

PART D - OFFENSES INVOLVING DRUGS

1. UNLAWFUL MANUFACTURING, IMPORTING, EXPORTING, TRAFFICKING, OR POSSESSION; CONTINUING CRIMINAL ENTERPRISE

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

(a) Base Offense Level:

- (1) 43, for an offense that results in death or serious bodily injury with a prior conviction for a similar drug offense; or**
- (2) 38, for an offense that results in death or serious bodily injury and involved controlled substances (except Schedule III, IV, and V controlled substances and less than: (A) fifty kilograms of marihuana, (B) ten kilograms of hashish, and (C) one kilogram of hashish oil); or**
- (3) For any other offense, the base offense level is the level specified in the Drug Quantity Table below.**

(b) Specific Offense Characteristic

- (1) If a firearm or other dangerous weapon was possessed during commission of the offense, increase by 2 levels.**

DRUG QUANTITY TABLE

<u>Controlled Substances and Quantity*</u>	<u>Base Offense Level</u>
10 KG Heroin or equivalent Schedule I or II Opiates, 50 KG Cocaine or equivalent Schedule I or II Stimulants, 500 G Cocaine Base, 10 KG PCP or 1 KG Pure PCP, 100 G LSD or equivalent Schedule I or II Hallucinogens, 4 KG Fentanyl or 1 KG Fentanyl Analogue, 10,000 KG Marihuana, 100,000 Marihuana Plants, 2000 KG Hashish, 200 KG Hashish Oil (or more of any of the above)	Level 36
3-9.9 KG Heroin or equivalent Schedule I or II Opiates, 15-49.9 KG Cocaine or equivalent Schedule I or II Stimulants, 150-499 G Cocaine Base, 3-9.9 KG PCP or 300-999 G Pure PCP, 30-99 G LSD or equivalent Schedule I or II Hallucinogens, 1.2-3.9 KG Fentanyl or 300-999 G Fentanyl Analogue, 3000-9999 KG Marihuana, 30,000-99,999 Marihuana Plants, 600-1999 KG Hashish, 60-199 KG Hashish Oil	Level 34
1-2.9 KG Heroin or equivalent Schedule I or II Opiates, 5-14.9 KG Cocaine or equivalent Schedule I or II Stimulants, 50-149 G Cocaine Base, 1-2.9 KG PCP or 100-299 G Pure PCP, 10-29 G LSD or equivalent Schedule I or II Hallucinogens, .4-1.1 KG Fentanyl or 100-299 G Fentanyl Analogue, 1000-2999 KG Marihuana, 10,000-29,999 Marihuana Plants, 200-599 KG Hashish, 20-59.9 KG Hashish Oil	Level 32**
700-999 G Heroin or equivalent Schedule I or II Opiates, 3.5-4.9 KG Cocaine or equivalent Schedule I or II Stimulants, 35-49 G Cocaine Base, 700-999 G PCP or 70-99 G Pure PCP, 7-9.9 G LSD or equivalent Schedule I or II Hallucinogens, 280-399 G Fentanyl or 70-99 G Fentanyl Analogue, 700-999 KG Marihuana, 7000-9999 Marihuana Plants, 140-199 KG Hashish, 14-19.9 KG Hashish Oil	Level 30
400-699 G Heroin or equivalent Schedule I or II Opiates, 2-3.4 KG Cocaine or equivalent Schedule I or II Stimulants, 20-34.9 G Cocaine Base, 400-699 G PCP or 40-69 G Pure PCP, 4-6.9 G LSD or equivalent Schedule I or II Hallucinogens, 160-279 G Fentanyl or 40-69 G Fentanyl Analogue, 400-699 KG Marihuana, 4000-6999 Marihuana Plants, 80-139 KG Hashish, 8.0-13.9 KG Hashish Oil	Level 28
100-399 G Heroin or equivalent Schedule I or II Opiates, .5-1.9 KG Cocaine or equivalent Schedule I or II Stimulants, 5-19 G Cocaine Base, 100-399 G PCP or 10-39 G Pure PCP, 1-3.9 G LSD or equivalent Schedule I or II Hallucinogens, 40-159 G Fentanyl or 10-39 G Fentanyl Analogue, 100-399 KG Marihuana, 1000-3999 Marihuana Plants, 20-79 KG Hashish, 2.0-7.9 KG Hashish Oil	Level 26**
80-99 G Heroin or equivalent Schedule I or II Opiates, 400-499 G Cocaine or equivalent Schedule I or II Stimulants, 4-4.9 G Cocaine Base, 80-99 G PCP or 8-9.9 G Pure PCP, 800-999 MG LSD or equivalent Schedule I or II Hallucinogens, 32-39 G Fentanyl or 8-9.9 G Fentanyl Analogue, 80-99 KG Marihuana, 800-999 Marihuana Plants, 16-19.9 KG Hashish, 1.6-1.9 KG Hashish Oil	Level 24
60-79 G Heroin or equivalent Schedule I or II Opiates, 300-399 G Cocaine or equivalent Schedule I or II Stimulants, 3-3.9 G Cocaine Base, 60-79 G PCP or 6-7.9 G Pure PCP, 600 -799 MG LSD or equivalent Schedule I or II Hallucinogens, 24-31.9 G Fentanyl or 6-7.9 G Fentanyl Analogue, 60-79 KG Marihuana, 600-799 Marihuana Plants, 12-15.9 KG Hashish, 1.2-1.5 KG Hashish Oil	Level 22
40-59 G Heroin or equivalent Schedule I or II Opiates, 200-299 G Cocaine or equivalent Schedule I or II Stimulants, 2-2.9 G Cocaine Base, 40-59 G PCP or 4-5.9 G Pure PCP, 400-599 MG LSD or equivalent Schedule I or II Hallucinogens, 16-23.9 G Fentanyl or 4-5.9 G Fentanyl Analogue, 40-59 KG Marihuana, 400-599 Marihuana Plants, 8-11.9 KG Hashish, .8-1.1 KG Hashish Oil, 20 KG+ Schedule III or other Schedule I or II controlled substances	Level 20

