</b>		<b>DT-21-16</b>
<i>Volume 10,</i>		Personnel Management		
<i>Part 1:</i>		Employment and Staffing		
<i>Approved by:</i>		Mary A. Lamary Chief Human Capital Officer		
<i>Date Approved:</i>		December 16, 2021		
<i>Cert. Date:</i>		N/A, for the latest version of any NRC directive or handbook, see the <a href="#">online MD Catalog</a>		
<i>Issuing Office:</i>		Office of the Chief Human Capital Officer Policy, Labor and Employee Relations Branch		
<i>Contact:</i>		Norm Geisner	Servicing Human Resources Specialist (names and phone numbers are listed <a href="#">here</a> )	
<b>EXECUTIVE SUMMARY</b>				
Management Directive 10.14, “Employee Trial Period,” is revised to—				
<ul style="list-style-type: none"> <li>• Clarify the requirements for handling nonpreference-eligible employees who are performing at an Unacceptable level during the second year of the trial period;</li> <li>• Correct that excess leave without pay does not extend the trial period; and</li> <li>• Enhance clarity and understanding by creating two separate exhibits on coverage and crediting service for employee trial periods and supervisory/managerial trial periods.</li> </ul>				

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For updates or revisions to policies contained in this MD that were issued after the MD was signed, please see the Yellow Announcement to Management Directive index ([YA-to-MD index](#)).

**VI. REFERENCES.....3****I. POLICY**

- A.** It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to establish trial periods for initial appointment in the NRC, and initial assignment as a supervisor or manager, sufficient to effectively assess the ability of an employee to perform adequately in their assigned position and whether they will be an asset to the Federal Government before the finalization of the appointment.
- B.** The concept of probationary periods (for competitive service employees) and trial periods (for excepted service employees) is inextricably linked to whether an employee has due process rights to appeal an action taken under 5 *Code of Federal Regulations* (CFR), Parts 432 or 752 (e.g., suspension over 14 days, downgrade, removal).

**II. OBJECTIVES**

- Establish a 2-year trial period upon initial non-temporary (e.g., permanent, indefinite, term) appointment to the agency before appointment to a position becomes final. The 2-year trial period applies to all individuals except for preference-eligible veterans who are subject to a 1-year trial period.
- Establish a 2-year supervisory trial period upon assignment to a permanent supervisory or managerial position before that position becomes final.
- Ensure that individuals are provided sufficient opportunity to become fully acquainted with the requirements of their positions and time to be assessed on the full scope of their required duties and responsibilities.
- Ensure agencywide consistency in the application of trial period criteria to NRC employees.

**III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY****A. General Counsel (GC)**

Advises OCHCO, as needed, on interpretations of this MD. Provides review and advice on interpretations regarding the intent and applicability of this MD.

**B. Inspector General (IG)**

1. Administers the trial period program on a day-to-day basis for employees of the Office of the Inspector General (OIG).
2. Provides staff assistance and advice to OIG supervisors and managers on their responsibilities in relation to applicable trial period requirements for subordinate OIG employees, and for new OIG supervisors or managers.

3. Ensures trial period program activities for OIG employees comply with regulatory requirements.

### **C. Chief Human Capital Officer (CHCO)**

1. Administers the trial period program on a day-to-day basis.
2. Provides staff assistance and advice to supervisors and managers on their responsibilities in relation to applicable trial period requirements for subordinate employees, and for new supervisors or managers.
3. Ensures trial period program activities comply with regulatory requirements.
4. Prepares reports on the trial period program, as required.

### **D. Office Directors and Regional Administrators**

Ensure that subordinate supervisors and managers are cognizant of their responsibilities in assessing employees during trial periods.

## **IV. APPLICABILITY**

The policy and guidance in this management directive apply to employees appointed to positions in the NRC but exclude administrative law judges and members of the Senior Executive Service (SES) as indicated in the exhibits of Directive Handbook 10.14. The trial period for members of the SES is described in Management Directive 10.135, "Senior Executive Service (SES) Employment and Staffing Programs."

## **V. DIRECTIVE HANDBOOK**

Directive Handbook 10.14 contains the program requirements and procedures for the administration of trial periods for NRC employees other than administrative law judges and SES members.

## **VI. REFERENCES**

### ***Code of Federal Regulations***

Title 5, "Administrative Personnel"—

Part 432, "Performance Based Reduction in Grade and Removal."

Part 752, "Adverse Actions."

