

UNITED STATES SENTENCING COMMISSION

Rules of Practice and Procedure

Editorial Note. This document was originally published at 61 FR 51738, October 3, 1996, and is being reprinted in its entirety because of typesetting errors.

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed rules of practice and procedure. Request for public comment.

SUMMARY: Pursuant to its authority under 995(a)(1) of title 28, United States Code, the Sentencing Commission is considering the promulgation of internal rules of practice and procedure. Proposed rules were published on July 29, 1996 with comment due on November 1, 1996. 61 FR 39493-96. Pursuant to the same authority, the Commission is considering additional provisions to those rules that are set forth below. The Commission invites comment on these proposed rules.

DATES: Written comment on the previously published draft rules and these revised supplemental provisions should be submitted to Michael Courlander, Public Information Specialist, no later than December 16, 1996. It should be noted that this deadline represents an extension of time for comment on the draft rules published in July.

ADDRESSES: Comments should be sent to: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2-500, South Lobby, Washington, D.C. 20002-8002, Attention: Public Information.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Information Specialist, Telephone: (202) 273-4590.

SUPPLEMENTARY INFORMATION: Section 995(a)(1) of title 28 authorizes the U.S. Sentencing Commission, an independent agency in the judicial branch of the United States Government, to establish general policies and promulgate rules and regulations for the Commission as necessary to carry out the purposes of the Sentencing Reform Act of 1984.

The new provisions contained herein address moving to a two-year cycle for guideline amendments, rules for decisions on retroactivity of proposed amendments, and reconsideration of amendments. The entire set of rules of practice and procedure are designed to facilitate public understanding and participation in the work of the Sentencing Commission. For the most part, these rules do not represent a

substantive change in the way the Commission has traditionally conducted its business. These rules are not intended to enlarge the rights of any person sentenced under the guidelines promulgated by the Commission or otherwise create any private right of action.

Authority: 28 U.S.C. 995(a)(1).
Richard P. Conaboy,
Chairman.

Revised Rules of Practice and Procedure

The following are the previously published draft rules that are proposed to be modified. Changes are noted in *italics*.

Rule 2.2 Voting Rules for Action by the Commission

Except as otherwise provided in these rules or by law, action by the Commission requires the affirmative vote of a majority of the members at a public meeting at which a quorum is present. A quorum shall consist of a majority of the members then serving. Members shall be deemed "present" and may participate and vote in public meetings from remote locations by electronic means, including, but not limited to, telephone, satellite and video conference devices.

Promulgation of guidelines, policy statements, official commentary, and amendments thereto shall require the affirmative vote of at least four members at a public meeting. See 28 U.S.C. 994(a).

Publication of proposed amendments to guidelines, policy statements, or official commentary in the Federal Register to solicit public comment shall require the affirmative vote of at least three members at a public meeting. *Similarly, the 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.*

Action on miscellaneous matters may be taken without a meeting based on the affirmative vote of a majority of the members then serving by written or oral communication. Such matters may include, but are not limited to, the approval of budget requests, legal briefs, staff reports, analyses of legislation, and administrative and personnel issues.

A motion to reconsider Commission action may be made only by a Commissioner who was on the prevailing side of the vote for which reconsideration is sought, or who did not vote on the matter. Four votes are necessary to reconsider a Commission vote on any question on which a four-vote majority is required.

Rule 5.1 Promulgation of Amendments

The Commission may promulgate and submit to Congress amendments to the guidelines between the beginning of a regular session of Congress and the first day of May that year. Amendments shall be accompanied by a brief explanation or statement of reasons for the amendments. Unless otherwise specified, or unless Congress legislates to the contrary, amendments submitted for review shall take effect on the first day of November of the year in which submitted. 28 U.S.C. 994(p).

The Commission may promulgate amendments at other times pursuant to special statutory enactment (e.g., the "emergency" amendment authority under section 730 of the Antiterrorism and Effective Death Penalty Act of 1996).

Amendments to policy statements and commentary may be promulgated and put into effect at any time. However, to the extent practicable, the Commission shall endeavor to include amendments to policy statements and commentary in any submission of guideline amendments to Congress and put them into effect on the same November 1 date as any guideline amendments issued in the same year.

Except as necessary to implement enacted legislation or to address other matters determined by the Commission to be urgent and compelling, the Commission shall, after May 1, 1997, promulgate or amend the guidelines no more frequently than biennially. No amendments shall be issued in the annual amendment cycle beginning on May 2, 1997 except as provided in this rule.

Generally, promulgated amendments will given prospective application only. However, 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. Prior to final Commission action on the retroactive application of an amendment, the Commission shall review the retroactivity impact analysis prepared pursuant to Rule 2.2, supra.

