(6) "At least 178 G but less than 712 G of Benzaldehyde;", "At least 126 G but less than 879 G of Nitroethane;",

(7) "At least 142 G but less than 178 G of Benzaldehyde;", "At least 100 G but less than 126 G of Nitroethane;",

(8) "At least 107 G but less than 142 G of Benzaldehyde;", "At least 75 G but less than 100 G of Nitroethane;",

(9) "Less than 107 G of Benzaldehyde;", "Less than 75 G of

Nitroethane;"; And by adding the following chemicals, in the appropriate place in alphabetical order, to the List I Chemical Equivalency Table:

"1 gm of Benzaldehyde = 1.121 gm of Ephedrine",

"1 gm of Nitroethane = 1.6 gm of Ephedrine".

Section 2D1.11(d) is amended in the notes following the Chemical Quantity Table by deleting Note (A) and inserting in lieu thereof:

(A) The List I Chemical Equivalency Table provides a means for combining different precursor chemicals to obtain a single offense level. In a case involving two or more list I chemicals used to manufacture different controlled substances or to manufacture one controlled substance by different manufacturing processes, convert each to its ephedrine equivalency from the table below, add the quantities, and use the Chemical Quantity Table to determine the base offense level. In a case involving two or more list I chemicals used together to manufacture a controlled substance in the same manufacturing process, use the quantity of the single list I chemical that results in the greatest base offense level.";

By deleting Note D and inserting in lieu thereof:

"(D) In a case involving ephedrine tablets, use the weight of the ephedrine contained in the tablets, not the weight of the entire tablets, in calculating the base offense level.".

Section 2D1.11(d) is amended in the note following the List I Chemical Equivalency Table (formerly the Precursor Chemical Equivalency Table) designated by two asterisks by deleting "both hydriodic acid and ephedrine" and inserting in lieu thereof "two or more list I chemicals used together in the same manufacturing process". The Commentary to § 2D1.11

The Commentary to $\S 2D1.11$ captioned "Application Notes" is amended by deleting Note 4 in its entirety and inserting in lieu thereof:

"4. When two or more list I chemicals are used together in the same manufacturing process, calculate the offense level for each separately and use the quantity that results in the greatest base offense level. In any other case, the quantities should be added together (using the List I Chemical Equivalency Table) for the purposes of calculating the base offense level.

Examples:

(a) The defendant was in possession of five kilograms of ephedrine and three kilograms of hydriodic acid. Both of these list I chemicals are typically used together to manufacture methamphetamine. Therefore, the base offense level for each listed chemical would be calculated separately and the list I chemical with the highest base offense level would be used. Five kilograms of ephedrine result in a base offense level of 24; 300 grams of hydriodic acid result in base offense level of 14. In this case, the base offense level would be 24.

(b) The defendant was in possession of five kilograms of ephedrine and two kilograms of phenylacetic acid. Although both of these chemicals are used to manufacture methamphetamine, they are used in two different manufacturing processes and thus would not be used together. In this case, the two kilograms of phenylacetic acid would convert to two kilograms of ephedrine (see List I Chemical Equivalency Table), resulting in a total equivalency of seven kilograms of ephedrine.".

The Commentary to §2D1.11 captioned "Background" is amended in the second sentence by deleting "Listed precursor" and inserting in lieu thereof "List I"; by deleting "critical to the formation" and inserting in lieu thereof "important to the manufacture"; and by inserting "usually" immediately before "become".

The Commentary to § 2D1.11 captioned "Background" is amended in the last sentence by deleting "Listed essential" and inserting in lieu thereof "List II"; by inserting "used as" immediately following "generally"; and by deleting "and do not become part of the finished product".

The Commentary to § 2D1.1 captioned "Application Notes" is amended by deleting Note 14 in its entirety, and by renumbering the remaining notes accordingly.

13. Synopsis of Proposed Amendment: Section Three of the Domestic Chemical Diversion Act of 1993 (Public Law 103–200) broadens the prohibition in 21 U.S.C. § 843(a) to cover possessing, manufacturing, distributing, exporting, or importing three-neck round-bottom flasks, tableting machines, encapsulating machines, or gelatin capsules having reasonable cause to believe they will be used to manufacture a controlled substance. Guideline 2D1.12 (Unlawful Possession, Manufacture, Distribution, or Importation of Prohibited Flask or Equipment; Attempt or Conspiracy) applies to this conduct. Consistent with the treatment of similar conduct under §§ 2D1.11(b)(2) and 2D1.13(b)(2), this amendment revises § 2D1.12 to provide a three-level reduction in the offense level for cases in which the defendant had reasonable cause to believe, but not actual knowledge or belief, that the equipment was to be used to manufacture a controlled substance.

Proposed Amendment: Section 2D1.12 is amended by inserting "(Apply the greatest)" immediately after "Base Offense Level"; and by deleting "12" and inserting in lieu thereof:

"(1) 12, if the defendant intended to manufacture a controlled substance or knew or believed the prohibited equipment was to be used to manufacture a controlled substance; or

(2) 9, if the defendant had reasonable cause to believe the prohibited equipment was to be used to manufacture a controlled substance.".

Chapter Two, Part H (Offenses Involving Individual Rights)

Chapter Three, Part A (Victim-Related Adjustments)

14. Synopsis of Proposed Amendment: This is a three-part amendment. First, the amendment adds an additional subsection to §3A1.1 to implement the directive contained in Section 280003 of the Violent Crime Control and Law Enforcement Act of 1994. Second, the amendment consolidates §§ 2H1.1, 2H1.3, 2H1.4, and 2H1.5, and adjusts the offense levels in these guidelines to harmonize them with each other, better reflect the seriousness of the underlying conduct, and reflect the revision of §3A1.1. Third, the amendment references violations of 18 U.S.C. §248 (the Freedom of Access to Clinic Entrances Act of 1994, Public Law 103-259) to the consolidated guideline.

Section 280003 of the Violent Crime Control and Law Enforcement Act of 1994 directs the Commission to provide a minimum enhancement of three levels for offenses that the finder of fact at trial determines are hate crimes. This directive also instructs the Commission to ensure that there is reasonable consistency with other guidelines and that duplicative punishments for the same offense are avoided. The Freedom of Access to Clinic Entrances Act of 1994 makes it a crime to interfere with access to reproductive services or to interfere with certain religious activities.

Since their inception, the guidelines have provided enhanced penalties for