### ***Nuclear Regulatory Commission Documents***

"Collective Bargaining Agreement Between U.S. Nuclear Regulatory Commission and National Treasury Employees Union" (current version).

NRC Management Directives

10.37, "Position Evaluation and Benchmarks."

10.41, "Pay Administration."

10.67, "General Grade Performance Management System."

10.99, "Discipline and Adverse Action."

10.101, "Employee Grievances."

10.135, "Senior Executive Service (SES) Employment and Staffing Programs."

10.145, "Senior Level System."

10.161, "Civil Rights Program and Affirmative Employment and Diversity Management Program."

***Office of Personnel Management***

Office of Personnel Management, "The Guide to Processing Personnel Actions," <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/personnel-documentation/processing-personnel-actions/>.

Office of Personnel Management, Standard Form (SF)-50, "Notification of Personnel Action," <http://www.opm.gov/forms/pdfimage/sf50.pdf>.

***United States Code***

Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801 et seq.).

**U.S. NUCLEAR REGULATORY COMMISSION DIRECTIVE HANDBOOK (DH)**

<b>DH 10.14</b>	<b>EMPLOYEE TRIAL PERIOD</b>	<b>DT-21-16</b>
<i>Volume 10,</i> <i>Part 1:</i>	Personnel Management Employment and Staffing	
<i>Approved by:</i>	Mary A. Lamary Chief Human Capital Officer	
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**I. OVERVIEW OF THE TRIAL PERIOD PROCESS**

**A. Purpose of the Trial Period**

1. The trial period is the last and most important step in the selection process. This time is intended to give U.S. Nuclear Regulatory Commission (NRC) supervisors and managers the opportunity to assess, on the job, the employee's overall fitness and qualifications for continued employment and to permit termination, without formal procedures, in most cases, of an employee whose performance and/or conduct does

not meet acceptable standards. In this final phase of the NRC applicant evaluation process, the appointee's ability to perform the actual duties of the position and the appointee's conduct are critically reviewed.

2. Performance that is less than fully successful in the first year or unacceptable in the second year of the trial period may be made the basis for ending the individual's employment.
3. Conduct that is less than satisfactory during the trial period may be made the basis for ending the individual's employment. Less than satisfactory conduct may include, but is not limited to, any false or misleading information furnished by the employee in connection with their appointment to the position.
4. During the trial period, as well as after completion of the trial period, the employee is responsible for fulfilling the requirements of the job as stated in the position description and the critical elements and standards established for the position, and for complying with all regulations that govern conduct of employees.

#### **B. Coverage and Crediting Service**

The exhibits contain the specific provisions detailing when trial periods are required and the conditions under which service is creditable.

#### **C. Veterans' Preference Requirements**

1. NRC employees who are veterans with preference eligibility are subject to a 1-year trial period upon initial appointment. Such individuals who have completed a year of current, continuous service have due process protection and appeal rights relative to removal. Therefore, action to remove such an individual for less than fully successful performance or conduct that is less than satisfactory should be effected before the completion of the 1-year trial period.
2. Veterans with preference eligibility who are removed after completion of the 1-year trial are entitled to full due process procedures.

#### **D. Determining Completion of the Trial Period**

1. Full-Time and Part-Time Employees
  - (a) The trial period for nonpreference-eligible employees normally begins with the effective date of the appointment. The trial period consists of 104 calendar weeks of employment for both full-time and part-time employees with a prescheduled tour of duty. The time period is computed the same for both categories of employees.
  - (b) The trial period consists of 52 calendar weeks of employment for both full-time and part-time employees with veterans' preference eligibility.

- (c) Absence on leave with or without pay, absence for compensable injury, and furlough for military service are credited toward completion of the trial period.
  - (d) When the trial period is interrupted by separation, suspension, or furlough that is subsequently found by appropriate authority pursuant to law, rule, or regulation to have been unwarranted and the employee is restored as of the effective date of the adverse action, the employee is considered for all purposes, including the trial period, to have served satisfactorily during the period.
  - (e) Service as an Americorps VISTA (formerly referred to as ACTION) or Peace Corps volunteer does not count toward completion of the trial period.
  - (f) An individual who is reinstated from the reemployment priority list must complete any trial period in which he or she was serving when separated.
  - (g) Former NRC or Federal employees with reinstatement eligibility for NRC Regular (Excepted) or NRC Regular (Excepted) (Conditional) appointments who successfully completed a trial or probationary period in their previous appointment do not have to serve a new NRC trial period.
  - (h) Former NRC or Federal employees with reinstatement eligibility for NRC Regular (Excepted) or NRC Regular (Excepted) (Conditional) appointments who did not complete their trial or probationary period will have time spent during their former probationary or trial period credited toward their NRC trial period requirement when the prior service—
    - (i) Is in the same line of work (determined by the employee's actual duties and responsibilities); and
    - (ii) Contains or is followed by no more than a single break in service not exceeding 30 calendar days.
  - (i) Former non-NRC Federal employees who did not complete a trial or probationary period will need to serve a new NRC trial period.
2. Intermittent Employees
- (a) The trial period for intermittent nonpreference-eligible employees is 520 days in a pay status, that is, a day on which the employee was in a pay status for any part of the day. The trial period cannot be completed in less than 2 calendar years.
  - (b) The trial period for intermittent preference-eligible employees is 260 days in a pay status, that is, a day on which the employee was in a pay status for any part of the day. The trial period cannot be completed in less than 1 calendar year.

