(II) a forcible sex offense; or (III) sexual abuse of a minor, except that this term does not include statutory rape.

(vii) ''Sentence of imprisonment'' has the meaning given that term in Application Note 2 and subsection (b) of § 4A1.2 (Definitions and Instructions for Computing Criminal History), without regard to the date of the conviction. The length of the sentence imposed includes any term of imprisonment imposed upon revocation of probation, parole, or supervised release.

(viii) ''Terrorism offense'' means any offense involving, or intending to promote, a ''Federal crime of terrorism'', as that term is defined in 18 U.S.C. § 2332b(g)(5).

2. *Aiding and Abetting, Conspiracies, and Attempts.*—Prior convictions of offenses counted under subsection (b)(1) include the offenses of aiding and abetting, conspiracy to commit, and attempting to commit such offenses.

3. *Multiple Prior Sentences.*—Sentences of imprisonment are counted separately or as a single sentence as provided by § 4A1.2.

4. *Interaction with Chapter Four.*—A conviction taken into account under subsection (b)(1) is not excluded from consideration of whether that conviction receives criminal history points pursuant to Chapter Four, Part A (Criminal History).''.

**Issue for Comment**

1. Should any of the specific offense characteristics and departure provisions in one option be adopted by the Commission as part of another option? If so, which provisions should be incorporated into which option?

**Court Security Improvement Act of 2007**

8. *Issue for Comment*

1. The Commission requests comment regarding two new offenses created by the Court Security Improvement Act of 2007, Public Law 110–177. Specifically, the Commission requests comment regarding whether the Commission should amend Appendix A (Statutory Index) to refer these new provisions to existing guidelines, and if so, to what guideline(s) should each new offense be referenced?

The new provision at 18 U.S.C. 1521 prohibits the filing of, attempts, or conspiracies to file, any false lien or encumbrance against the real or personal property of officers or employees of the United States Government, on account of that individual's performance of official duties. The offense is punishable by a maximum term of 10 years of imprisonment. Are there existing guidelines that would be appropriate to cover violations of the new provision at 18 U.S.C. 1521? For example, should violations of 18 U.S.C. 1521 be referenced to § 2J1.2 (Obstruction of Justice), or alternatively or additionally to § 2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States)? What, if any, specific offense characteristics should be added? Should an application note be added instructing courts to apply § 3A1.2 (Official Victim)?

The new provision at 18 U.S.C. 119 prohibits the public disclosure of restricted personal information about a federal officer or employee, witness, juror, or the immediate family member of such persons, with the intent to threaten or facilitate a crime of violence against such person. The offense is punishable by a maximum term of 5 years of imprisonment. Are there existing guidelines that would be appropriate to cover violations of the new provision at 18 U.S.C. 119 (Protection of individuals performing certain official duties)? For example, should the new provision be referenced to § 2H3.1 (Interception of Communications; Eavesdropping; Disclosure of Certain Private or Protected Information); or alternatively or additionally to the assault guidelines in Chapter Two, Part A (Offenses Against the Person)? What, if any, specific offense characteristics should be added? Should an application note be added instructing courts to apply § 3A1.2 (Official Victim)?

2. Section 209 of the Act directs the Commission to ''review the Sentencing Guidelines as they apply to threats punishable under section 115 of title 18, United States Code, that occur over the Internet, and determine whether and by how much that circumstance should aggravate the punishment pursuant to section 994 of title 28, United States Code. In conducting the study, the Commission shall take into consideration the number of such threats made, the intended number of recipients of such threats, and whether the initial senders of such threats were acting in an individual capacity or as part of a larger group.'' How should the Commission respond to the directive? What are the aggravating circumstances in such offenses, and how should the Commission address those circumstances?

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**BILLING CODE 2211–01–P**

## UNITED STATES SENTENCING COMMISSION

### Sentencing Guidelines for United States Courts

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice of proposed amendments to the Sentencing Commission's Rules of Practice and Procedure. Request for public comment.

**SUMMARY:** This notice sets forth proposed amendments to the Commission's Rules of Practice and Procedure and a related issue for comment. The Commission invites public comment on these proposed amendments.

**DATES:** Public comment should be received by the Commission not later than March 28, 2008.

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

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

**SUPPLEMENTARY INFORMATION:** Section 995(a)(1) of title 28, United States Code, authorizes the Commission to establish general policies and promulgate rules and regulations as necessary for the Commission to carry out the purposes of the Sentencing Reform Act of 1984. The Commission originally adopted the Rules of Practice and Procedure in July 1997 and now proposes to make amendments to these rules as they pertain to retroactivity consideration. In accordance with Rule 1.2 of its Rules of Practice and Procedure, the Commission hereby invites the public to provide comment on the proposed amendments.

