Dated: September 1, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

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UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final action regarding technical and conforming amendments to Federal sentencing guidelines effective November 1, 2010.

SUMMARY: On April 29, 2010, the Commission submitted to the Congress amendments to the sentencing guidelines and official commentary, which become effective on November 1, 2010, unless Congress acts to the contrary. Such amendments and the reasons for amendment subsequently were published in the **Federal Register**. 75 FR 27388 (May 14, 2010). The Commission has made technical and conforming amendments, set forth in this notice, to commentary provisions related to those amendments.

DATES: The Commission has specified an effective date of November 1, 2010, for the amendments set forth in this notice.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4597.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent commission in the judicial branch of the United States government, is authorized by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for Federal courts. Section 994 also directs the Commission to review and revise periodically promulgated guidelines and authorizes it to submit guideline amendments to Congress not later than the first day of May each year. *See* 28 U.S.C. 994(o), (p). Absent an affirmative disapproval by Congress within 180 days after the Commission submits its amendments, the amendments become effective on the date specified by the Commission (typically November 1 of the same calendar year). *See* 28 U.S.C. 994(p).

Unlike amendments made to sentencing guidelines, amendments to commentary may be made at any time and are not subject to congressional review. To the extent practicable, the Commission endeavors to include amendments to commentary in any submission of guideline amendments to Congress. Occasionally, however, the Commission determines that technical and conforming changes to commentary are necessary. This notice sets forth technical and conforming amendments to commentary that will become effective on November 1, 2010.

Authority: USSC Rules of Practice and Procedure 4.1.

William K. Sessions III,

Chair.

Technical and Conforming Amendments

1. Amendment: The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 1 by inserting "or Paleontological Resources" after "Resources" both places it appears.

The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 3 in the last paragraph by inserting "*or Paleontological Resources*" after "*Resources*"*;* by inserting "or paleontological resource" before ", loss"; by striking "cultural heritage" after "to that" and by striking "cultural heritage" after "of the".

The Commentary to § 2K1.3 captioned "Application Notes" is amended in Note 9 by striking "; § 4A1.2, comment. (n.3)".

The Commentary to § 2P1.1 captioned "Application Notes" is amended in Note 5 by striking the comma after "escape)" and inserting "and"; and by striking ", and § 4A1.1(e) (recency)".

The Commentary to § 3A1.2 captioned "Application Notes" is amended in Note 3 by striking "§ 2B3.1(a)" and inserting "§ 2B3.1(b)(1)".

The Commentary to § 3C1.1 captioned "Application Notes", as amended by Amendment 9, submitted to Congress on April 29, 2010, is amended in Note 4(F) by inserting "judge" after "magistrate"; and in Note 5(B) by striking "4(g)" and inserting "4(G)".

The Commentary to § 3C1.1 captioned "Application Notes" is amended in Note 9 by striking "his" and inserting "the defendant's"; and by striking "he" and inserting "the defendant".

The Commentary to § 3C1.2 captioned "Application Notes" is amended in Note 5 by striking "his" and inserting "the defendant's" and by striking "he" and inserting "the defendant".

The Commentary to § 3E1.1 captioned "Application Notes" is amended in Note 3 by striking "1(a)" and inserting "1(A)".

The Commentary to § 4B1.3 captioned "Application Notes" is amended in Note 2 by striking "(1)" and inserting "(A)"; by striking "(2)" and inserting "(B)"; and by striking "his" and inserting "the defendant's".

The Commentary to § 4B1.3 captioned "Background" is amended by striking "he" and inserting "the defendant"; and by striking "his" and inserting "the defendant's".

The Commentary to § 5B1.1 captioned "Application Notes", as amended by Amendment 1, submitted to Congress on April 29, 2010, is amended in Note 1 by redesignating subdivisions (a) and (b) as (A) and (B).

The Commentary to § 5D1.1 captioned "Application Notes" is amended in Note 1 by redesignating subdivisions (1) through (5) as (A) through (E).

The Commentary to § 5E1.5 captioned "Background" is amended by striking "1302c–9" and inserting "1320c–9".

The Commentary to § 5G1.2 captioned "Application Notes" is amended in Note 1 in the second paragraph by striking "(1)" and inserting "(A)" and by striking "(2)" and inserting "(B)".

The Commentary to § 5G1.3 captioned "Application Notes" is amended in Note 2(C) by striking "Judgement" and inserting "Judgment".

The Commentary to § 7B1.4 captioned "Application Notes" is amended in Note 2 by striking "Adequacy" and inserting "Departures Based on Inadequacy"; and in Note 3 by striking "he" and inserting "the defendant".

The Commentary to § 8A1.2 captioned "Application Notes" is amended in Note 2 by striking "and" after "Procedures" and inserting a comma; by inserting ", and Crime Victims' Rights" after "Agreements"; and in Note 3 by redesignating subdivisions (a) through (j) as subdivisions (A) through (J).

Reason for Amendment: This amendment makes certain technical and conforming changes to commentary in the *Guidelines Manual.*

First, the amendment makes certain technical and conforming changes in connection with the amendments that the Commission submitted to Congress on April 29, 2010. *See* 75 FR 27388 (May 14, 2010). Those conforming changes are as follows:

(1) Amendment 8 expanded the scope of § 2B1.5 (Theft of, Damage to, or Destruction of, Cultural Heritage Resources; Unlawful Sale, Purchase, Exchange, Transportation, or Receipt of Cultural Heritage Resources) to cover not only cultural heritage resources, but also paleontological resources. To reflect this expanded scope, conforming changes are made to § 2B1.1 (Theft, Property Destruction, and Fraud), Application Notes 1 and 3.

