The Commission will also recess the meetings around noon for a lunch break. At the beginning of the lunch break, the Chairman will announce what time the meetings will reconvene.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Public Law 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Pub. L. 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: August 21, 2017.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2017–18018 Filed 8–24–17; 8:45 am]

BILLING CODE 1137–00–P

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Request for public comment.

SUMMARY: In August 2017, the Commission indicated that one of its policy priorities would be the ''[c]ontinuation of its multiyear study of offenses involving synthetic cathinones (such as methylone, MDPV, and mephedrone) and synthetic cannabinoids (such as JWH–018 and AM–2201), as well as tetrahydrocannabinol (THC), fentanyl, and fentanyl analogues, and consideration of appropriate guideline amendments, including simplifying the determination of the most closely related substance under Application Note 6 of the Commentary to § 2D1.1.'' *See* 82 FR 39949 (Aug. 22, 2017). As part of its continuing work on this priority, the Commission is publishing this request for public comment on issues related to synthetic cathinones, tetrahydrocannabinol (THC), and synthetic cannabinoids. The issues for comment are set forth in the Supplementary Information portion of this notice.

DATES: Public comment regarding the issues for comment set forth in this notice should be received by the Commission not later than October 27, 2017.

ADDRESSES: All written comment should be sent to the Commission by electronic mail or regular mail. The email address for public comment is *Public_Comment@ussc.gov.* The regular mail address for public comment is United States Sentencing Commission, One Columbus Circle NE., Suite 2–500, Washington, DC 20002–8002, Attention: Public Affairs.

FOR FURTHER INFORMATION CONTACT: Christine Leonard, Director, Office of Legislative and Public Affairs, (202) 502–4500, *pubaffairs@ussc.gov.*

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 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).

In August 2016, the Commission indicated that one of its priorities would be the ''[s]tudy of offenses involving MDMA/Ecstasy, synthetic cannabinoids (such as JWH–018 and AM–2201), and synthetic cathinones (such as Methylone, MDPV, and Mephedrone), and consideration of any amendments to the *Guidelines Manual* that may be appropriate in light of the information obtained from such study.'' *See* U.S. Sentencing Comm'n, ''Notice of Final Priorities,'' 81 FR 58004 (Aug. 24, 2016). On August 17, 2017, the Commission revised the priority to study offenses involving synthetic cathinones (such as methylone, MDPV, and mephedrone) and synthetic cannabinoids (such as JWH–018 and AM–2201), as well as tetrahydrocannabinol (THC), fentanyl, and fentanyl analogues. *See* U.S. Sentencing Comm'n, ''Notice of Final Priorities,'' 82 FR 39949 (Aug. 22, 2017). The Commission also stated that, as part of the study, the Commission will consider possible approaches to simplify the determination of the most closely related substance under Application Note 6 of the Commentary to § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy). The Commission expects to solicit comment several times during the study period from experts and other members of the public.

On December 19, 2016, the Commission published a notice inviting general comment on synthetic cathinones (MDPV, methylone, and mephedrone) and synthetic cannabinoids (JWH–018 and AM–2201), as well as about the application of the factors the Commission traditionally considers when determining the marihuana equivalencies for specific controlled substances to the substances under study. *See* U.S. Sentencing Comm'n, ''Request for Public Comment,'' 81 FR 92021 (Dec. 19, 2016).

On April 18, 2017, the Commission held a public hearing relating to this priority. The Commission received testimony from experts on the synthetic drugs related to the study, including testimony about their chemical structure, pharmacological effects, trafficking patterns, and community impact.

On June 21, 2017, the Commission published a second notice requesting public comment on issues specifically related to MDMA/ecstasy and methylone, one of the synthetic cathinones included in the Commission's study. *See* U.S. Sentencing Comm'n, ''Request for Public Comment,'' 82 FR 28382 (June 21, 2017).

As part of its continuing work on this priority, the Commission is publishing this third request for public comment. The request for public comment contains two parts (Part A and Part B). Part A focuses on issues related to synthetic cathinones. Part B focuses on issues related to tetrahydrocannabinol (THC) and synthetic cannabinoids.

In addition to the substance-specific topics discussed below, the Commission anticipates that its work will continue to be guided by the factors the Commission traditionally considers when determining the marihuana equivalencies for specific controlled substances, including their chemical structure, pharmacological effects, legislative and scheduling history, potential for addiction and abuse, the patterns of abuse and harms associated with their abuse, and the patterns of trafficking and harms associated with their trafficking.

