

Extension and Sentencing Commission Authority Act of 2005, Pub. L. 109-76, the Commission hereby gives notice of a temporary, emergency amendment to the sentencing guidelines, policy statements, and commentary. This notice sets forth the temporary, emergency amendment and the reason for the amendment.

**DATES:** The Commission has specified an effective date of March 27, 2006, for the emergency amendment set forth in this notice.

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

**SUPPLEMENTARY INFORMATION:** The United States Parole Commission Extension and Sentencing Commission Authority Act of 2005 requires the Commission, under emergency amendment authority, to implement section 3 of the ASC Act no later than 180 days after the date of enactment of the United States Parole Commission Extension and Sentencing Commission Authority Act of 2005. Accordingly, the Commission is required to promulgate a temporary, emergency amendment by March 27, 2006.

The temporary, emergency amendment set forth in this notice also may be accessed through the Commission's Web site at <http://www.ussc.gov>.

**Authority:** 28 U.S.C. 994(a), (o), (p), (x); section 105 of Pub. L. 109-9; and Pub. L. 109-76.

**Ricardo H. Hinojosa,**  
Chair.

1. *Amendment:* Section 2D1.1 is amended by redesignating subsections (b)(6) and (b)(7) as subsections (b)(8) and (b)(9), respectively; and by inserting the following after subsection (b)(5):

“(6) If the offense involved the distribution of an anabolic steroid and a masking agent, increase by 2 levels.

(7) If the defendant distributed an anabolic steroid to an athlete, increase by 2 levels.”.

Section 2D1.1(c) is amended in the “\*Notes to Drug Quantity Table” in subdivision (F) by striking “(except anabolic steroids)”; and by adding at the end the following:

“For an anabolic steroid that is not in a pill, capsule, tablet, or liquid form (e.g., patch, topical cream, aerosol), the court shall determine the base offense level using a reasonable estimate of the quantity of anabolic steroid involved in the offense. In making a reasonable estimate, the court shall consider that each 25 mg of an anabolic steroid is one ‘unit’.”.

Section 2D1.1(c) is amended in the “\*Notes to the Drug Quantity Table” by striking subdivision (G); and by

redesignating subdivisions (H) through (J) as subdivisions (G) through (I), respectively.

The Commentary to § 2D1.1 captioned “Application Notes” is amended in the first paragraph of Note 8 by inserting “Interaction with § 3B1.3.—” before “A defendant who”; by striking “enhancement” and inserting “adjustment”; and by adding at the end the following:

“Additionally, an enhancement under § 3B1.3 ordinarily would apply in a case in which the defendant used his or her position as a coach to influence an athlete to use an anabolic steroid.”.

The Commentary to § 2D1.1 captioned “Application Notes” is amended in Notes 19 and 20 by striking “(b)(6)” each place it appears and inserting “(b)(8)”; and in Note 21 by striking “(b)(7)” each place it appears and inserting “(b)(9)”.

The Commentary to § 2D1.1 captioned “Application Notes” is amended by adding at the end the following:

“24. Application of Subsection (b)(6).—For purposes of subsection (b)(6), ‘masking agent’ means a substance that, when taken before, after, or in conjunction with an anabolic steroid, prevents the detection of the anabolic steroid in an individual’s body.

25. Application of Subsection (b)(7).—For purposes of subsection (b)(7), ‘athlete’ means an individual who participates in an athletic activity conducted by (i) an intercollegiate athletic association or interscholastic athletic association; (ii) a professional athletic association; or (iii) an amateur athletic organization.”.

The Commentary to § 2D1.1 captioned “Background” is amended in the ninth paragraph by striking “(b)(6)(A)” and inserting “(b)(8)(A)”; and in the last paragraph by striking “(b)(6)(B) and (C)” and inserting “(b)(8)(B) and (C)”.

*Reason for Amendment:* This amendment implements the directive in the United States Parole Commission Extension and Sentencing Commission Authority Act of 2005, Pub. L. 109-76, which required the Commission, under emergency amendment authority, to implement section 3 of the Anabolic Steroid Control Act of 2004, Pub. L. 108-358 (the “ASC Act”). The ASC Act directed the Commission to “review the Federal sentencing guidelines with respect to offenses involving anabolic steroids” and “consider amending the \* \* \* guidelines to provide for increased penalties with respect to offenses involving anabolic steroids in a manner that reflects the seriousness of such offenses and the need to deter anabolic steroid trafficking and use \* \* \*.”

The amendment implements the directives by increasing the penalties for

offenses involving anabolic steroids. It does so by changing the manner in which anabolic steroids are treated under § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy).

The amendment eliminates the sentencing distinction between anabolic steroids and other Schedule III substances when the steroid is in a pill, capsule, tablet, or liquid form. For anabolic steroids in other forms (e.g., patch, topical cream, aerosol), the amendment instructs the court that it shall make a reasonable estimate of the quantity of anabolic steroid involved in the offense, and in making such estimate, the court shall consider that each 25 mg of anabolic steroid is one “unit”.

In addition, the amendment addresses two harms often associated with anabolic steroid offenses by providing new enhancements in § 2D1.1(b)(6) and (b)(7). Subsection (b)(6) provides a two-level enhancement if the offense involved the distribution of an anabolic steroid and a masking agent. Subsection (b)(7) provides a two-level enhancement if the defendant distributed an anabolic steroid to an athlete. Both enhancements address congressional concern with distribution of anabolic steroids to athletes, particularly the impact that steroids distribution and steroids use has on the integrity of sport, either because of the unfair advantage gained by the use of steroids or because of the concealment of such use.

The amendment also amends Application Note 8 of § 2D1.1 to provide that an adjustment under § 3B1.3 (Abuse of Position of Trust or Use of Special Skill) ordinarily would apply in the case of a defendant who used his or her position as a coach to influence an athlete to use an anabolic steroid.