## E. Documentation

The requirement for completion of a trial period will be documented in the "Remarks" block of the SF 50, "Notification of Personnel Action," in accordance with current



instructions from the Office of Personnel Management's "The Guide to Processing Personnel Actions." SF 50 is available on the OPM Web site, at <http://www.opm.gov/forms/pdfimage/sf50.pdf>.

## II. RESPONSIBILITIES AND PROCEDURES DURING THE TRIAL PERIOD

### A. Role of the Supervisor

1. The supervisor bears a duty to the employee and to the NRC in the trial period. The supervisor influences the work environment and the employee's impressions of the Government and the NRC as a place to work. The supervisor also determines whether the employee will be retained.
2. For these reasons, the NRC has an interest in seeing that supervisors—
  - (a) Are fully informed of the importance of their role to the employee and to the NRC.
  - (b) Receive training, as needed, in setting performance and conduct standards, evaluating the employee's progress, and assisting the employee to resolve his or her deficiencies.
  - (c) Ensure that employees understand at the time of appointment that they are required to serve a trial period, if applicable.
  - (d) Communicate expectations for performance and conduct, provide meaningful work assignments, give periodic feedback on performance and conduct, and provide on-the-job training and counseling.

### B. Evaluation and Certification of Employees

1. Evaluation
  - (a) During the trial period, the supervisor is responsible for observing and evaluating the employee's performance and conduct by referring to the job requirements as stated in the position description and the critical elements and standards established for the position.
  - (b) The supervisor provides supportive guidance and training, as appropriate, including ongoing advice on performance or conduct inadequacies that need improvement.
  - (c) The supervisor informs the employee at the progress certification as to whether the employee's performance and conduct have been evaluated as fully successful and satisfactory or less than fully successful and less than satisfactory, respectively.
  - (d) Failure to provide written performance standards and critical elements or other forms of appraisal or assessment to the probationer does not preclude the NRC from terminating the employee.

## 2. Certification

### (a) Appraisal

The certification as to the employee's performance and conduct is required.

### (b) Notification to Supervisors

- (i) A certification document will be furnished to the immediate supervisor by the human resources representative both during the 8th month of the nonpreference-eligible employee's trial period for a progress certification and again during the 20th month for the final certification.
- (ii) A certification document will be furnished to the immediate supervisor by the human resources representative both during the 5th month of the preference-eligible employee's trial period for a progress certification and again during the 10th month for the final certification.
- (iii) The human resources representative will inform and advise the immediate supervisor if the employee has prior trial or probationary period service that transferred upon his or her appointment and subsequently shortens the duration of the NRC trial period.

### (c) Progress Certification

- (i) For the nonpreference-eligible employee, no earlier than the beginning of the 9th month and no later than the end of the 10th month of the trial period, the supervisor must complete the certification document and return it to the human resources representative. The supervisor may wish to route the completed document through the second-level supervisor for informational awareness. This document contains the supervisor's certification on whether the employee is progressing at a fully successful level and whether the employee's conduct has been satisfactory.
- (ii) For the preference-eligible employee, the supervisor must complete and return the certification document no earlier than the beginning of the 6th month and no later than the end of the 7th month.
- (iii) If either performance or conduct is not progressing at a satisfactory level, the supervisor must include a brief written description of the specific deficiencies and the counseling, training, or other methods being implemented to assist the employee to achieve a fully successful rating. No portion of this paragraph, however, is to be interpreted as preventing or discouraging the initiation of a termination action at any time during the trial period.
- (iv) For preference-eligible employees who are not performing at a fully successful level, or when conduct is not satisfactory, see Sections I.C and D and II.C, respectively, of this handbook and contact the human resources representative.