The Commission will also consider possible approaches to simplify the determination of the most closely related substance under Application Note 6 of the Commentary to § 2D1.1. The Commission has received comment from the public suggesting that questions regarding ''the most closely related controlled substance'' arise frequently in cases involving the substances included in the study, and that the Application Note 6 process requires courts to hold extensive hearings to receive expert testimony on behalf of the government and the defendant.

The synthetic cathinones and synthetic cannabinoids included in the study are not specifically listed in either the Drug Quantity Table or the Drug

Equivalency Tables in § 2D1.1. For this reason, in cases involving these substances, courts are required by Application Note 6 of the Commentary to § 2D1.1 to ''determine the base offense level using the marihuana equivalency of the most closely related controlled substance referenced in [§ 2D1.1].'' Section 2D1.1 provides a three-step process for making this determination. *See* USSG § 2D1.1, comment. (n.6, 8). First, a court determines the most closely related controlled substance by considering, to the extent practicable, the factors set forth in Application Note 6. Next, the court determines the appropriate quantity of marihuana equivalent of the most closely related controlled substance, using the Drug Equivalency Tables at Application Note 8(D). Finally, the court uses the Drug Quantity Table in § 2D1.1(c) to determine the base offense level that corresponds to that amount of marihuana.

(A) Synthetic Cathinones

Synthetic Cathinones.—According to the National Institute on Drug Abuse, synthetic cathinones, also known as ''bath salts,'' are human-made drugs chemically related to cathinone, a stimulant found in the khat plant. *See* National Institute on Drug Abuse, DrugFacts: Synthetic Cathinones (''Bath Salts'') (January 2016), available at *https://www.drugabuse.gov/publications/drugfacts/synthetic-cathinones-bath-salts.* Khat is a shrub grown in East Africa and southern Arabia. Around 1975, scientists identified cathinone as the active chemical in the khat plant and, once its molecular structure was discovered, synthetic cathinones began to be produced.

According to the Drug Enforcement Administration and other sources, synthetic cathinones are typically purchased in powder or crystal form over the Internet from suppliers in China and are delivered to the United States by common carriers. *See, e.g.,* European Monitoring Centre for Drugs and Drug Addiction, Synthetic Cathinones Drug Profile (2017), available at *http://www.emcdda.europa.eu/publications/drug-profiles/synthetic-cathinones.*

The scientific literature and other sources suggest that the effects produced by a synthetic cathinone can vary compared to both natural cathinones and other synthetic cathinones. For example, the synthetic cathinones methylone (3,4-methylenedioxy-N-methylcathinone) and mephedrone (4-methylmethcathinone) have been reported to have hallucinogenic effects broadly similar to MDMA (3,4-methylenedioxy-methamphetamine), also known as ''ecstasy.'' In contrast, studies have reported that MDPV (3,4-methylenedioxypyrovalerone) may produce a stimulant effect similar to, but more potent than, cocaine.

Public comment on the Commission's priority, testimony at the April 2017 hearing, and other sources indicate that (1) there are many different synthetic cathinones, and (2) new synthetic cathinones are regularly developed, displacing the existing ones that are trafficked illegally. Given this information, it would likely be difficult, if not impossible, for the Commission to provide individual marihuana equivalencies for each synthetic cathinone in the *Guidelines Manual.*

Issues for Comment

1. The Commission invites general comment on synthetic cathinones, particularly on their chemical structures, their pharmacological effects, potential for addiction and abuse, the patterns of abuse and harms associated with their abuse, and the patterns of trafficking and harms associated with their trafficking. How are synthetic cathinones manufactured, distributed, possessed, and used? What are the characteristics of the offenders involved in these various activities? What harms are posed by these activities? How do these harms differ from those associated with other controlled substances such as marihuana, cocaine, heroin, methamphetamine, or MDMA/Ecstasy?

2. The Commission invites general comment on whether and, if so, how the guidelines should be amended to account for synthetic cathinones. For example, should the Commission establish marihuana equivalencies for specific synthetic cathinones such as methylone, MDPV, and mephedrone? If so, what equivalencies should the Commission provide for methylone, MDPV, and mephedrone, and why? What factors should the Commission consider when deciding whether to account for these synthetic cathinones?