20-39 G Heroin or equivalent Schedule I or II Opiates, 100-199 G Cocaine or equivalent Schedule I or II Stimulants, 1-1.9 G Cocaine Base, 20-39 G PCP or 2-3.9 G Pure PCP, 200-399 MG LSD or equivalent Schedule I or II Hallucinogens, 8-15.9 G Fentanyl or 2-3.9 G Fentanyl Analogue, 20-39 KG Marihuana, 200-399 Marihuana Plants, 5-7.9 KG Hashish, 500-799 G Hashish Oil, 10-19 KG Schedule III or other Schedule I or II controlled substances	Level 18
10-19 G Heroin or equivalent Schedule I or II Opiates, 50-99 G Cocaine or equivalent Schedule I or II Stimulants, 500-999 MG Cocaine Base, 10-19.9 G PCP or 1-1.9 G Pure PCP, 100-199 MG LSD or equivalent Schedule I or II Hallucinogens, 4-7.9 G Fentanyl or 1-1.9 G Fentanyl Analogue, 10-19 KG Marihuana, 100-199 Marihuana Plants, 2-4.9 KG Hashish, 200-499 G Hashish Oil, 5-9.9 KG Schedule III or other Schedule I or II controlled substances	Level 16
5-9.9 G Heroin or equivalent Schedule I or II Opiates, 25-49 G Cocaine or equivalent Schedule I or II Stimulants, 250-499 MG Cocaine Base, 5-9.9 G PCP or 500-999 MG Pure PCP, 50-99 MG LSD or equivalent Schedule I or II Hallucinogens, 2-3.9 G Fentanyl or .5-9 G Fentanyl Analogue, 5-9.9 KG Marihuana, 50-99 Marihuana Plants, 1-1.9 KG Hashish, 100-199 G Hashish Oil, 2.5-4.9 KG Schedule III or other Schedule I or II controlled substances	Level 14
Less than the following: 5 G Heroin or equivalent Schedule I or II Opiates, 25 G Cocaine or equivalent Schedule I or II Stimulants, 250 MG Cocaine Base, 5 G PCP or 500 MG Pure PCP, 50 MG LSD or equivalent Schedule I or II Hallucinogens, 2 G Fentanyl or 500 MG Fentanyl Analogue; 2.5-4.9 KG Marihuana, 25-49 Marihuana Plants, 500-999 G Hashish, 50-99 G Hashish Oil, 1.25-2.4 KG Schedule III or other Schedule I or II controlled substances, 20 KG+ Schedule IV	Level 12
1-2.4 KG Marihuana, 10-24 Marihuana Plants, 200-499 G Hashish, 20-49 G Hashish Oil, .50-1.24 KG Schedule III or other Schedule I or II controlled substances, 8-19 KG Schedule IV	Level 10
250-999 G Marihuana, 3-9 Marihuana Plants, 50-199 G Hashish, 10-19 G Hashish Oil, 125-449 G Schedule III or other Schedule I or II controlled substances, 2-7.9 KG Schedule IV, 20 KG+ Schedule V	Level 8
Less than the following: 250 G Marihuana, 3 Marihuana Plants, 50 G Hashish, 10 G Hashish Oil, 125 G Schedule III or other Schedule I or II controlled substances, 2 KG Schedule IV, 20 KG Schedule V	Level 6