(d) Final Certification

- (i) For nonpreference-eligible employees, no earlier than the beginning of the 21st month and no later than the end of the 22nd month of the trial period, the supervisor must complete the certification document and return it to the human resources representative. This document contains the supervisor's final certification on whether the employee's performance has been fully successful and whether the employee's conduct has been satisfactory.
- (ii) For preference-eligible employees, the supervisor must complete and return the certification document no earlier than the beginning of the 9th month and no later than the end of the 10th month of the trial period.
- (iii) This information is not to be interpreted as preventing or discouraging the initiation of a separation action at any time during the trial period. Performance that deteriorates or misconduct that occurs after the certification also may be the basis for separation up to the end of the trial period.
- (iv) Likewise, performance that improves to the fully successful level or conduct that improves to the satisfactory level may be the basis for retention.

(e) Deficiencies

Each final certification of less than fully successful performance or less than satisfactory conduct must include a report of the employee's deficiencies.

(f) Certification Requirements

The certification requirements must be observed regardless of whether other performance appraisals may have been prepared and submitted during the trial period.

3. Review of Certification

The human resources representative is responsible for ensuring that—

- (a) Progress and final certifications as to performance and conduct are received on a timely basis from the supervisor of each employee in a trial period.
- (b) Fully successful performance and satisfactory conduct certifications are filed in the employee's electronic official personnel file (eOPF).
- (c) Followup action is taken regarding any employee whose performance is certified during the progress certification or the final certification as being less than fully successful.

**C. Certification as Less Than Fully Successful Performance and/or Satisfactory Conduct During the First Year for Both Preference Eligible and Non-Preference Eligibles****1. Progress Certification During the First Year of the Trial Period**

The following procedures apply when an employee in a trial period has been given a progress certification of less than fully successful in performance and/or less than satisfactory in conduct:

- (a) The supervisor notifies the human resources representative and Policy, Labor and Employee Relations Branch, Office of the Chief Human Capital Officer, (PLERB, OCHCO) for guidance and assistance in carrying out his or her responsibilities in this situation.
- (b) If the supervisor determines that it is in the best interest of the agency to separate the employee during the progress review, the supervisor should work with PLERB, OCHCO to implement appropriate procedures.
- (c) When the supervisor determines that the employee should be retained, they should clearly identify any specific performance or conduct deficiencies to the employee and make them part of the progress certification.
  - (i) The supervisor must counsel the employee on how to improve performance and must provide assistance as appropriate.
  - (ii) The supervisor must closely monitor the individual's progress and keep the employee fully informed of both their progress and the consequences if progress is not made.

**2. Final Certification**

The following procedures apply when an employee in a trial period receives a final certification of less than fully successful performance or less than satisfactory conduct:

- (a) The human resources representative will transmit a copy of the certification to a labor relations specialist in PLERB, OCHCO.
- (b) The human resources representative will discuss with the supervisor whether the supervisor believes the employee's deficiencies warrant immediate separation or whether these deficiencies can be resolved before the end of the trial period.

**D. Certification as Less Than Minimally Successful Performance and/or Satisfactory Conduct During the Second Year for Non-Preference Eligibles****1. Performance Improvement Period During the Second Year of the Trial Period When Performance is Unacceptable**

- (a) Consistent with "Performance Based Reduction in Grade and Removal" (5 CFR Part 432), if an excepted service employee has completed at least one year of current continuous service—even if in the second year of the trial period—and is determined to be unacceptable in one or more critical elements, the supervisor, in conjunction with PLERB, OCHCO, shall notify the employee of the critical element(s) for which performance is unacceptable and inform the employee of the performance requirement(s) or standard(s) that must be attained in order to demonstrate minimally successful performance in their position.
- (b) Consistent with Management Directive (MD) 10.67, "General Grade Performance Management System" and MD 10.145, "Senior Level System," the supervisor also shall inform the employee that unless the employee's performance in the critical element(s) improves and is sustained at a minimally successful level, the employee may be removed. For each critical element for which the employee's performance is unacceptable, the supervisor shall afford the employee a reasonable opportunity to demonstrate acceptable performance commensurate with the duties and responsibilities of the employee's position. As part of the employee's opportunity to demonstrate acceptable performance, the manager shall offer the employee assistance in improving unacceptable performance.