Rule 5.4 Federal Register Notice of Proposed Amendments

As stated in Rule 2.2, supra, upon the affirmative vote of three voting members, the Commission may authorize publication in the Federal Register of a proposed amendment to a guideline, policy statement, or official commentary. A vote to publish shall be

deemed to be a request for public comment on the proposed amendment. *At the same time the Commission votes to publish proposed amendments for comment, it shall request public comment on whether to make any amendments retroactive. As stated in Rule 5.1, supra, generally, amendments will be given prospective application only.*

The notice of proposed amendments also shall provide, where appropriate and practicable, reasons for consideration of amendments, a summary of or reference to information that is relevant to the issue(s), and whether the Commission possesses information on the issue(s) that is publicly available. In addition, the publication notice shall include a deadline for public comment and may include a notice of any scheduled public hearing(s) or meetings on the issue(s).

In the case of proposed amendments to guidelines or issues for comment that form the basis for possible guidelines amendments, to the extent practicable, there shall be a minimum period of public comment of at least 60 calendar days prior to final Commission action on the proposed amendments.

[FR Doc. 96-25366 Filed 10-2-96; 8:45 am]

BILLING CODE 1505-01-D

SMALL BUSINESS ADMINISTRATION

Public Meeting

The U.S. Small Business Administration, Region V, Minnesota District Advisory Council, located in the geographical area of Minneapolis/St. Paul, will hold a public meeting on Friday, November 15, 1996, at 11:30 a.m., at the Decathlon Club, 1700 East 79th Street, Bloomington, Minnesota, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Edward A. Daum, District Director, U.S. Small Business Administration, 610-C Butler Square, 100 North Sixth Street, Minneapolis, Minnesota 55403, (612) 370-2306.

Dated: October 1, 1996.

Michael P. Novelli,

Director, Office of Advisory Councils.

[FR Doc. 96-25711 Filed 10-7-96; 8:45 am]

BILLING CODE 8025-01-P

Public Meeting

The U.S. Small Business Administration, Region I, Providence,

Rhode Island District Advisory Council, will hold a public meeting on Thursday, October 10, 1996, at 8:00 a.m., at the Providence Marriott, Charles at Orms Streets, Providence, Rhode Island 02904, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Joseph P. Loddo, District Director, U.S. Small Business Administration, 380 Westminster Street, Providence, Rhode Island 02903, (401) 528-4561.

Dated: October 1, 1996.

Michael P. Novelli,

Director, Office of Advisory Councils.

[FR Doc. 96-25712 Filed 10-7-96; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comment: Deregulation Measures in Japan

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written comments regarding deregulation measures in Japan.

SUMMARY: The Government of the United States plans to submit to the Government of Japan comments regarding economic deregulation measures by the Government of Japan. The United States Trade Representative (USTR) solicits comments from interested parties regarding specific laws, regulations, or regulatory practices in Japan, the removal or modification of which would improve market access for United States products or services.

DATES: Comments are due on or before noon on October 18, 1996.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Byron Sigel, Director for Japanese Affairs, (202) 395-5070, or Joanna McIntosh, Assistant General Counsel, (202) 395-7203.

SUPPLEMENTARY INFORMATION: On March 31, 1996, the Government of Japan published revisions to its 1995 Deregulation Action Plan. The Government of Japan intends to announce further revisions to this Action Plan next spring.

Prior to the announcement of the revisions in March 1996, the United States Government held several consultations with the Government of Japan regarding deregulation and competition policy issues. On

November 21, 1995, the Government of the United States, under the coordination of the Office of the United States Trade Representative, submitted to the Government of Japan specific written comments regarding the deregulation process, competition policy issues, administrative reform process, and specific suggestions for deregulation measures. The comments submitted by the Government of the United States are available for public inspection and copying in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20506. An appointment to review the comments may be made by calling Brenda Webb (202) 395-6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday. The list of issues raised in the comments is provided in the attached appendix.

The Government of the United States plans to consult further with the Government of Japan regarding the measures announced last spring as well as additional deregulation and competition policy measures and issues. The Government of the United States plans to submit to the Government of Japan further specific comments addressing these areas.

Request for Public Comment

Interested persons are invited to submit written comments on specific laws, regulations, or regulatory practices in Japan, the removal or modification of which would improve market access for United States products or services. Comments need not be limited to the sectors covered by the deregulation measures previously announced by the Government of Japan or commented on by the United States Government, but may address any sector. Comments should identify and explain the laws, regulations, and regulatory practices in sufficient detail to allow a full understanding of the regulatory issues and market access concerns.

In addition to comments regarding specific laws, regulations, or regulatory practices, USTR is interested in receiving comments from interested persons regarding regulatory processes and procedures, for example regarding transparency or review of administrative actions, which affect market access. USTR also solicits comments regarding the specific experiences and suggestions of interested parties with respect to competition laws and policies and their enforcement in Japan, as well as other laws and policies which may facilitate or tolerate anticompetitive conduct.