* The scale amounts for all controlled substances refer to the total weight of the controlled substance. Consistent with the provisions of the Anti-Drug Abuse Act, if any mixture of a compound contains any detectable amount of a controlled substance, the entire amount of the mixture or compound shall be considered in measuring the quantity. If a mixture or compound contains a detectable amount of more than one controlled substance, the most serious controlled substance shall determine the categorization of the entire quantity.

** Statute specifies a mandatory minimum sentence.

Commentary

Statutory Provisions: 21 U.S.C. §§ 841, 960.

Application Notes:

1. "Similar drug offense" as used in §2D1.1(a)(1) means a prior conviction as described in 21 U.S.C. §§ 841(b) or 962(b).

2. *The statute and guideline also apply to "counterfeit" substances, which are defined in 21 U.S.C. § 802 to mean controlled substances that are falsely labeled so as to appear to have been legitimately manufactured or distributed.*
3. *Definitions of "firearm" and "dangerous weapon" are found in the Commentary to §1B1.1 (Application Instructions). The enhancement for weapon possession reflects the increased danger of violence when drug traffickers possess weapons. The adjustment should be applied if the weapon was present, unless it is clearly improbable that the weapon was connected with the offense. For example, the enhancement would not be applied if the defendant, arrested at his residence, had an unloaded hunting rifle in the closet. The enhancement also applies to offenses that reference §2D1.1, i.e., §§2D1.2-2D1.4. The adjustment is to be applied even if several counts are involved and the weapon was present in any of them.*
4. *Distribution of "a small amount of marihuana for no remuneration", 21 U.S.C. §§ 841(b)(4), is treated as simple possession, to which §2D2.1 applies.*
5. *Any reference to a particular controlled substance in these guidelines includes all salts, isomers, and all salts of isomers. Any reference to cocaine includes ecgonine and coca leaves, except extracts of coca leaves from which cocaine and ecgonine have been removed.*
6. *Where there are multiple transactions or multiple drug types, the quantities of drugs are to be added. Tables for making the necessary conversions are provided below.*
7. *Where a mandatory (statutory) minimum sentence applies, this mandatory minimum sentence may be "waived" and a lower sentence imposed (including a sentence below the applicable guideline range), as provided in 28 U.S.C. § 994(n), by reason of a defendant's "substantial assistance in the investigation or prosecution of another person who has committed an offense". See §5K1.1 (Substantial Assistance to Authorities).*
8. *A defendant who used special skills in the commission of the offense may be subject to an enhancement under §3B1.3 (Abuse of Position of Trust or Use of Special Skill). Certain professionals often occupy essential positions in drug trafficking schemes. These professionals include doctors, pilots, boat captains, financiers, bankers, attorneys, chemists, accountants, and others whose special skill, trade, profession, or position may be used to significantly facilitate the commission of a drug offense.*
9. *Trafficking in controlled substances, compounds, or mixtures of unusually high purity may warrant an upward departure. The purity of the controlled substance, particularly in the case of heroin, may be relevant in the sentencing process because it is probative of the defendant's role or position in the chain of distribution. Since controlled substances are often diluted and combined with other substances as they pass down the chain of distribution, the fact that a defendant is in possession of unusually pure narcotics may indicate a prominent role in the criminal enterprise and proximity to the source of the drugs. As large quantities are normally associated with high purities, this factor is particularly relevant where smaller quantities are involved.*

Congress provided an exception to purity considerations in the case of phencyclidine (PCP). 21 U.S.C. § 841(b)(1)(A). The legislation designates amounts of pure PCP and mixtures in establishing mandatory sentences. The first row of the table illustrates this

distinction as one kilogram of PCP or 100 grams of pure PCP. Allowance for higher sentences based on purity is not appropriate for PCP.