## 2. When Conduct is Less Than Satisfactory

- (a) The supervisor notifies the human resources representative and OCHCO/PLERB for guidance and assistance in carrying out his or her responsibilities in this situation.
- (b) If the supervisor determines that it is in the best interest of the agency to separate the employee during the progress review, the supervisor should work with an employee and labor relations specialist in PLERB, OCHCO to implement appropriate procedures.
- (c) When the supervisor determines that the employee should be retained, the supervisor should clearly identify any specific conduct deficiencies to the employee and make them part of the progress certification.
- (d) The supervisor must closely monitor the individual's progress and keep the employee fully informed of both his or her progress and the consequences if progress is not made.

## 3. Final Certification

The following procedures apply when an employee in a trial period receives a final certification of less than satisfactory conduct:

- (a) The human resources representative will transmit a copy of the certification to an employee and labor relations specialist in PLERB, OCHCO.

- (b) The employee and labor relations specialist will discuss with the supervisor whether the supervisor believes the employee's conduct deficiencies warrant immediate separation or whether they can be resolved before the end of the trial period.

#### **E. Termination During the Trial Period**

1. Termination during the trial period generally may be on the basis of deficiencies in job performance, lack of aptitude for the job, uncooperativeness, or undesirable suitability characteristics as evidenced by the employee's activities.
2. When it becomes clear that the individual should not be retained in their position, the supervisor should initiate action to terminate the employee.
3. The employee's termination must be effected before the completion of the trial period. Otherwise, an NRC employee on a Regular (Excepted)(Conditional) appointment who has completed the trial period will obtain full due process procedures under 5 CFR Part 752.
4. The trial period ends at the completion of the tour of duty on the last day of the trial period, which is typically, but not always, the day before the anniversary date. **Trial periods are completed at the end of a tour of duty and separations are effective at midnight, unless another time is specified.**
  - (a) For example, if a trial period begins on December 1 and the tour of duty is from 8:00 a.m. to 4:30 p.m., the trial period will be completed at 4:30 p.m. on November 30 of the second year. A termination effective on November 30 would take effect at midnight on that date and after the trial period has been completed.
  - (b) When the last workday of the trial period is a Friday and the anniversary date is the following Monday, the employee must be terminated before the end of the tour of duty on Friday because Friday would be the last day the employee has to demonstrate fitness for further employment.
5. To avoid the problems described in Section II.D.4(a) and (b) of this handbook, supervisors should not wait until the last day of the trial period to initiate termination or to terminate a trial period employee. If termination cannot be made before the last day of the trial period, a specific date and time of termination before the end of the tour of duty should be indicated.
6. In accordance with MD 10.101, "Employee Grievances," and the Collective Bargaining Agreement Between U.S. Nuclear Regulatory Commission and National Treasury Employees Union, a termination during the trial period is not grievable.

**F. Reasonable Accommodation**

Consistent with Equal Employment Opportunity Commission (EEOC) requirements, agencies must reasonably accommodate qualified employees with disabilities who are separated during the trial period. Agency obligations must be followed in effecting removal actions involving employees with disabilities during the trial period.

**G. Termination Letter**

1. After the supervisor, or another management official specifically authorized by the office director or the regional administrator to act for the supervisor, decides that the employee's deficiencies warrant termination, the supervisor will, with the advice of the PLERB, OCHCO labor and employee relations representative, prepare and sign a letter of termination to the employee.
2. At any time during the first year of the trial period for termination on the basis of less than fully successful performance, or at any time during the trial period on the basis of less than satisfactory conduct, the following apply:
  - (a) The letter must state the date of termination, which should be no later than the day before the last workday of the trial period, unless specific conditions require the last workday of the trial period to be the date of separation.
  - (b) The termination letter also must state the reasons for termination. The degree of specificity described in MD 10.99, "Discipline and Adverse Actions," when taking disciplinary actions is not required when implementing termination of a trial period employee.
  - (c) The termination letter must advise the employee of any right to an administrative review described in Section II.I of this handbook, the time limit for exercising this right, and the name of the reviewing official to whom a request for an administrative review must be addressed.
3. During the second year of a nonpreference-eligible employee's trial period for termination solely on the basis of unacceptable performance, the following 5 CFR Part 432 procedural rights must be applied:
  - (a) Thirty days' advance written notice of the proposed action that identifies the following:
    - (i) Specific instances of unacceptable performance by the employee on which the proposed action is based.
    - (ii) The critical elements of the employee's position involved in each instance of unacceptable performance.
  - (b) Representation by an attorney or other representative is permitted.
  - (c) A reasonable time to answer orally and in writing.

