

Ecstasy

Synopsis of Proposed Amendment: *This proposed amendment addresses the directive in the Ecstasy Anti-Proliferation Act of 2000 (the "Act"), section 3664 of Pub. L. 106–310, which instructs the Commission to provide, under emergency amendment authority, increased penalties for the manufacture, importation, exportation, or trafficking of Ecstasy. The directive specifically requires the Commission to increase the base offense level for 3,4-methylenedioxy methamphetamine (MDMA), 3,4-methylenedioxy amphetamine (MDA), 3,4-methylenedioxy-N-ethylamphetamine (MDEA), paramethoxymethamphetamine (PMA), and any other controlled substance that is marketed as Ecstasy and that has either a chemical structure similar to MDMA or an effect on the central nervous system substantially similar to or greater than MDMA.*

The proposed amendment addresses the directive by amending the Drug Equivalency Table in §2D1.1, Application Note 10, to increase the marijuana equivalencies for the specified controlled substances. The increased equivalencies make the penalties for these substances comparable to other drugs of abuse. The increases also satisfy the sense of Congress in the Act that the penalties for these substances, particularly for high-level traffickers, are too low.

An issue for comment regarding whether the Commission should base the penalties of Ecstasy on the penalties for other drugs of abuse, such as powder cocaine, methamphetamine mixture, or mescaline follows the proposed amendment.

Proposed Amendment:

§2D1.1. Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy

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Commentary

Application Notes:

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DRUG EQUIVALENCY TABLES

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LSD, PCP, and Other Schedule I and II Hallucinogens (and their immediate precursors)*

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1 gm of 3,4-Methylenedioxyamphetamine/MDA =	50 gm	1 kg	of marijuana
1 gm of 3,4-Methylenedioxymethamphetamine/MDMA =	35 gm	1 kg	of marijuana
1 gm of 3,4-Methylenedioxy-N-ethylamphetamine/MDEA=	30 gm	1 kg	of marijuana
1 gm of Paramethoxymethamphetamine/PMA =		1 kg	of marijuana
1 gm of 1-Piperidinocyclohexanecarbonitrile/PCC =	680 gm		of marijuana
1 gm of N-ethyl-1-phenylcyclohexylamine (PCE) =		1 kg	of marijuana

*Provided, that the minimum offense level from the Drug Quantity Table for any of these

controlled substances individually, or in combination with another controlled substance, is level 12.

Issue for Comment: *It has been represented to the Commission that Ecstasy (i.e., MDMA, MDEA, MDA and PMA) is similar in its hallucinogenic effect on the user to mescaline, and also has been described as having an added stimulant component that can elevate heart rate, blood pressure, and body temperature. It has also been suggested that the drug is neither physically nor psychologically addictive. The Commission invites comment on these representations and on the appropriate penalty structure for Ecstasy. The proposed amendment treats Ecstasy as being of comparable seriousness to heroin, providing a marihuana equivalency for Ecstasy that is the same as heroin. Accordingly, for sentencing purposes, 1 gm of Ecstasy will be the equivalent of 1 kg of marihuana. Should the Commission alternatively treat Ecstasy comparably to some other major drug of abuse? For example, should the Commission treat Ecstasy as being of comparable seriousness to powder cocaine (which would result in a marihuana equivalency for Ecstasy of 200 gm) or methamphetamine mixture (which would result in a marihuana equivalency for Ecstasy of 2 kg)? Or should the penalty be comparable to that for mescaline (which would result in a marihuana equivalency for Ecstasy of 10 gm) or some multiple of the penalty for mescaline? Comment also is requested regarding whether the Drug Quantity Table in §2D1.1 should be revised with respect to Ecstasy to provide additional incremental penalties (perhaps with exponential quantity increases) so as to punish more severely those offenders who traffic in larger quantities.*