10. The Commission has used the sentences provided in, and equivalences derived from, the statute (21 U.S.C. § 841(b)(1)), as the primary basis for the guideline sentences. The statute, however, provides direction only for the more common controlled substances, *i.e.*, heroin, cocaine, PCP, LSD and marihuana. The Drug Equivalency Tables set forth below provide conversion factors for other substances, which the Drug Quantity Table refers to as "equivalents" of these drugs. For example, one gram of a substance containing methamphetamine, a Schedule I stimulant, is to be treated as the equivalent of two grams of a substance containing cocaine in applying the Drug Quantity Table.

The Drug Equivalency Tables also provide a means for combining differing controlled substances to obtain a single offense level. If all the drugs are "equivalents" of the same drug, *e.g.*, stimulants that are grouped with cocaine, convert them to that drug. In other cases, convert each of the drugs to either the heroin or marihuana equivalents, add the quantities, and look up the total in the Drug Quantity Table to obtain the combined offense level. Use the marihuana equivalents when the only substances involved are "Schedule I Marihuana," "Schedule III Substances," "Schedule IV Substances," "Schedule V Substances" or "Other Schedule I or II Substances." Otherwise, use the heroin equivalents.

Note: Because of the statutory equivalences, the ratios in the Drug Equivalency Tables do not necessarily reflect dosages based on pharmacological equivalents.

Examples:

- a. The defendant is convicted of selling seventy grams of a substance containing PCP (Level 22) and 250 milligrams of a substance containing LSD (Level 18). Both PCP and LSD are grouped together in the Drug Equivalency Tables under the heading "LSD, PCP and Other Schedule I and II Hallucinogens," which provide PCP equivalencies. The 250 milligrams of LSD is equivalent to twenty-five grams of PCP. The total is therefore ninety-five grams of PCP, for which the Drug Quantity Table provides an offense level of 24.
- b. The defendant is convicted of selling 500 grams of marihuana (Level 8) and five kilograms of diazepam (Level 8). The diazepam, a Schedule IV drug, is equivalent to 625 grams of marihuana. The total, 1.125 kilograms of marihuana, has an offense level of 10 in the Drug Quantity Table.
- c. The defendant is convicted of selling eighty grams of cocaine (Level 16) and five kilograms of marihuana (Level 14). The cocaine is equivalent to sixteen grams of heroin; the marihuana, to five grams of heroin. The total equivalent is twenty-one grams of heroin, which has an offense level of 18 in the Drug Quantity Table.

DRUG EQUIVALENCY TABLES

Schedule I or II Opiates

1 gm of Alpha-Methylfentanyl =	100 gm of heroin
1 gm of Dextromoramide =	0.67 gm of heroin
1 gm of Dipipanone =	0.25 gm of heroin
1 gm of 3-Methylfentanyl =	125 gm of heroin
1 gm of 1-Methyl-4-phenyl-4-propionoxypiperidine/MPPP =	0.7 gm of heroin
1 gm of 1-(2-Phenylethyl)-4-phenyl-4-acetyloxypiperidine/PEPAP =	0.7 gm of heroin
0.7 gm of heroin	
1 gm of Alphaprodine =	0.1 gm of heroin
1 gm of Fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] Propanamide)	31.25 gm of heroin
1 gm of Hydromorphone/Dihydromorphinone =	2.5 gm of heroin
1 gm of Levorphanol =	2.5 gm of heroin
1 gm of Meperidine/Pethidine =	0.05 gm of heroin
1 gm of Methadone	0.5 gm of heroin
1 gm of 6-Monoacetylmorphine =	1 gm of heroin
1 gm of Morphine =	0.5 gm of heroin
1 gm of Oxycodone =	0.5 gm of heroin
1 gm of Oxymorphone =	5 gm of heroin
1 gm of Racemorphan =	0.8 gm of heroin
1 gm of Codeine =	0.08 gm of heroin
1 gm of Dextropropoxyphene/Propoxyphene-Bulk =	0.05 gm of heroin
1 gm of Ethylmorphine =	0.165 gm of heroin
1 gm of Hydrocodone/Dihydrocodeinone =	0.5 gm of heroin
1 gm of Mixed Alkaloids of Opium/Papaveretum =	0.25 gm of heroin
1 gm of Opium =	0.05 gm of heroin

