

transactions in Nasdaq-listed equity securities effected otherwise than on an exchange.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2006-108 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2006-108. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's

Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2006-108 and should be submitted on or before October 18, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>22</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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**BILLING CODE 8010-01-P**

## **UNITED STATES SENTENCING COMMISSION**

### **Sentencing Guidelines for United States Courts**

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice of final action regarding amendments to Federal sentencing guidelines effective November 1, 2006; correction.

**SUMMARY:** On May 1, 2006, the Commission submitted to Congress amendments to the federal sentencing guidelines and published these amendments in the **Federal Register** on May 15, 2006. See 71 FR 28063. The Commission has made technical and conforming amendments to commentary provisions related to those amendments and has made a correction to the amendatory language of one amendment.

**DATES:** The Commission has specified an effective date of November 1, 2006, for the amendments set forth in this notice.

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

**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 the 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). 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 in order to execute correctly the amendments submitted to Congress. This notice sets forth technical and conforming amendments to commentary related to the amendments submitted to Congress on May 1, 2006, that will become effective date on November 1, 2006. This notice also sets forth a correction to amendatory language.

**Authority:** USSC Rules of Practice and Procedure 4.1.

**Ricardo H. Hinojosa,**  
*Chair.*

#### **1. Amendment**

The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 7(C) by striking "§ 2J1.7" and inserting "§ 3C1.3".

The Commentary to § 2K2.1 captioned "Application Notes", as amended by Amendment 9 submitted to Congress on May 1, 2006 (71 FR 28069; USSG App. C (amendment 691)), is further amended in Note 3 by inserting "Definition of 'Prohibited Person'." before "For purposes"; and in Note 11, as redesignated by Amendment 9 (USSG App. C (amendment 691)), by striking "Note 8" and inserting "Note 7".

The Commentary to § 2K2.4 captioned "Application Notes" is amended in

<sup>22</sup> 17 CFR 200.30-3(a)(12).

Note 4 by striking “(b)(5)” each place it appears and inserting “(b)(6)”.

Reason for Amendment: This amendment makes various technical and conforming amendments in order to execute properly amendments submitted to the Congress on May 1, 2006, and that will become effective on November 1, 2006. Specifically, the amendment conforms guideline references in the commentary of §§ 2B1.1 (Theft, Property Destruction, and Fraud), 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition), and 2K2.4 (Use of Firearm, Armor-Piercing Ammunition, or Explosive During or in Relation to Certain Crimes) to redesignated guideline provisions and adds a heading to Application Note 3 in § 2K2.1.

## 2. Correction

In the **Federal Register** published on May 15, 2006 (71 FR 28063), make the following correction: On page 28071, in column 3, correct the second amendatory instruction to read as follows:

Section 2L1.1(c) is amended by striking “If any person” through the end of “Subpart 1” and inserting the following:

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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 final priorities.

**SUMMARY:** In August 2006, the Commission published a notice of possible policy priorities for the amendment cycle ending May 1, 2007. See 77 FR 44344 (August 4, 2006). 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) 502-4590.

**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).

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, 2007, and possibly continuing into 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 or all of its identified priorities by the statutory deadline of May 1, 2007. Accordingly, it may be necessary to continue work on any or all of these issues beyond the amendment cycle ending on May 1, 2007.

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

(1) Implementation of crime legislation enacted during the 109th Congress warranting a Commission response, including (A) the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248; (B) the Stop Counterfeiting in Manufactured Goods Act, Pub. L. 109-181; (C) the USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. 109-177; (D) the Trafficking Victims Protection Reauthorization of 2005, Pub. L. 109-164; (E) the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162; (F) the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. 109-59; and (G) other legislation authorizing statutory penalties, creating new offenses, or pertaining to victims, that requires incorporation into the guidelines;

(2) 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*, including any appropriate guideline changes in light of the Commission's 2006 report to Congress, *Final Report on the Impact of United States v. Booker on Federal Sentencing*, and continuation of its analysis of post-*Booker* data, case law, and other feedback, including reasons for departures and variances stated by sentencing courts;

(3) 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;

(4) Continuation of its work with the congressional, executive, and judicial branches of the government and other interested parties on cocaine sentencing policy, including holding a hearing on this issue and reevaluating the Commission's 2002 report to Congress, *Cocaine and Federal Sentencing Policy*;

(5) Beginning of a guideline simplification effort to develop and consider possible options that might improve the overall effectiveness of the sentencing guidelines;

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

(7) Continuation of its policy work to implement 28 U.S.C. 994(t), specifically regarding the development of further commentary to § 1B1.13 (Reduction in Term of Imprisonment as a Result of Motion by Director of Bureau of Prisons); and

(8) 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.

**Authority:** 28 U.S.C. 994(a), (o); USSC Rules of Practice and Procedure 5.2.

**Ricardo H. Hinojosa,**  
Chair.

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## SMALL BUSINESS ADMINISTRATION

### [Disaster Declaration #10597 and #10598]

#### New Mexico Disaster Number NM-00004

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

**ACTION:** Amendment 2.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of New Mexico (FEMA-1659-DR), dated 8/30/2006.

*Incident:* Severe Storms and Flooding.

*Incident Period:* 7/26/2006 and continuing through 9/18/2006.

**DATES:** *Effective Date:* 9/18/2006.

*Physical Loan Application Deadline Date:* 10/30/2006.