

## NUCLEAR REGULATORY COMMISSION

### Draft Regulatory Guide: Issuance, Availability

The U.S. Nuclear Regulatory Commission (NRC) has issued for public comment a draft guide in the agency's Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled "Minimization of Contamination and Radioactive Waste Generation in Support of Decommissioning," is temporarily identified by its task number, DG-4012, which should be mentioned in all related correspondence.

The issuance of the final rule for Subpart E, "Radiological Criteria for License Termination," of Title 10, Part 20, "Standards for Protection Against Radiation," of the Code of Federal Regulations (10 CFR part 20), published in Volume 62 of the **Federal Register** on July 21, 1997 (62 FR 39058-92), included specific requirements in 10 CFR 20.1406, "Minimization of Contamination," for the submission of information by license applicants with regard to design and operational procedures for minimizing contamination of the facility and the environment and for minimizing radioactive waste generation and facilitating decommissioning. As specifically stated, "Applicants for licenses, other than renewals, after August 20, 1997, shall describe in the application how facility design and procedures for operation will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste." Therefore, a license applicant should consider the total life cycle of the facility, from initial facility layout and design to programs and procedures for operation to final decontamination and dismantling at the time of decommissioning. During the operating life of a facility, the design and operating procedures might change, but the objectives of 10 CFR 20.1406 need to be addressed. The purpose of this regulatory guide is to present guidance that will assist license applicants in

effectively implementing this licensing requirement.

The NRC staff is soliciting comments on Draft Regulatory Guide DG-4012. Comments may be accompanied by relevant information or supporting data, and should mention DG-4012 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS). Personal information will not be removed from your comments. You may submit comments by any of the following methods.

*Mail comments to:* Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

*E-mail comments to:* [NRCREP@nrc.gov](mailto:NRCREP@nrc.gov). You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol A. Gallagher (301) 415-5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov).

*Hand-deliver comments to:* Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

*Fax comments to:* Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415-5144.

Requests for technical information about Draft Regulatory Guide DG-4012 may be directed to NRC Senior Program Manager, Edward O'Donnell, at (301) 415-6265 or e-mail [EXO@nrc.gov](mailto:EXO@nrc.gov).

Comments would be most helpful if received by November 1, 2007. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of Draft Regulatory Guide DG-4012 are available through the NRC's public Web site under Draft Regulatory Guides in the Regulatory Guides document collection of the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/doc-collections/>. Electronic copies are also available in ADAMS (<http://www.nrc.gov/reading-rm/adams.html>), under Accession #ML071210011.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4209, by fax at (301) 415-3548, and by e-mail to [PDR@nrc.gov](mailto:PDR@nrc.gov). Requests for single copies of draft or final guides (which may be reproduced) should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Reproduction and Distribution Services Section; by e-mail to [DISTRIBUTION@nrc.gov](mailto:DISTRIBUTION@nrc.gov); or by fax to (301) 415-2289. Telephone requests cannot be accommodated.

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Dated at Rockville, Maryland, this 15 day of June, 2007.

For the U.S. Nuclear Regulatory Commission.

**Jimi T. Yerokun,**

*Chief, Risk Applications and Special Projects Branch, Division of Risk Assessment and Special Projects, Office of Nuclear Regulatory Research.*

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## UNITED STATES SENTENCING COMMISSION

### Sentencing Guidelines for United States Courts

**AGENCY:** United States Sentencing Commission.

**ACTION:** Request for public comment.

**SUMMARY:** On May 1, 2007, the Commission submitted to the Congress amendments to the sentencing guidelines and official commentary, which become effective on November 1, 2007, unless Congress acts to the contrary. Such amendments and the reasons for amendment subsequently were published in the **Federal Register**, 72 FR 28558 (May 21, 2007). Two of the amendments, specifically Amendment 9 pertaining to offenses involving cocaine base ("crack") and Amendment 12 pertaining to certain criminal history rules, have the effect of lowering guideline ranges. The Commission requests comment regarding whether either amendment should be included in subsection (c) of § 1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range (Policy Statement)) as amendments that may be

applied retroactively to previously sentenced defendants. The Commission also requests comment regarding whether, if it amends § 1B1.10(c) to include either amendment, it also should amend § 1B1.10 to provide guidance to the courts on the procedure to be used when applying an amendment retroactively under 18 U.S.C. 3582(c)(2).

**DATES:** Public comment should be received on or before October 1, 2007.

**ADDRESSES:** Send comments to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2-500, South Lobby, Washington, DC 20002-8002, Attention: Public Affairs-Retroactivity Public Comment.

