Subchapter 1. General Provisions.

1.1 Prior Approval.

A. Appointments to positions which require the approval of the Secretary and Assistant Secretary - Policy, Budget and Administration are identified in 370 DM 311.

B. Limitations on suitability for employment are referenced in FPM Chapter 731. In cases of adverse loyalty finding on an employee, the Director of Personnel will make a determination on suitability disqualification after clearance by the Office of Personnel Management (OPM).

C. Appointment of a candidate having a record of conviction for a felony (as defined in FPM Chapter 731) will not be made to a continuing position without the prior approval of the head of the bureau or his/her designated representative.

D. Reinstatements of former Federal employees removed for questionable loyalty; for infamous, dishonest, immoral, or notoriously disgraceful conduct; for sex deviation; or in the interest of national security require the prior approval of the Director of Personnel after clearance by the appropriate office of the OPM.

E. Reinstatements of former Federal employees removed for conviction of felony; false statement or fraud in examination or execution of civil service papers; or at the direction of the OPM require the prior approval of the Director of Personnel after clearance by the OPM.

1.2 Land and Resources Ownership. Appointees to positions in the Department should be informed of the regulations contained in 43 CFR Part 20. All Departmental employees are prohibited from acquiring or retaining any claim, permit, lease, small tract entry or other right in Federal land that is issued by this Department. A waiver to this prohibition can be granted by the Designated Agency Ethics Official for cause. See, 43 CFR 20.735-24(b)(3) and 20.735-24(e). In addition, regulations in 43 CFR 20.735-24(b)(2) that prohibit certain employees of the Department and their spouses from acquiring or retaining any rights, including publicly traded securities, in Federal lands or resources administered by the Department should be emphasized to employees of the Bureau of Land Management, U.S. Geological Survey, Minerals Management Service and certain employees of the Office of the Secretary. Questions regarding actual or potential conflicts of interest should be directed to Bureau Ethics Counselors.

Subchapter 2. The Career-Conditional Employment System.

2.1 Service Requirement for Career Tenure. Excepted service rendered by Indian employees may be credited toward career tenure in the competitive service following competitive appointment to certain positions. This authority applies to Indian employees occupying positions filled under Schedule A 213. 3112(a)7 of the OPM regulations. This includes all positions in the Bureau of Indian Affairs and all other positions in the Department that are directly and primarily related to the providing of services to Indians when filled by the appointment of persons who are Indians as defined in 25 CFR Part 5. Substantially continuous service rendered by the above Indian employees under nontemporary excepted appointments will be credited toward career tenure following career-conditional appointment from registers to the above positions. The provision is also applicable to eligible persons who transfer to positions from the Indian Health Service, the Public Health Service, Department of Health and Human Services. The Public Health Service has been authorized to use the same rule for Interior employees transferring from positions filled under Schedule A 213.3112(a)7 to positions in its Indian Health Service. See FPM Supplement 296-33, Subchapter 9 for instructions on converting employees to career or career-conditional appointments.

Subchapter 4. Career or Career-Conditional Employment by Reinstatement.

4.1 Prior Approval by Appointment Based on Reinstatement. For restrictions on making appointments under reduction-in-force, see 370 DM 351, Subchapter 7, Assignment Rights. Prior approval for filling these positions will be submitted to the Director of Personnel for submission to the Office of Personnel Management.

Subchapter 6. Career or Career-Conditional Appointment Under Special Authorities.

6.1 Appointments Based on Legislative or Judicial Service (5 U.S.C. 3304(c)). As provided in 205 DM 8.2H(4), prior approval of the Assistant Secretary - Policy, Budget and Administration must be obtained before appointments based on legislative or judicial service are effected. Requests for approval are appropriately submitted by bureau heads through the Director of Personnel and must contain sufficient information necessary for a determination on each case.

Subchapter 7. Conversion to Career or Career-Conditional Employment From Other Types of Employment.

7.1 Policy. The general policy of the Department is to convert to a competitive status and to a career or career-conditional appointment all eligible employees whom the Department intends to retain as permanent employees. However, employees will not be converted to a career appointment nor to competitive status while there are career-service employees who have reemployment rights and who are qualified and available to fill the position.

7.2 Standards. Only employees whose work has been determined to be of an acceptable level of competence may be recommended for conversion to a career or career-conditional appointment.

7.3 Procedure. See FPM Supplement 296-33, Subchapter 9, Table 9-G, for conversion information.

Subchapter 8. Probation.

8.1 Objectives. The objectives of the probationary period are to evaluate the employee's performance and conduct in order to determine capacity to satisfactorily fulfill duties, and to provide for simplified procedures for the removal of unsatisfactory employees if necessary.

