MEMORANDUM TO: Office Director and Regional Administrators

FROM: Luis A. Reyes
Executive Director for Operations

SUBJECT: POLICY AND PROCEDURES FOR IMPLEMENTATION OF AUTHORITY TO WAIVE PENSION OFFSET

This memorandum clarifies and updates the guidance I provided on March 15, 2006 (ML053620049), about the policy and procedures for implementation of NRC's authority to waive pension offset. Section 624 of the Energy Policy Act of 2005 (EPAct) authorized NRC to eliminate pension offset, on a case by case basis, for the reemployment of a Federal civilian retiree in a position for which there is exceptional difficulty in recruiting or retaining a qualified employee, or when a temporary emergency hiring need exists. The EPAct also requires that the NRC establish procedures for the exercise of this authority, including the criteria and procedures for any delegation of the authority.

The guidance is intended to help ensure that NRC uses its authority prudently to meet agency needs in accordance with the criteria provided in the Act, develops strategies to fill its needs long term, and uses the authority as an incentive to return to employment rather than as an incentive to retire. Management Directive 10.50, *Elimination of Pension Offset for Rehired Federal Retirees*, will be published to formalize these procedures.

Process and Responsibilities

An Office Director or Regional Administrator may request approval of a waiver by submitting a request to the Chairman or the Executive Director for Operations, as appropriate, through the Office of Human Resources (OHR) and the Federal Employees Pay Comparability Act (FEPCA) Senior Management Review Panel using the "Format for Waiver Requests" specified in the enclosure to this memorandum. A narrative memorandum that supports information on the form may be attached. Requests will generally be considered only after an individual's retirement.

Office Directors and Regional Administrators ensure that requests fully meet one or both of the EPAct criteria noted above. Requests will be reviewed by OHR for technical adequacy and by the FEPCA Panel to ensure that the authority is applied equitably throughout the NRC. OHR may determine in a particular instance that the FEPCA panel review is either unnecessary or inappropriate. Deciding officials will approve or disapprove elimination of the pension offset based on all pertinent considerations and the overall best interests of the agency. The Chairman is the deciding official for all requests for waivers concerning Commission-level employees, staff members in offices reporting to the Chairman or the Commission, and any individual who reports directly to the Chairman or a Commissioner. The EDO is the deciding official for all other requests for waivers.

Enclosure

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Content of Requests

Requests may be based on agency needs resulting from exceptional difficulty in recruiting or retaining a qualified employee for the position, a temporary emergency hiring need, or both criteria.

A request based on the need to fill a position for which there is **exceptional difficulty recruiting or retaining a qualified employee** should include discussion of the following factors:

- The nature of the position and its importance to agency functions.
- Other staffing alternatives that have been tried or considered or are on-going, including attempts to recruit other qualified individuals from within or outside NRC, use of recruitment or other incentives, succession planning efforts, and knowledge transfer options explored, and why these alternatives have not been or are not anticipated to be successful.
- A description of why the individual's knowledge, skills, and abilities are important to the agency, why these skills could not be acquired by another individual within a reasonable timeframe, and why the work cannot be assigned to other employees.

A request involving a **temporary emergency hiring need** should include:

- A description of the emergency, including the nature and date of its occurrence, the expected duration of the response effort, and a description of how the emergency is beyond the scope of NRC's normal responsibilities. A temporary emergency hiring need encompasses response to an event or emergency or meeting work needs generated by other unusual circumstances. Such circumstances might include but are not limited to:
- The need to conform to a Congressional, Commission, or other mandate to meet new or expanded mission requirements by a particular date; and
- A temporary need for an annuitant because he or she has a security clearance or other credentials needed to complete or continue mission critical work which cannot be performed by other employees within a reasonable amount of time.
- Information about the proposed appointee's duties in the response effort.

Requests based on **either or both criterion** should:

- Describe the means by which the Office or Region will address the continuing need within the timeframe covered by the offset waiver request. Such means might include knowledge transfer or training of current staff, recruitment, and/or other approaches.
- Generally be limited to part-time or intermittent employment for a period of 1 year or less. If the specific need or project calls for full-time employment and/or a longer period of employment under pension offset waiver, this should be clearly discussed in the request.

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- Not result in more than 3 years of total employment for a specific retiree. Longer periods may be approved, for example, for work on clearly distinguishable projects and/or for a few hours per year.

- Include an indication that the individual is unwilling to be reemployed unless the waiver is granted.

Further Information

Should you have questions regarding these procedures, contact Nancy Johns of the Office of Human Resources on (301) 492-2235.

Attachment:
As stated

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MEMORANDUM TO ODS/RAS FROM LUIS A. REYES DATED:

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	Mail Stop	
Frank P. Gillespie, Executive Director, Advisory Committee on Reactor Safeguards/Advisory Committee on Nuclear Waste and Materials	T-2	E2
E. Roy Hawkens, Chief Administrative Judge, Atomic Safety and Licensing Board Panel	T-3	F23
Karen D. Cyr, General Counsel	O-15	D21
John F. Cordes, Jr., Director, Office of Commission Appellate Adjudication	O-15	D21
William M. McCabe, Chief Financial Officer	T-9	F4
Hubert T. Bell, Inspector General	O-5	E13
Margaret M. Doane, Director, Office of International Programs	O-4	E21
Rebecca L. Schmidt, Director, Office of Congressional Affairs	O-14	E1
Eliot B. Brenner, Director, Office of Public Affairs	O-16	D3
Annette Vietti-Cook, Secretary of the Commission	O-16	G4
Luis A. Reyes, Executive Director for Operations	O-16	E15
Bruce S. Mallett, Deputy Executive Director for Reactor and Preparedness Programs, OEDO	O-16	E15
Martin J. Virgilio, Deputy Executive Director for Materials, Waste, Research, State, Tribal, and Compliance Programs, OEDO	O-16	E15
Darren B. Ash, Deputy Executive Director for Information Services and Chief Information Officer, OEDO	O-16	E15
Vonna L. Ordaz, Assistant for Operations, OEDO	O-16	E15
Peter J. Rabideau, Director, Strategic Organizational Planning and Optimization, OEDO	O-16	E15
Timothy F. Hagan, Director, Office of Administration	T-7	D26
Cynthia A. Carpenter, Director, Office of Enforcement	O-4	A15a
Charles L. Miller, Director, Office of Federal and State Materials and Environmental Management Programs	T-8	A23
Guy P. Caputo, Director, Office of Investigations	O-3	F1
Edward T. Baker, Director, Office of Information Services	O-6	E3M
James F. McDermott, Director, Office of Human Resources	W-5	A6
R. William Borchardt, Director, Office of New Reactors	T-6	F15
Michael F. Weber, Director, Office of Nuclear Material Safety and Safeguards	EBB	1
James E. Dyer, Director, Office of Nuclear Reactor Regulation	O-13	D13
Brian W. Sheron, Director, Office of Nuclear Regulatory Research	T-10	F12
Corenthis B. Kelley, Director, Office of Small Business and Civil Rights	O-3	H8
Roy P. Zimmerman, Director, Office of Nuclear Security and Incident Response	T-4	D22a
Samuel J. Collins, Regional Administrator, Region I	RGN-I	
Victor McCree, Regional Administrator, Region II	RGN-II	
James L. Caldwell, Regional Administrator, Region III	RGN-III	
Elmo E. Collins, Jr., Regional Administrator, Region IV	RGN-IV	

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