- (d) A written decision that specifies the instances of unacceptable performance by the employee on which the termination is based.

#### **H. Review and Delivery of the Letter**

1. OCHCO must concur in the letter of separation after appropriate consultation with the Office of the General Counsel to ensure the propriety and timeliness of the action. For employees of the Office of the Inspector General, counsel to the Inspector General must concur in the letter of separation.
2. After it is signed, the letter should be delivered personally to the employee. If the letter cannot be delivered personally and mail service is used, the letter should be sent by registered mail (return receipt requested). Delivery by personal e-mail may be acceptable in certain circumstances. The letter should normally be delivered 2 weeks before the date of separation, when practicable. However, the employee must receive the letter by the close of business on the day before the last day of the trial period.

#### **I. Review Within the NRC**

1. This section does not apply to separated employees who have appeal rights to the Merit Systems Protection Board.
2. Under the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801 et seq.) certain personnel management provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.) remain applicable to the NRC. Section 161.d of the act specifies that adequate provision must be made for administrative review of any determination to dismiss any employee. This review process does not include a hearing.
3. In cases of termination during the trial period, this review will generally be the responsibility of the official next in authority over the official who signed the letter of separation, or his or her designee. Or, at the discretion of the agency, another management official may be designated, so long as they are at least one level above the management official initiating the action, unless initiated by the head of the agency.
4. Request for review of an action to terminate an employee during the trial period must be initiated by the employee in writing and received no later than 15 calendar days after the date of the employee's receipt of the letter of termination, unless this time period is extended for reasons acceptable to the reviewing official.
5. An employee's request for review should include information that the employee believes is sufficient to show that they have demonstrated fully successful performance and satisfactory conduct in the position.
6. The process of review does not require a hearing or the personal appearance of the individual before the reviewing official.



7. The reviewing official will furnish a written decision to the individual within 15 calendar days after receipt of the request for review, unless this time period is extended for reasons explained to the employee.
8. Action to review a termination does not stop the termination action. However, if the reviewing official determines that the termination was unjustified or unwarranted, the individual will be reinstated, with back pay, in accordance with appropriate regulations.

**J. Appeal Under the Equal Employment Opportunity Commission (EEOC) Complaint Procedure**

MD 10.161, "Civil Rights Program and Affirmative Employment and Diversity Management Program," provides procedures and time limits for an appeal of termination if it is alleged that the separation action was based on discrimination because of race, color, religion, sex, national origin, physical or mental handicap, or age.

**K. Separation of an Appointee for Less Than Satisfactory Conduct Before Appointment**

If NRC proposes to separate an employee serving a trial period for reasons based in whole or in part on conditions arising before their appointment, such as the intentional falsification of application forms or other pre-appointment documents, the employee must be given a separation letter in accordance with the information contained in Section II.G of this handbook.

### **III. SUPERVISORY OR MANAGERIAL TRIAL PERIOD**

**A. Intent of Two-Year Supervisory or Managerial Trial Period**

1. The first time an NRC employee is appointed to a supervisory or managerial position, the employee is required to complete a 2-year managerial or supervisory trial period. The trial period is the time to provide the opportunity for—
  - (a) New supervisors and managers to develop the skills and abilities necessary to effectively supervise or manage the complex programs of the NRC.
  - (b) The agency to assess the new appointee's supervisory or managerial performance.
  - (c) New supervisors or managers to determine whether they are suited for such work and to voluntarily move out of the supervisory or managerial position if desired.
  - (d) The office director or regional administrator to remove the new appointee from the supervisory or managerial position without formal procedures should the employee's supervisory or managerial performance warrant.

2. The terms “supervisory” and “managerial” are defined for trial period purposes the same way they are defined for classification purposes in MD 10.37, “Position Evaluation and Benchmarks.”
3. NRC personnel who are not part of the Senior Executive Service must serve a 2-year trial period upon assignment to a supervisory or managerial position.
4. Only one 2-year trial period is required of an employee, whether the first covered appointment is to a supervisory position or to a managerial position.
5. An employee who was removed from a supervisory or managerial position for failure to satisfactorily complete a 2-year trial period as a supervisor or manager shall be required to repeat the 2-year trial period if reappointed to a supervisory or managerial position.