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## DEPARTMENT OF STATE

[Public Notice 5355]

### 30-Day Notice of Proposed Information Collection: DS 1843 and 1622, Medical History and Examination for Foreign Service, OMB 1405-0068

**ACTION:** Notice of request for public comment and submission to OMB of proposed collection of information.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of

Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

*Title of Information Collection:* Medical History and Examination for Foreign Service.

*OMB Control Number:* 1405-0068.

*Type of Request:* Extension of a Currently Approved Collection.

*Originating Office:* Office of Medical Services, M/MED/EX.

*Form Number:* DS 1843 and DS-1622.

*Respondents:* Family members of Foreign Service Officers and Federal employees stationed abroad.

*Estimated Number of Respondents:* 9,800.

*Estimated Number of Responses:* 9,800.

*Average Hours Per Response:* 1.

*Total Estimated Burden:* 9,800 hours.

*Frequency:* Tour of Duty.

*Obligation to Respond:* Required to obtain a benefit.

**DATES:** Comments from the public will be accepted up to April 28, 2006.

**ADDRESSES:** Direct comments and questions to Alex Hunt, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202-395-7860. You may submit comments by any of the following methods:

*E-mail:* [ahunt@omb.eop.gov](mailto:ahunt@omb.eop.gov). You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

*Mail (paper, disk, or CD-ROM submissions):* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.

*Fax:* 202-395-6974.

**FOR FURTHER INFORMATION CONTACT:** You may obtain copies of the proposed information collection and supporting documents from Susan Willig, Department of State, Office of Medical Services, SA-1, Room L101, 2401 E St., NW., Washington, DC 20052-0101, who may be reached on 202-663-1754 or at [willigsp@state.gov](mailto:willigsp@state.gov).

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

Evaluate whether the proposed information collection is necessary to properly perform our functions.

Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

Enhance the quality, utility, and clarity of the information to be collected.

Minimize the reporting burden on those who are to respond.

*Abstract of proposed collection:* Form DS-1843 and DS-1622 are designed to collect medical information that gives medical providers the current and adequate information needed to decide whether or not a Federal employee, and family members, will have sufficient medical resources at a diplomatic mission abroad.

*Methodology:* The information will be collected through the use of an electronic forms engine, or by hand written submission using a pre-printed form.

Dated: March 7, 2006.

**Maria C. Melchiorre,**

*Deputy Executive Director, Office of Medical Services, Department of State.*

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**BILLING CODE 4710-36-P**

## DEPARTMENT OF STATE

[Public Notice 5354]

### Bureau of Political-Military Affairs: Export of Lethal Defense Articles/ Defense Services to Indonesia

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that requests for the export or retransfer of lethal defense articles to Indonesia (and defense services related to such lethal defense articles) pursuant to section 38 of the Arms Export Control Act will be considered on a case-by-case basis.

**DATES:** *Effective Date:* March 29, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Juraska, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663-22860 or Fax (202) 261-8199.

**SUPPLEMENTARY INFORMATION:** It is the policy of the U.S. Government, effective as of March 17, 2006, to consider on a case-by-case basis applications for the export of lethal defense articles and related defense services to Indonesia. Section 599F(b) of the FY 2006 Foreign Operations, Export Financing and Related Programs Appropriations Act allows for the issuance of licenses for the export of lethal defense articles for the Indonesian Armed Forces should the Secretary of State waive, as being in the national security interest of the United States, legislative requirements for certification of certain conditions pertaining to Indonesia. Such a waiver was signed on November 16, 2005. The Department has also determined that it shall be U.S. Government policy to consider on a case-by-case basis applications for the export of lethal

defense articles and related defense services to Indonesia.

Previously, **Federal Register** Notices were published on October 14, 1999 (64 FR 55805), January 25, 2001 (66 FR 7836), and March 22, 2001 (66 FR 16085), that set forth a policy of denial for new export requests for Indonesia and suspended all licenses and approvals to export or otherwise transfer defense articles and defense services to Indonesia, except for certain exports related to commercial communication satellites and Y2K compliance activities that were not for the Indonesian military; permitted review, on a case-by-case basis, of requests for the export of C-130 spare parts to Indonesia, including for the Government of Indonesia; and, expanded the review, on a case-by-case basis, to defense articles/defense services exported to Indonesia for ultimate end-use by a third-country, respectively.

Further changes to the export policy toward Indonesia were reflected in a **Federal Register** Notice published on December 18, 2001 (66 FR 65235) that expanded the categories of defense articles/defense services eligible for consideration for export/transfer to Indonesia, on a case-by-case basis, to include: (a) Non-lethal defense articles and spare parts; and (b) non-lethal, safety-of-use spare parts for lethal end-items. For purposes of that Notice, "non-lethal defense articles" meant an item not a weapon, ammunition, or other equipment or material designed to inflict serious bodily harm or death (see, e.g., 10 U.S.C. 2557). Examples of safety-of-use items were cartridge actuated devices, propellant actuated devices, and technical manuals for military aircraft for purposes of enhancing the safety of the aircraft crew. No distinction was made between Indonesia's existing and new inventory.

This Notice expands what may be authorized for export to Indonesia to include lethal defense articles controlled on the U.S. Munitions List, as well as defense services related to the export of such lethal defense articles. Applications for such exports will be considered on a case-by-case basis in accordance with standard practice.

This action is taken pursuant to Sections 38 and 42 of the Arms Export Control Act (22 U.S.C. 2778, 2791) and § 126.7 of the ITAR in furtherance of the foreign policy of the United States.

Dated: March 22, 2006.

**Gregory M. Suchan,**

*Acting Assistant Secretary, Bureau of Political Military Affairs, Department of State.*

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