



---

**ISSUE FOR COMMENT:                    CRITERIA FOR SELECTING GUIDELINE  
AMENDMENTS COVERED BY §1B1.10**

---

This document sets forth the unofficial text of an issue for comment promulgated by the Commission and is provided only for the convenience of the user in the preparation of public comment. As with all proposed amendments on which a vote to publish for comment has been made but not yet officially submitted to the Federal Register for formal publication, authority to make technical and conforming changes may be exercised and motions to reconsider may be made. Once submitted to the Federal Register, official text of the issue for comment will be posted on the Commission’s website at [www.ussc.gov](http://www.ussc.gov) and will be available in a forthcoming edition of the Federal Register

Written public comment should be received by the Commission not later than **April 18, 2025**. Public comment received after the close of the comment period may not be considered. All written comment should be sent to the Commission via any of the following two methods: (1) comments may be submitted electronically via the Commission’s Public Comment Submission Portal at <https://comment.ussc.gov>; or (2) comments may be submitted by mail to the following address: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2-500, Washington, D.C. 20002-8002, Attention: Public Affairs – Issue for Comment on Retroactivity Criteria. For further information, see the full contents of the official notice when it is published in the Federal Register (available at [www.ussc.gov](http://www.ussc.gov)).

The issue for comment is as follows:

**REQUEST FOR COMMENT ON CRITERIA FOR SELECTING GUIDELINE AMENDMENTS  
COVERED BY §1B1.10**

The Background Commentary to §1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range (Policy Statement)) provides a non-exhaustive list of criteria the Commission typically considers in selecting the amendments to be included in §1B1.10(d) for retractive application: “the purpose of the amendment, the magnitude of the change in the guideline range made by the amendment, and the difficulty of applying the amendment retroactively to determine an amended guideline range under subsection (b)(1).” USSG §1B1.10, comment. (backg’d). This non-exhaustive list of criteria has remained substantively unchanged since the Commission originally promulgated the policy statement at §1B1.10 in 1989.

## Issues for Comment:

1. The Commission seeks comment on whether it should provide further guidance on how the existing criteria for determining whether an amendment should apply retroactively are applied. If so, what should that guidance be? Should it revise or expand the criteria? Are there additional criteria that the Commission should consider beyond those listed in the existing Background Commentary to §1B1.10? Are there identifiable sources that the Commission should consult that highlight retroactivity criteria relied upon by other legislative or rulemaking bodies?

If the Commission continues to list criteria relevant to determining whether an amendment should apply retroactively, should it adopt any bright-line rules? Is there a different approach that the Commission should consider for these purposes?

2. The Commission seeks comment on whether any listed criteria are more appropriately addressed in the Commission's Rules of Practice and Procedure rather than the Background Commentary to §1B1.10.
3. Rule 4.1A (Retroactive Application of Amendments) of the Commission's Rules of Practice and Procedure provides "[g]enerally, promulgated amendments will be given prospective application only." The Commission seeks comment on whether it should retain this provision. If so, how should the Commission ensure that any listed criteria reflect this provision?