**Authority:** 28 U.S.C. 995(a)(1); USSC Rules of Practice and Procedure 1.2.

**Ricardo H. Hinojosa,**

*Chair.*

1. *Synopsis of Proposed Amendment:* This proposed amendment modifies the Commission's Rules of Practice and Procedure pertaining to retroactivity consideration. Currently, Rule 4.1 (Promulgation of Amendments) provides that ''in those cases in which the Commission considers an amendment for retroactive application to previously sentenced, imprisoned

defendants, it shall decide whether to make the amendment retroactive at the same meeting at which it decides to promulgate the amendment.''. Deciding whether to make an amendment retroactive at the same meeting at which the amendment is promulgated, however, often is impracticable. A complete retroactivity analysis typically cannot be prepared until the Commission has decided to promulgate a specific amendment option, which may not occur until the meeting at which the amendment is promulgated. Similarly, the public often cannot provide fully informed comment on possible retroactivity until the Commission has narrowed its consideration of a proposed amendment to a specific option, again a decision which may not occur until the meeting at which the amendment is promulgated. As a result, the proposed amendment deletes the requirement in Rule 4.1 that the retroactivity decision be made at the same meeting as promulgation of an amendment.

The proposed amendment also amends Rule 4.1 to more clearly set forth the Commission's statutory requirement to consider retroactivity under 28 U.S.C. 994(u).

The proposed amendment also modifies the process by which the Commission instructs staff to prepare a retroactivity impact analysis. Currently, Rule 2.2 (Voting Rules for Action by the Commission) provides that ''[t]he decision to instruct staff to prepare a retroactivity impact analysis for a proposed amendment shall require the affirmative vote of at least three members at a public meeting.'' The proposed amendment would delete this requirement by amending Rule 4.1 to provide that ''[p]rior to final action on the retroactive application of an amendment, staff shall prepare and the Commission shall review a retroactivity impact analysis of the amendment''. The proposed amendment therefore, deletes the procedural requirement that the Commission instruct staff to prepare a retroactivity analysis and instead requires that such an analysis be prepared prior to final action on retroactivity.

**Finally, one issue for comment follows the proposed amendment.**

Part II of the Rules of Practice and Procedure is amended in Rule 2.2 is amended in the third paragraph by striking the last sentence.

Part IV of the Rules of Practice and Procedure is amended in Rule 4.1 in the second paragraph by striking the last two sentences and inserting the following:

''The Commission shall, however, consider whether to give retroactive application to an amendment that reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses. See 28 U.S.C. 994(u). Prior to final action on the retroactive application of an amendment, staff shall prepare and the Commission shall review a retroactivity impact analysis of the amendment.''.

**Issue for Comment**

Should the Commission amend the Commission's Rules of Practice and Procedure to provide a specified time frame governing final action with respect to retroactive application of an amendment pursuant to 28 U.S.C. 994(u), and, if so, what should the time frame be? For example, should the rules provide a time frame that begins at the date of promulgation or the effective date of the amendment? Should the time frame specify a certain period of days by which final action should be taken, or should the time frame be more general in nature?

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## SMALL BUSINESS ADMINISTRATION

### Small Business Size Standards: Waiver of the Nonmanufacturer Rule

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of Waiver of the Nonmanufacturer Rule for All Other Miscellaneous Electrical Equipment and Component Manufacturing product number 6240.

**SUMMARY:** The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for All Other Miscellaneous Electrical Equipment and Component Manufacturing (Fluorescent Lamps, Incandescent Lamps, etc). The basis for waiver is that no small business manufacturers are supplying this class of product to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

**DATES:** This waiver is effective February 12, 2008.

**FOR FURTHER INFORMATION CONTACT:** Pamela M. McClam, Program Analyst, by telephone at (202) 205–7408; by FAX at (202) 481–4783; or by e-mail at *Pamela.McClam@sba.gov.*

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on December 3, 2007, to waive the Nonmanufacturer Rule for All Other Miscellaneous Electrical Equipment and Component Manufacturing (Fluorescent Lamps, Incandescent Lamps, etc).

In response, on December 14, 2007, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for All Other Miscellaneous Electrical Equipment and Component Manufacturing (Fluorescent Lamps, Incandescent Lamps, etc). SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. No comments were received in response to this notice. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for All Other Miscellaneous Electrical Equipment and Component Manufacturing (Fluorescent Lamps,