

2. FOOD, DRUGS, AGRICULTURAL PRODUCTS, AND CONSUMER PRODUCTS

Historical Note

Effective November 1, 1987. Amended effective November 1, 2009 (amendment 733).

§2N2.1. Violations of Statutes and Regulations Dealing With Any Food, Drug, Biological Product, Device, Cosmetic, Agricultural Product, or Consumer Product

- (a) Base Offense Level: **6**
- (b) Specific Offense Characteristic
 - (1) If the defendant was convicted under 21 U.S.C. § 331 after sustaining a prior conviction under 21 U.S.C. § 331, increase by 4 levels.
- (c) Cross References
 - (1) If the offense involved fraud, apply §2B1.1 (Theft, Property Destruction, and Fraud).
 - (2) If the offense was committed in furtherance of, or to conceal, an offense covered by another offense guideline, apply that other offense guideline if the resulting offense level is greater than that determined above.

Commentary

Statutory Provisions: 7 U.S.C. §§ 150bb, 150gg, 6810, 7734, 8313; 21 U.S.C. §§ 115, 117, 122, 134–134e, 151–158, 331, 333(a)(1), (a)(2), (b)(1)–(6), (b)(8), 458–461, 463, 466, 610, 611, 614, 617, 619, 620, 642–644, 676; 42 U.S.C. § 262. For additional statutory provision(s), see Appendix A (Statutory Index).

Application Notes:

1. The cross reference at subsection (c)(1) addresses cases in which the offense involved fraud. The cross reference at subsection (c)(2) addresses cases in which the offense was committed in furtherance of, or to conceal, an offense covered by another offense guideline (e.g., bribery).
2. The Commission has not promulgated a guideline for violations of 21 U.S.C. § 333(e) (offenses involving human growth hormones). Offenses involving anabolic steroids are covered by Chapter Two, Part D (Offenses Involving Drugs and Narco-Terrorism). In the case of an offense involving a substance purported to be an anabolic steroid, but not containing any active ingredient, apply §2B1.1 (Theft, Property Destruction, and Fraud) with “loss” measured by the amount paid, or to be paid, by the victim for such substance.