3. As stated above, the Commission has received comment indicating that a large number of synthetic cathinones are currently available, and that new synthetic cathinones are regularly developed for illegal trafficking. Instead of providing marihuana equivalencies for individual synthetic cathinones, should the Commission consider establishing a single marihuana equivalency applicable to all synthetic cathinones? Are synthetic cathinones sufficiently similar to one another in chemical structure, pharmacological effects, potential for addiction and abuse, patterns of trafficking and abuse, and associated harms, to support the adoption of a broad class-based approach for sentencing purposes? If so, what marihuana equivalency should the Commission provide for synthetic cathinones as a class and why? What factors should the Commission account for if it considers adopting a broad class-based approach for synthetic cathinones? Should the Commission define ''synthetic cathinones'' for purposes of this broad class-based approach? If so, how? Are there any synthetic cathinones that should not be included as part of a broad class-based approach and for which the Commission should provide a marihuana equivalency separate from other synthetic cathinones? If so, what equivalency should the Commission provide for each such synthetic cathinone, and why?

What are the advantages and disadvantages of a broad class-based approach for synthetic cathinones? If the Commission were to provide a different approach to account for synthetic cathinones in the guidelines, what should that different approach be?

(B) Tetrahydrocannabinol (THC) and Synthetic Cannabinoids

Tetrahydrocannabinol or THC.—Tetrahydrocannabinol, or THC, is the primary psychotropic substance in marihuana, the most commonly used controlled substance. Although marihuana is the most common method by which THC is consumed, THC can also be extracted from marihuana in concentrated resins, such as hash oil. Synthetic cannabinoids mimic the effects of THC.

The Drug Equivalency Tables in the Commentary to § 2D1.1 set forth the marihuana equivalency for two types of THC—organic THC and synthetic THC. The marihuana equivalencies for both types of THC have the same ratio: 1 gram of THC = 167 grams of marihuana. The marihuana equivalencies for both types of THC have remained unchanged since they were established in the first edition of the *Guidelines Manual* in 1987.

Synthetic Cannabinoids.—According to the National Institute of Drug Abuse, synthetic cannabinoids are man-made mind-altering chemicals that are related to tetrahydrocannabinol (THC), the psychoactive chemical found in the marihuana plant. However, the available scientific literature on this subject strongly suggests that synthetic cannabinoids are substantially different than marihuana or organic THC. *See* National Institute of Drug Abuse,

DrugFacts: Synthetic Cannabinoids (Revised November 2015), available at *https://www.drugabuse.gov/publications/drugfacts/synthetic-cannabinoids.* The Commission has received comment suggesting that these substances are manufactured as a dry powder or crystal, mixed with a solvent, such as acetone, then sprayed on shredded plant material. After the solvent evaporates, the resulting dry mixture is packaged and sold as a ''legal'' alternative to marihuana. JWH–018 and AM–2201 are two examples of synthetic cannabinoids.

Public comment on the Commission's priority and testimony at the April 2017 hearing indicated that (1) there are many different synthetic cannabinoids, and (2) new synthetic cannabinoids are regularly developed, displacing the existing ones that are trafficked illegally. Given this information, it would likely be difficult, if not impossible, for the Commission to provide individual marihuana equivalencies for each synthetic cannabinoid in the *Guidelines Manual.* Commission data indicates that the courts have typically identified THC as the most closely related controlled substance referenced in the guidelines in cases involving synthetic cannabinoids.

Public comment on the Commission's priority and testimony at the April 2017 hearing suggested that applying the marihuana equivalency for THC to a synthetic cannabinoid, such as JWH–018 or AM–2201, is inappropriate because the equivalency for THC itself lacks any empirical support and is too severe. Some commenters also suggested that the current marihuana equivalency for THC may be too severe in cases involving a synthetic cannabinoid as a part of a mixture (*i.e.,* mixed with a solvent or sprayed on a quantity of plant material) when compared to cases involving a synthetic cannabinoid in pure form (*i.e.,* dry powder or crystals).

Issues for Comment

1. The Commission invites general comment on organic and synthetic tetrahydrocannabinol (THC), particularly on its chemical structure, its pharmacological effects, potential for addiction and abuse, the patterns of abuse and harms associated with its abuse, and the patterns of trafficking and harms associated with its trafficking. How is THC manufactured, distributed, possessed, and used? What are the characteristics of the offenders involved in these various activities? What harms are posed by these activities? How do these harms differ from those associated with other controlled substances such as marihuana, cocaine, heroin, or methamphetamine?