(2) Amendment 9 made a technical change to § 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition), Application Note 10, to correct an inaccurate

citation. To address a parallel inaccurate citation in § 2K1.3 (Unlawful Receipt, Possession, or Transportation of Explosive Materials; Prohibited Transactions Involving Explosive Materials), Application Note 9, a parallel technical change is made there.

(3) Amendment 5 eliminated the use of "recency" points in calculating the criminal history score. A conforming change is made in § 2P1.1 (Escape, Instigating or Assisting Escape), Application Note 5, to delete an obsolete reference to "recency."

Second, the amendment makes certain other stylistic and clerical changes to commentary in the *Guidelines Manual.* It amends § 3A1.2 (Official Victim), Application Note 3, to provide an accurate reference to an enhancement in the robbery guideline. It amends § 3C1.1 (Obstructing or Impeding the Administration of Justice), Application Note 4, to replace the obsolete term "magistrate" with the term "magistrate judge." It amends § 5E1.5 (Costs of Prosecution), Background, to correct a typographical error in a statutory citation. It amends § 7B1.4 (Term of Imprisonment), Application Note 2, and § 8A1.2 (Application Instructions—Organizations), Application Note 2, to provide accurate references to guideline titles. Finally, it makes certain other stylistic changes to promote stylistic consistency and gender neutrality.

[FR Doc. 2010–22356 Filed 9–7–10; 8:45 am]

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UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final priorities.

SUMMARY: In July 2010, the Commission published a notice of possible policy priorities for the amendment cycle ending May 1, 2011. See 75 FR 41927–41929 (July 19, 2010). After reviewing public comment received pursuant to the notice of proposed priorities, the Commission has identified its policy priorities for the upcoming amendment cycle and hereby gives notice of these policy priorities.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4597.

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).

As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the Federal sentencing guidelines, the Commission has identified its policy priorities for the amendment cycle ending May 1, 2011. 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 or all of its identified priorities by the statutory deadline of May 1, 2011. Accordingly, it may be necessary to continue work on any or all of these issues beyond the amendment cycle ending on May 1, 2011.

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

(1) Implementation of the Fair Sentencing Act of 2010, Public Law 111–220, regarding offenses involving cocaine base ("crack" cocaine) and offenses involving drug trafficking, including promulgation of a temporary, emergency amendment under section 8 of that Act and promulgation of a permanent amendment implementing that Act, including possible consideration of amending any related adjustments; and possible consideration of amending the Drug Quantity Table in § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) across drug types.

(2) Continuation of its work with the congressional, executive, and judicial branches of government, and other interested parties, to study the manner in which *United States* v. *Booker,* 543 U.S. 220 (2005), and subsequent Supreme Court decisions have affected Federal sentencing practices, the appellate review of those practices, and the role of the Federal sentencing guidelines. The Commission anticipates that it will issue a report with respect to its findings, possibly including (A) an evaluation of the impact of those decisions on the Federal sentencing guideline system; (B) development of recommendations for legislation regarding Federal sentencing policy; (C) an evaluation of the appellate standard of review applicable to post-*Booker* Federal sentencing decisions; and (D) possible consideration of amendments to the Federal sentencing guidelines. Such findings will be informed by the testimony received at seven regional public hearings the Commission held in 2009–2010, feedback received from the judiciary contained in the *Results of Survey of United States District Judges January 2010 through March 2010* issued in June 2010, and other information and input.

(3) Continuation of its study of and, pursuant to the directive in section 4713 of the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, Public Law 111–84, report to Congress on statutory mandatory minimum penalties, including a review of the operation of the "safety valve" provision at 18 U.S.C. 3553(e). The findings of the report will be informed by the testimony received at the hearing on statutory mandatory minimum penalties the Commission held on May 27, 2010, the regional public hearings and survey of United States District Judges referred to in paragraph (2), and other information and input.

(4) Study of and, pursuant to the directive in section 107(b) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Public Law 111–195, report to Congress regarding violations of section 5(a) of the United Nations Participation Act of 1945 (22 U.S.C. 287c(a)), sections 38, 39, and 40 of the Arms Export Control Act (22 U.S.C. 2778, 2779, and 2780), and the Trading with the Enemy Act (50 U.S.C. App. 1 *et seq.*), including consideration of amendments to § 2M5.2 (Exportation of Arms, Munitions, or Military Equipment or Services Without Required Validated Export License) or other guidelines in Part K or Part M of Chapter Two of the *Guidelines Manual* that might be appropriate in light of the information obtained from such study.

(5) Implementation of the directive in section 10606(a)(2)(A) of the Patient Protection and Affordable Care Act, Public Law 111–148, regarding health care fraud offenses; the directives in section 1079A of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, regarding securities fraud offenses and financial institution fraud offenses; and any other crime legislation enacted during the 111th Congress warranting a Commission response.

(6) Continuation of its review of child pornography offenses and possible report to Congress as a result of such review. It is anticipated that any such report would include (A) a review of the incidence of, and reasons for, departures and variances from the guideline sentence; (B) a compilation of studies