8.2 Policy. Bureaus will utilize the probationary period as fully as possible to evaluate the general fitness of probationary employees. If, after a fair evaluation and review, a probationary employee fails to demonstrate capacity for continued Federal employment, the bureau will separate the employee. During the probationary period, the employee's conduct, and performance on the job will be evaluated on a planned basis. The procedure and reporting requirements contained in FPM Chapter 315 will be observed in conducting this evaluation. The procedures and reporting requirements prescribed for evaluating employees in the competitive service will also be used for evaluating employees in the excepted service. Heads of bureaus are responsible for assuring that the required policies and procedures are followed.

8.3 Evaluation of Probationer by Supervisor.

A. At the time a probationary employee enters on duty the appropriate personnel or administrative office will send a memorandum to the employee's supervisor notifying him/her that the employee has been appointed subject to a probationary period and advising the supervisor of his/her responsibilities during that period. The memorandum shown in Illustration 1 to this Subchapter is suggested for this purpose. The supervisor of each employee serving a probationary period must no earlier than the beginning of the ninth month nor later than the end of the tenth month period submit through supervisory channels a certification concerning the employee's performance. The memorandum shown in Illustration 2 to this Subchapter containing a reply space is suggested for this purpose.

B. The written certification will be in narrative form and should take cognizance of such factors as performance, conduct, and potential for advancement. Such written appraisal will also include a summary recommendation or certification as to whether the employee is considered satisfactory in all respects and should be recommended for retention beyond the probationary period.

C. Provisions will be made for review and evaluation of the supervisor's appraisal by appropriate reviewing officials in the bureau.

D. Copies of appraisals and review reports will be filed in the Employees Performance Appraisal Folder. In connection with appraisals leading to separation, the appropriate procedures contained in GSA Bulletin FPMR B-65, dated November 15, 1976, should be followed.

8.4 Separation of Probationers.

A. Unsatisfactory performance or conduct. If, during the probationary period an employee demonstrates deficiency in the performance of his/her duties or misconduct either during or outside official working hours, he/she may be separated after consideration of whether the situation can be remedied. If it is decided to terminate an employee serving a probationary period because he/she has failed to demonstrate capacity for continued Federal employment, the employee should receive a written advance notice informing him/her of the reason for separation and the effective date of the proposed action.

B. Conduct Before Appointment. If a probationary employee is being separated because of reasons based in whole or in part on his/her conduct before employment, the action will be processed in accordance with the procedures given in FPM Chapter 315 and Section 315.805 of the Civil Service regulations, 5 C.F.R. (See FPM Supplement 990-1, Book III).

C. Appeal Rights. A statement of appeal rights as described in FPM Chapter 315 Subchapter 8.5, should be attached to the written notice of separation along with a copy of the Merit System Protection Board's procedural regulations, 5 CFR Part 1201, Subpart B. In addition, the separated probationer may have a statement included in the record to document his/her position on the circumstances of the separation. However, employees have no formal appeal rights to the Department other than to request an administrative review by the next higher management level.

D. Documentation of Separation. Adverse information which impugns an individual's character may be recorded and disclosed only if an employee has been afforded a hearing to challenge this information. Documentation without a hearing may result in the personal liability of Government officials responsible. Thus, when a probationer is separated for poor performance or misconduct, there will not be a record of the reason on the SFs 7, 50, 52 or in the OPF, but merely an indication through the appropriate nature of action and code that the employee has been involuntarily separated. When a written resignation is submitted, the employee's reason should be documented verbatim in the appropriate remarks sections.

Memorandum

To:

From: Personnel Officer

Subject: Probationary Period Employee

This is to call your attention the fact that _____, whose SF 50 is attached, has been appointed subject to a one-year probationary period which will expire on _____.

The purpose of the probationary period is to serve as a final and highly significant step in the examining process. It provides the final and indispensable test, that of actual performance on the job, which no preliminary testing methods can approach in validity. As a supervisor you are responsible for observing and evaluating employee performance, and conduct, furnishing guidance, and initiating such administrative action as may be warranted. This responsibility is particularly significant with regard to those employees who are serving in a probationary period, in order to protect the service against the retention of those who are in actual practice lacking in fitness and capacity for permanent Government service.

If it becomes apparent after full and fair trial that a probationary period employee is not suited for successful Government work, immediate action should be taken to separate the employee. During such period, an employee who does not prove satisfactory may be separated by an advance notice in writing advising that he/she will not be retained. The notice must contain information concerning specific reasons for separation, the effective date, and the employee's right of appeal to the Merit Systems Protection Board on certain grounds. Specific instructions concerning separation of employees during probation is included in FPM 315. The Personnel Office should be contacted for guidance concerning information to be included in the written notice.

