

**REVISED PROPOSED AMENDMENT: FIREARMS TABLE**  
**(Proposed Amendment 15 of User Friendly, Volume Two)**

**Synopsis of Revised Proposed Amendment:** *This revised proposed amendment implements the recommendation of the Bureau of Alcohol, Tobacco and Firearms (ATF) to increase the penalties in §2K2.1 (Unlawful Receipt, Possession or Transportation of Firearms or Ammunition) for offenses involving more than 100 firearms.*

*The revised proposed amendment presents only Option 2 of the originally published proposed amendment. This Option modifies the firearms table in §2K2.1 to provide increases of two-level increments and compresses the table by providing a wider range for the number of firearms for each increase. Compressing the table in this manner diminishes some of the fact-finding required to determine how many firearms were involved in the offense. This amendment provides an additional increase for offenses that involve 100-199 firearms, and an additional two-level increase for offenses that involve more than 200 firearms. The ATF reports that these increases are needed to provide adequate and proportionate punishment in cases that involve large numbers of firearms. Under the current table, a defendant who trafficked in 200 firearms receives the same six-level enhancement as a defendant who trafficked in 50 firearms. According to the ATF, from 1995 through 1997, nearly a quarter of all defendants sentenced under §2K2.1 for trafficking more than 50 firearms received sentences of less than one year, or no term of imprisonment whatsoever, despite the encouraged upward departure provided in Application Note 15 to §2K2.1.*

*The proposed amendment also makes a conforming change to Application Note 16 regarding upward departures.*

**Proposed Amendment:**

**§2K2.1. Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition**

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(b) Specific Offense Characteristics

- (1) If the offense involved three or more firearms, increase as follows:

	<u>Number of Firearms</u>	<u>Increase in Level</u>
_____ (A) _____	3-4	add <b>1</b>
_____ (B) _____	5-7	add <b>2</b>
_____ (C) _____	8-12	add <b>3</b>

(D)	13-24	add <del>4</del>
(E)	25-49	add <del>5</del>
(F)	50 or more	add <del>6</del>
(A)	3-7	add <del>2</del>
(B)	8-24	add <del>4</del>
(C)	25-99	add <del>6</del>
(D)	100-199	add <del>8</del>
(E)	200 or more	add <del>10</del>

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Commentary

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Application Notes:

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16. An upward departure may be warranted in any of the following circumstances: (1) the number of firearms ~~significantly~~ substantially exceeded ~~fifty~~ 200; (2) the offense involved multiple National Firearms Act weapons (e.g., machineguns, destructive devices), military type assault rifles, non-detectable ("plastic") firearms (defined at 18 U.S.C. § 922(p)); (3) the offense involved large quantities of armor-piercing ammunition (defined at 18 U.S.C. § 921(a)(17)(B)); or (4) the offense posed a substantial risk of death or bodily injury to multiple individuals.