**FOR FURTHER INFORMATION CONTACT:** Michael Courlander, Public Affairs Officer, Telephone: (202) 502-4590.

**SUPPLEMENTARY INFORMATION:** Section 3582(c)(2) of title 18, United States Code, provides that "in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission."

The Commission lists in § 1B1.10(c) the specific guideline amendments that the court may apply retroactively under 18 U.S.C. 3582(c)(2). The background commentary to § 1B1.10 lists the purpose of the amendment, the magnitude of the change in the guideline range made by the amendment, and the difficulty of applying the amendment retroactively to determine an amended guideline range under § 1B1.10(b) as among the factors the Commission considers in selecting the amendments included in § 1B1.10(c). To the extent practicable, public comment should address each of these factors.

The text of the amendments referenced in this notice also may be accessed through the Commission's Web site at [www.ussc.gov](http://www.ussc.gov).

**Authority:** 28 U.S.C. 994(a), (o), (u); USSC Rules of Practice and Procedure 4.1, 4.3.

**Ricardo H. Hinojosa,**  
Chair.

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## UNITED STATES SENTENCING COMMISSION

### Sentencing Guidelines for United States Courts

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice of proposed priorities. Request for public comment.

**SUMMARY:** As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, and in accordance with Rule 5.2 of its Rules of Practice and Procedure, the Commission is seeking comment on possible priority policy issues for the amendment cycle ending May 1, 2008.

**DATES:** Public comment should be received on or before August 23, 2007.

**ADDRESSES:** Send comments to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2-500, South Lobby, Washington, DC 20002-8002, Attention: Public Affairs-Priorities Comment.

**FOR FURTHER INFORMATION CONTACT:** Michael Courlander, Public Affairs Officer, Telephone: (202) 502-4590.

**SUPPLEMENTARY INFORMATION:** The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p).

The Commission provides this notice to identify tentative priorities for the amendment cycle ending May 1, 2008. The Commission recognizes, however, that other factors, such as the enactment of any legislation requiring Commission action, may affect the Commission's ability to complete work on any of the tentative priorities by the statutory deadline of May 1, 2008. Accordingly, it may be necessary to continue work on some of these issues beyond the amendment cycle ending on May 1, 2008.

As so prefaced, the Commission has identified the following tentative priorities:

(1) Implementation of crime legislation enacted during the 110th Congress warranting a Commission response, including (A) the Animal Fighting Prohibition Enforcement Act of

2007, Public Law 110(22 ; and (B) any other legislation authorizing statutory penalties or creating new offenses that requires incorporation into the guidelines.

(2) Continuation of its work with Congress and other interested parties on cocaine sentencing policy to implement the recommendations set forth in the Commission's 2002 and 2007 reports to Congress, both entitled *Cocaine and Federal Sentencing Policy*, and to develop appropriate guideline amendments in response to any related legislation.

(3) Continuation of its work with the congressional, executive, and judicial branches of the government and other interested parties on appropriate responses to *United States v. Booker* and *United States v. Rita*, including any appropriate amendments to the guidelines or other changes to the *Guidelines Manual* to reflect those decisions, as well as continuation of its monitoring and analysis of post-*Booker* federal sentencing practices, data, case law, and other feedback, including reasons for departures and variances stated by sentencing courts.

(4) Continuation of its policy work regarding immigration offenses, specifically, offenses sentenced under 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) and 2L1.2 (Unlawfully Entering or Remaining in the United States) and implementation of any immigration legislation that may be enacted.

(5) Continuation of its policy work, in light of the Commission's prior and ongoing research on criminal history, to develop and consider possible options that might improve the operation of Chapter Four (Criminal History).

(6) Continuation of guideline simplification efforts with consideration and possible development of options that might improve the operation of the sentencing guidelines.

(7) Resolution of a number of circuit conflicts, pursuant to the Commission's continuing authority and responsibility, under 28 U.S.C. 991(b)(1)(B) and *Braxton v. United States*, 500 U.S. 344 (1991), to resolve conflicting interpretations of the guidelines by the federal courts.

(8) Preparation and dissemination, pursuant to the Commission's authority under 28 U.S.C. 995(a)(12)-(16), of research reports on various aspects of federal sentencing policy and practice, including information on any amendments that might be appropriate in response to those reports.

The Commission hereby gives notice that it is seeking comment on these tentative priorities and on any other