The Commission further seeks comment on whether, and if so how, the Commission should change how the guidelines account for THC. As stated above, the marihuana equivalencies of both types of THC, organic and synthetic, have the same ratio—1 gm of THC = 167 gm of marihuana. Is the 1:167 ratio in marihuana equivalency for both types of THC appropriate? Should the Commission establish a different ratio for both types of THC? If so, what ratio should the Commission establish and why? Should THC (organic) and THC (synthetic) have the same ratio in marihuana equivalency? Should the Commission instead establish one ratio for THC (organic) and a different ratio for THC (synthetic)? If so, what ratio should the Commission establish for each substance and why?

2. The Commission invites general comment on synthetic cannabinoids, particularly on their chemical structures, their pharmacological effects, potential for addiction and abuse, the patterns of abuse and harms associated with their abuse, and the patterns of trafficking and harms associated with their trafficking. How are synthetic cannabinoids manufactured, distributed, possessed, and used? What are the characteristics of the offenders involved in these various activities? What harms are posed by these activities? How do these harms differ from those associated with other controlled substances such as marihuana, cocaine, heroin, or methamphetamine?

3. As noted above, courts frequently identify tetrahydrocannabinol (THC) as the most closely related controlled substance referenced in the guidelines in cases involving synthetic cannabinoids. Under the current guidelines, including Application Note 6 to § 2D1.1, is this determination appropriate? Is organic and synthetic THC the most closely related controlled substance to (1) JWH–018, (2) AM–2201, and (3) synthetic cannabinoids in general? If not, is there any controlled substance referenced in § 2D1.1 that is most closely related to synthetic cannabinoids? If so, what substance?

The Commission further seeks comment on whether and, if so, how the guidelines should be amended to account for synthetic cannabinoids. For example, should the Commission establish marihuana equivalencies for specific synthetic cannabinoids such as JWH–018 and AM–2201? If so, what equivalencies should the Commission provide for JWH–018 and AM–2201, and why? What factors should the Commission consider when deciding whether to account for these synthetic cannabinoids?

4. As stated above, the Commission has received comment indicating that a large number of synthetic cannabinoids are currently available, and that new synthetic cannabinoids are regularly developed for illegal trafficking. Instead of providing marihuana equivalencies for individual synthetic cannabinoids, should the Commission consider establishing a single marihuana equivalency applicable to all synthetic cannabinoids? Are synthetic cannabinoids sufficiently similar to one another in chemical structure, pharmacological effects, potential for addiction and abuse, patterns of trafficking and abuse, and associated harms, to support the adoption of a broad class-based approach for sentencing purposes? If so, what marihuana equivalency should the Commission provide for synthetic cannabinoids as a class and why? What factors should the Commission account for if it considers adopting a broad class-based approach for synthetic cannabinoids? Should the Commission define ''synthetic cannabinoids'' for purposes of this broad class-based approach? If so, how? Are there any synthetic cannabinoids that should not be included as part of a broad class-based approach and for which the Commission should provide a marihuana equivalency separate from other synthetic cannabinoids? If so, what equivalency should the Commission provide for each such synthetic cannabinoid, and why?

What are the advantages and disadvantages of a broad class-based approach for synthetic cannabinoids? If the Commission were to provide a different approach to account for synthetic cannabinoids in the guidelines, what should that different approach be?

5. If the Commission was to establish a single marihuana equivalency applicable to all synthetic cannabinoids as a class, should this class-based equivalency also apply to synthetic tetrahydrocannabinol (THC)? Is synthetic THC sufficiently similar to other synthetic cannabinoids in chemical structure, pharmacological effects, potential for addiction and abuse, patterns of trafficking and abuse, and associated harms, to be included as part of a broad class-based approach for synthetic cannabinoids? Should the Commission instead continue to provide a marihuana equivalency for synthetic THC separate from other synthetic cannabinoids?

Authority: 28 U.S.C. 994(a), (o), (p), (x); USSC Rules of Practice and Procedure 4.4.

William H. Pryor, Jr.,

Acting Chair.

[FR Doc. 2017–18077 Filed 8–24–17; 8:45 am]

BILLING CODE 2210–40–P

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission

ACTION: Notice of proposed amendments to sentencing guidelines, policy statements, and commentary. Request for public comment, including public comment regarding retroactive application of any of the proposed amendments. Notice of public hearing.

SUMMARY: The United States Sentencing Commission is considering promulgating amendments to the sentencing guidelines, policy statements, and commentary. This notice sets forth the proposed amendments and, for each proposed amendment, a synopsis of the issues addressed by that amendment. This notice also sets forth several issues for comment, some of which are set forth together with the proposed amendments, and one of which (regarding retroactive application of proposed amendments) is set forth in the Supplementary Information section of this notice.

