

other? In particular, should they be applied cumulatively, or should they not be applied cumulatively?

10. This part of the proposed amendment establishes several new specific offense characteristics in § 2D1.1. What, if any, changes should the Commission make to other Chapter Two offense guidelines involving drug trafficking to ensure consistency and proportionality? Many such guidelines refer to § 2D1.1 in determining the offense level, but not in all cases. For example, if the base offense level is determined under subsection (a)(3) or (a)(4) of § 2D1.2 (Drug Offenses Occurring Near Protected Locations or Involving Underage or Pregnant Individuals; Attempt or Conspiracy), or under subsection (a)(2) of § 2D1.5 (Continuing Criminal Enterprise; Attempt or Conspiracy), or under § 2D1.11 (Unlawfully Distributing, Importing, Exporting or Possessing a Listed Chemical; Attempt or Conspiracy), the new specific offense characteristics would not apply. Should the Commission establish similar specific offense characteristics in § 2D1.2, § 2D1.5, and § 2D1.11?

11. What other changes, if any, should the Commission make to the *Guidelines Manual* under the emergency authority provided by section 8 of the Act?

(D) Maximum Base Offense Level for Minimal Role ("Minimal Role Cap")

Synopsis of Proposed Amendment: This part of the proposed amendment responds to section 7(1) of the Act, which contains a directive to the Commission to "review and amend the Federal sentencing guidelines and policy statements to ensure that * * * if the defendant is subject to a minimal role adjustment under the guidelines, the base offense level for the defendant based solely on drug quantity shall not exceed level 32."

This part of the proposed amendment implements the directive by adding a new sentence to the end of § 2D1.1(a)(5) (the so-called "mitigating role cap"), to reflect the "minimal role cap" of level 32 required by the directive.

Proposed Amendment:

Section 2D1.1(a)(5) is amended by adding at the end the following:

"If the resulting offense level is greater than level 32 and the defendant receives

an adjustment under subsection (a) of § 3B1.2, decrease to level 32."

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UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of period during which individuals may apply to be appointed to certain voting memberships of the Practitioners Advisory Group; request for applications.

SUMMARY: Because the terms of certain voting members of the Practitioners Advisory Group are expiring as of October 2010, the United States Sentencing Commission hereby invites any individual who is eligible to be appointed to succeed such a voting member to apply. The voting memberships covered by this notice are two circuit memberships (for the Second Circuit and District of Columbia Circuit) and one at-large voting membership. Applications should be received by the Commission not later than November 8, 2010. Applications may be sent to Michael Courlander at the address listed below.

DATES: Applications for voting membership of the Practitioners Advisory Group should be received not later than November 8, 2010.

ADDRESSES: Send applications 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) 502-4597.

SUPPLEMENTARY INFORMATION: The Practitioners Advisory Group of the United States Sentencing Commission is a standing advisory group of the United States Sentencing Commission pursuant to 28 U.S.C. 995 and Rule 5.4 of the Commission's Rules of Practice and Procedure. Under the charter for the advisory group, the purpose of the

advisory group is (1) To assist the Commission in carrying out its statutory responsibilities under 28 U.S.C. 994(o); (2) to provide to the Commission its views on the Commission's activities and work, including proposed priorities and amendments; (3) to disseminate to defense attorneys, and to other professionals in the defense community, information regarding federal sentencing issues; and (4) to perform other related functions as the Commission requests. The advisory group consists of not more than 17 voting members, each of whom may serve not more than two consecutive three-year terms. Of those 17 voting members, one shall be Chair, one shall be Vice Chair, 12 shall be circuit members (one for each federal judicial circuit other than the Federal Circuit), and three shall be at-large members.

To be eligible to serve as a voting member, an individual must be an attorney who (1) devotes a substantial portion of his or her professional work to advocating the interests of privately-represented individuals, or of individuals represented by private practitioners through appointment under the Criminal Justice Act of 1964, within the federal criminal justice system; (2) has significant experience with federal sentencing or post-conviction issues related to criminal sentences; and (3) is in good standing of the highest court of the jurisdiction or jurisdictions in which he or she is admitted to practice. Additionally, to be eligible to serve as a circuit member, the individual's primary place of business or a substantial portion of his or her practice must be in the circuit concerned. Each voting member is appointed by the Commission.

The Commission invites any individual who is eligible to be appointed to a voting membership covered by this notice to apply.

Authority: 28 U.S.C. 994(a), (o), (p), § 995; USSC Rules of Practice and Procedure 5.2, 5.4.

William K. Sessions III,
Chair.

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