The supervisor of each employee serving a probationary period must, not earlier than the beginning of the ninth month nor later than the end of the tenth month of such period, submit through supervisory channels a signed statement certifying either that the employee's performance and conduct have been found satisfactory or that they have been found unsatisfactory. Each such certification will contain a positive recommendation as to whether the employee should be retained beyond the probationary period.

For your convenience in making the required certification, the Personnel Office will advise you when the above employee has completed nine months of service and will provide a form at that time for your use in making this certification.

Memorandum

To:

From: Personnel Officer

Subject: Certification in connection with Probationary Period of

_____

Date Probationary Period Expires _____

Your attention is called to the fact that the above-named employee has served nine months of the probationary period. Under the directives of the Office of Personnel Management, (FPM Chapter 315), the supervisor must make a report concerning the services of this employee. This report may be made by completing the form below and submitting it through supervisory channels to the Personnel Office not later than the end of the tenth month of the probationary period.

To: Personnel Officer
(Through _____)
(Supervisory Channels)

From:

Subject: Probationary Period Certification for

_____

(Complete Either Block No. 1 or No. 2)

No. 1

( ) I certify that the performance and conduct of the above named employee have been found satisfactory and I recommend that this employee be retained beyond the probationary period.

Date _____ Signature _____

No. 2

( ) I do not consider the above named employee suited for successful performance in his/her present position and I recommend that the employee be separated or reassigned to more appropriate work. Attached is a memorandum setting forth the reasons for my evaluation of this employee.

Date _____ Signature _____

Subchapter 9. Probation on Initial Appointment to a Supervisory or Managerial Position

9.1 Purpose. This Subchapter provides Departmental guidance on the use of a probationary period to appraise supervisory and managerial capabilities of persons initially appointed to such positions.

9.2 Coverage. Positions covered are those that can be identified through application of the supervisory grade evaluation guide definitions. Employees who have not satisfied the requirements of a probationary period in a supervisory and/or managerial position in the Federal Government are subject to a probationary period upon initial appointment to such positions. A bureau may prescribe exception to the requirement of a probationary period for a managerial position for an employee who has satisfactorily served as a supervisor when justified on the basis of performance and experience.

9.3 Policy. The length of the probationary period shall be at least 12 consecutive months from entry into the position. When necessary to assess supervisory or managerial performance, such periods may be extended by bureaus for a reasonable fixed duration, appropriate to the position, and uniformly applied for similar positions.

A. Supervisory or managerial deficiencies determined after a full and fair trial may be a basis for return to a non-supervisory or non-managerial position in the employing bureau at no lower grade and pay than the position the employee left.

B. Removal of the employee under provisions of this Subchapter from the position may occur at any time during the probationary period.

9.4 Performance Appraisal Activities. The probationary period will be used to assess successful performance of supervisory and managerial capabilities. In addition, provision shall be made for the probationer to initiate performance appraisal activities with his or her subordinates, including the identification of critical elements and the setting of performance standards, if this has not already been done, as well as counseling of subordinates on performance. The latter activities shall be performed at a satisfactory level before the probationary period may be deemed successfully completed.

9.5 Crediting Service Toward Completion of the Probationary Period. Temporary Federal service as a supervisor or manager prior to the effective date of the probationary period requirement counts in the same way as service under a permanent appointment provided the individual was officially assigned to the position, e.g., a temporary appointment, promotion, or reassignment for a period in excess of 120 days, within the 12 months preceding a permanent appointment to a supervisory or managerial position. It must also be established that activities of the type described in 370 DM 315,9.4 were successfully performed. In the absence of documentation acceptable to the bureau which

(2) the inclusive dates of the probationary period, and

(3) the supervisory or managerial skills evaluated, the rating assigned to each, and a statement signed by the rating official that the overall performance of the probationer based upon these elements signifies the successful completion of the probationary period.

C. Advance Notification. In the event that an employee is to be moved from a supervisory or managerial position under this Subchapter, the employee so affected shall be given written notification two weeks in advance of the effective date of the basis for the action.

9.11 Appeals and Grievances. The return of an employee to a non-supervisory or non-managerial position for reasons relating to supervisory or managerial deficiencies during the probationary period in accordance with this Subchapter is neither appealable nor grievable.

9.12 Demotion. An action which demotes a probationary employee to a lower grade than the one the employee left to accept the supervisory or managerial position may only be initiated for reasons other than supervisory or managerial performance deficiencies, and is governed by the procedures in 370 DM 432 or 370 DM 752, depending on the circumstances.