#### **B. Supervisory and Managerial Trial Period Process**

1. An employee's initial appointment to a supervisory or managerial position becomes final only after the employee successfully completes a period of 2 full calendar years of supervisory or managerial work.
2. The trial period begins on the effective date of the personnel action that initially appoints the individual to the supervisory or managerial position and ends 2 calendar years later.
3. During the trial period, the immediate supervisor will develop a performance plan that includes specific criteria related to the employee's supervisory or managerial assignment. These elements of the performance plan will be the basis for determining successful completion of the trial period.
4. The supervisor and the employee should discuss at appropriate intervals (at a minimum, the first mid-year review and 1-year performance appraisal and the second mid-year review and 2-year appraisal) whether the employee's performance is adequate for continued retention in the supervisory or managerial position, and if not, what improvements are necessary to reach an acceptable level of performance.
5. During the trial period, the immediate supervisor will assist and encourage the employee in obtaining supervisory or managerial training to enable them to fulfill the requirements of the position.
6. Service creditable toward completion of the managerial or supervisory trial period is generally determined in a similar manner as for the new employee trial period, discussed in Section I and Section IV, Exhibit 2 of this handbook for details.

**C. Notification of Not Completing the Supervisory or Managerial Trial Period**

1. A human resources representative will contact the immediate supervisor at the beginning of the 18th month of the employee's trial period to discuss whether the employee should be retained in the position. If a decision is reached that the employee should not be retained in the supervisory or managerial position, the immediate supervisor will issue a written statement explaining the recommendation.
2. If the immediate supervisor is below the office director or regional administrator level, the office director or regional administrator will make the final decision on retaining the employee in the supervisory or managerial position, and will notify (in coordination with the immediate supervisor) the employee and the human resources representative of the final decision.
3. If an employee serving a trial period wishes to remove themselves from the supervisory or managerial position, they must provide a written request to the office director or regional administrator (through the immediate supervisor) providing the reasons for the request. The employee is not guaranteed a return to the same grade; however, consistent with MD 10.41, "Pay Administration," pay may be set on a Change to Lower Grade personnel action using the Maximum Payable Rate rule to eliminate or minimize a salary reduction.

**D. Failure to Complete the Supervisory or Managerial Trial Period**

1. Satisfactory completion of the trial period is required for continued service as a supervisor or manager. An employee who, for reasons of supervisory or managerial performance, does not satisfactorily complete the trial period will be assigned to a position of no lower grade and pay than the one he or she left to accept the supervisory or managerial position. The following stipulations also apply.
  - (a) A nonsupervisory or nonmanagerial employee who is **demoted** into a position in which a trial period is required and who, for reasons of supervisory or managerial performance, does not satisfactorily complete the supervisory or managerial trial period, is entitled to be **reassigned** to a position at the same grade and pay as the position in which he or she was serving a trial period.
  - (b) A transferee from another agency will be assigned to a position within the NRC equal in grade to the position held before selection.
2. Removal from the supervisory or managerial position because of failure to complete the trial period is not grievable.
3. Retained grade and pay provisions do not apply.

**EXHIBITS****Exhibit 1 Coverage and Crediting Service for New Employee Trial Periods**

<b>SITUATION</b>	<b>TRIAL PERIOD REQUIRED</b>	<b>CONDITIONS UNDER WHICH SERVICE COUNTS OR IS CREDITED</b>
Employee receives a Statutory, Temporary, Limited, or Noncareer Excepted appointment.	No	Not Applicable.
Employee receives an NRC Regular (Excepted), Regular (Excepted) (Conditional), or Term appointment and—		
<ul style="list-style-type: none"> <li>Employee has no prior Federal service.</li> </ul>	Yes	Not Applicable – trial period begins on date of appointment.
<ul style="list-style-type: none"> <li>Employee has prior non-NRC Federal employment and a break in service.</li> </ul>	Yes	Not Applicable – trial period begins on date of appointment.
<ul style="list-style-type: none"> <li>Employee is converted from an NRC Temporary, Limited, Statutory, or Noncareer Excepted appointment.</li> </ul>	Yes	Service that meets the same line of work criteria:  If same line of work, trial period begins with previous appointment effective date  If not the same line of work, trial period begins on effective date of conversion
Employee transfers from another Federal agency without a break in service and has completed a trial period.	No	Not applicable.