DATES: (1) *Written Public Comment.*—Written public comment regarding the proposed amendments and issues for comment set forth in this notice, including public comment regarding retroactive application of any of the proposed amendments, should be received by the Commission not later than October 10, 2017. Written reply comments, which may only respond to issues raised in the original comment period, should be received by the Commission not later than November 6, 2017. Public comment regarding a proposed amendment received after the close of the comment period, and reply comment received on issues not raised in the original comment period, may not be considered.

(2) *Public Hearing.*—The Commission may hold a public hearing regarding the proposed amendments and issues for comment set forth in this notice. Further information regarding any public hearing that may be scheduled, including requirements for testifying and providing written testimony, as well as the date, time, location, and scope of the hearing, will be provided by the Commission on its Web site at *www.ussc.gov.*

ADDRESSES: All written comment should be sent to the Commission by electronic mail or regular mail. The email address for public comment is *Public_Comment@ussc.gov.* The regular mail address for public comment is United States Sentencing Commission, One Columbus Circle NE., Suite 2–500, Washington, DC 20002–8002, Attention: Public Affairs.

FOR FURTHER INFORMATION CONTACT: Christine Leonard, Director, Office of Legislative and Public Affairs, (202) 502–4500, *pubaffairs@ussc.gov.*

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 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).

Publication of a proposed amendment requires the affirmative vote of at least three voting members of the Commission and is deemed to be a request for public comment on the proposed amendment. *See* Rules 2.2 and 4.4 of the Commission's Rules of Practice and Procedure. In contrast, the affirmative vote of at least four voting members is required to promulgate an amendment and submit it to Congress. *See* Rule 2.2; 28 U.S.C. 994(p).

The proposed amendments in this notice are presented in one of two formats. First, some of the amendments are proposed as specific revisions to a guideline, policy statement, or commentary. Bracketed text within a proposed amendment indicates a heightened interest on the Commission's part in comment and suggestions regarding alternative policy choices; for example, a proposed enhancement of [2][4][6] levels indicates that the Commission is considering, and invites comment on, alternative policy choices regarding the appropriate level of enhancement. Similarly, bracketed text within a specific offense characteristic or application note means that the Commission specifically invites comment on whether the proposed provision is appropriate. Second, the Commission has highlighted certain issues for comment and invites suggestions on how the Commission should respond to those issues.

In summary, the proposed amendments and issues for comment set forth in this notice are as follows:

(1) A multi-part proposed amendment to respond to the Bipartisan Budget Act of 2015, Public Law 114–74 (Nov. 2, 2015), including (A) revisions to Appendix A (Statutory Index), and a related issue for comment; and (B) amending § 2B1.1 (Theft, Property Destruction, and Fraud) to address new increased penalties for certain persons who commit fraud offenses under certain Social Security programs, and related issues for comment;

(2) a multi-part proposed amendment relating to the findings and recommendations contained in the May 2016 Report of the Commission's Tribal Issues Advisory Group, including (A) amending the Commentary to § 4A1.3 (Departures Based on Inadequacy of Criminal History Category (Policy Statement)) to set forth a non-exhaustive list of factors for the court to consider in determining whether, and to what extent, an upward departure based on a tribal court conviction is appropriate, and related issues for comment; and (B) amending the Commentary to § 1B1.1 (Application Instructions) to provide a definition of ''court protection order,'' and a related issue for comment;

(3) a multi-part proposed amendment to Chapters Four (Criminal History and Criminal Livelihood) and Five (Determining the Sentence), including (A) setting forth options for a new Chapter Four guideline, at § 4C1.1 (First Offenders), and amending § 5C1.1 (Imposition of a Term of Imprisonment) to provide lower guideline ranges for ''first offenders'' generally and increase the availability of alternatives to incarceration for such offenders at the lower levels of the Sentencing Table, and related issues for comment; and (B) revising Chapter Five to (i) amend the Sentencing Table in Chapter Five, Part A to expand Zone B by consolidating Zones B and C and (ii) amend the Commentary to § 5F1.2 (Home Detention) to revise language requiring electronic monitoring, and related issues for comment.

(4) a proposed amendment to the Commentary to § 3E1.1 (Acceptance of Responsibility) setting forth options to revise how a defendant's challenge to relevant conduct should be considered in determining whether the defendant has accepted responsibility for purposes of the guideline, and a related issue for comment;

(5) a multi-part proposed amendment to the *Guidelines Manual* to respond to recently enacted legislation and