<b>Exhibit 1 (continued)</b>		
<b>SITUATION</b>	<b>TRIAL PERIOD REQUIRED</b>	<b>CONDITIONS UNDER WHICH SERVICE COUNTS OR IS CREDITED</b>
Employee transfers from another Federal agency without a break in service and is currently serving a probationary/trial period.  <i>(NOTE: If appointment is based on NRC's Interchange Agreement, the employee must have successfully completed a probationary period.)</i>	Yes	Prior probationary/trial period continues consistent with NRC stipulated trial period time frames.
Employee is reinstated from a Reemployment Priority List and has completed a trial period.	No	Not applicable.
Employee is reinstated from a Reemployment Priority List and has not completed a trial period.	Yes	All service that previously counted toward completion of the trial/probationary period at the time of separation is credited.
Service is interrupted because of an absence (whether on or off the rolls), which is due to compensable injury or military duty, from which the employee is entitled to restoration rights or priority consideration.	Yes	Service is creditable in full.

<b>Exhibit 1 (continued)</b>		
<b>SITUATION</b>	<b>TRIAL PERIOD REQUIRED</b>	<b>CONDITIONS UNDER WHICH SERVICE COUNTS OR IS CREDITED</b>
Former NRC employees with reinstatement eligibility for NRC Regular (Excepted) or NRC Regular (Excepted) (Conditional) appointments who are appointed and—		
<ul style="list-style-type: none"> <li>Have successfully completed a trial period in their previous NRC appointment.</li> </ul>	No	Not applicable.
<ul style="list-style-type: none"> <li>Have not completed an NRC trial period in their previous NRC appointment.</li> </ul>	Yes	<p>Time spent during the previous trial period is creditable toward completion of the 2-year trial period if performance during that time meets the same line of work criteria and contains or is followed by no more than a single break in service that does not exceed 30 calendar days.</p> <p>If same line of work and break is within 30 calendar days, trial period end date must be calculated.</p> <p>If not the same line of work or break in service exceeds 30 days, trial period begins on effective date of reinstatement.</p>

<b>Exhibit 1 (continued)</b>		
Former non-NRC Federal employees with reinstatement eligibility for NRC Regular (Excepted) or NRC Regular (Excepted) (Conditional) appointments who are appointed and—		
<ul style="list-style-type: none"> <li>Have successfully completed a trial or probationary period in their previous Federal appointment.</li> </ul>	No	Not applicable.
<ul style="list-style-type: none"> <li>Have not completed a trial or probationary period requirement previously.</li> </ul>	Yes	Same line of work criteria are not applicable – trial period begins on date of appointment.

**Exhibit 2 Coverage and Crediting Service for New Supervisors or Managers**

<b>SITUATION</b>	<b>TRIAL PERIOD REQUIRED</b>	<b>CONDITIONS UNDER WHICH SERVICE COUNTS OR IS CREDITED</b>
Employee selected for a supervisory or managerial position and—		
<ul style="list-style-type: none"> <li>• Has successfully completed a supervisory or managerial trial period in NRC or another Federal agency.</li> </ul>	No	Not Applicable.
<ul style="list-style-type: none"> <li>• Has no prior supervisory/managerial service.</li> </ul>	Yes	Not Applicable – trial period begins on date of assignment.
<ul style="list-style-type: none"> <li>• Service is interrupted because of an absence (whether on or off the rolls), which is due to compensable injury or military duty, from which the employee is entitled to restoration rights or priority consideration.</li> </ul>	Yes	Service is creditable in full.
<ul style="list-style-type: none"> <li>• Had begun but did not successfully complete a supervisory or managerial trial period in NRC or another Federal agency.</li> </ul>	Yes	<p>If the supervisor/manager was removed from the supervisory/managerial position for cause, none of the time counts. Otherwise—</p> <ul style="list-style-type: none"> <li>• Former NRC service is creditable, and</li> <li>• Former non-NRC service is not creditable.</li> </ul>



<b>Exhibit 2 (continued)</b>		
<b>SITUATION</b>	<b>TRIAL PERIOD REQUIRED</b>	<b>CONDITIONS UNDER WHICH SERVICE COUNTS OR IS CREDITED</b>
<ul style="list-style-type: none"> <li>Has begun a supervisory trial period in another Federal agency and transfers to NRC supervisory position.</li> </ul>	Yes	Prior service is creditable and supervisory trial period continues as of effective date of beginning of trial period in other agency.
Employee's temporary assignment to a supervisory or managerial position is made permanent without a break in service.	Yes	Temporary service is creditable and supervisory trial period begins on effective date of temporary promotion.
Employee's temporary assignment to a supervisory or managerial position ends and employee is returned to previous non-supervisory position. Employee is subsequently selected for a permanent supervisory or managerial position.	Yes	Not Applicable – trial period begins on date of permanent assignment to supervisory or managerial position.