Cocaine and Other Schedule I and II Stimulants

1 gm of Cocaine	0.2 gm of heroin
1 gm of N-Ethylamphetamine =	0.4 gm of cocaine/0.08 gm of heroin
1 gm of Fenethylamine -	0.2 gm of cocaine/0.04 gm of heroin
1 gm of Amphetamine =	1.0 gm of cocaine/0.2 gm of heroin
1 gm of Dextroamphetamine -	1.0 gm of cocaine/0.2 gm of heroin
1 gm of Methamphetamine =	2.0 gm of cocaine/0.4 gm of heroin
1 gm of L-Methamphetamine/Levo-methamphetamine/ L-Desoxyephedrine =	0.2 gm of cocaine/0.04 gm of heroin
1 gm of Phenmetrazine =	0.4 gm of cocaine/0.08 gm of heroin
1 gm of Phenylacetone/P ₂ P (amphetamine precursor)	0.375 gm of cocaine/0.075 gm of heroin
1 gm of Phenylacetonone/P ₂ P (methamphetamine precursor) =	0.833 gm of cocaine/0.167 gm of heroin
1 gm of Cocaine Base ("Crack") =	100 gm of cocaine/20 gm of heroin

LSD, PCP, and Other Schedule I and II Hallucinogens

1 gm of Bufotenine =	0.07 gm of heroin or PCP
1 gm of D-Lysergic Acid Diethylamide/Lysergide/LSD =	100 gm of heroin or PCP
1 gm of Diethyltryptamine/DET =	0.08 gm of heroin or PCP
1 gm of Dimethyltryptamine/DMT =	0.1 gm of heroin or PCP
1 gm of Mescaline =	0.01 gm of heroin or PCP
1 gm of Mushrooms containing Psilocin and/or Psilocybin (Dry) =	0.001 gm of heroin or PCP
1 gm of Mushrooms containing Psilocin and/or Psilocybin (Wet) =	0.0001 gm of heroin or PCP
1 gm of Peyote (Dry)	0.0005 gm of heroin or PCP
1 gm of Peyote (Wet) =	0.00005 gm of heroin or PCP
1 gm of Phencyclidine/PCP	1 gm of heroin
1 gm of Phencyclidine (Pure PCP) =	10 gm of heroin or PCP
1 gm of Liquid Phencyclidine	0.1 gm of heroin or PCP
1 gm of Psilocin =	0.5 gm of heroin or PCP
1 gm of Psilocybin =	0.5 gm of heroin or PCP
1 gm of Pyrrolidine Analog of Phencyclidine/PHP =	1 gm of heroin or PCP
1 gm of Thiophene Analog of Phencyclidine/TCP =	1 gm of heroin or PCP
1 gm of 4-Bromo-2,5-Dimethoxyamphetamine/DOB =	2.5 gm of heroin or PCP
1 gm of 2,5-Dimethoxy-4-methylamphetamine/DOM	1.67 gm of heroin or PCP
1 gm of 3,4-Methylenedioxyamphetamine/MDA =	0.05 gm of heroin or PCP
1 gm of 3,4-Methylenedioxymethamphetamine/MDMA =	0.035 gm of heroin or PCP
1 gm of 1-Piperidinocyclohexanecarbonitrile/PCC =	0.68 gm of heroin or PCP

Schedule I Marihuana

1 gm of Marihuana/Cannabis =	1 mg of heroin
1 Marihuana/Cannabis Plant =	0.1 gm of heroin/100 gm of marihuana
1 gm of Marihuana/Cannabis, granulated, powdered, etc. =	1 mg of heroin/1 gm of marihuana
1 gm of Hashish Oil =	0.05 gm of heroin/50 gm of marihuana
1 gm of Cannabis Resin or Hashish =	5 mg of heroin/5 gm of marihuana
1 gm of Tetrahydrocannabinol, Organic =	0.167 gm of heroin/167 gm of marihuana
1 gm of Tetrahydrocannabinol, Synthetic	0.167 gm of heroin/167 gm of marihuana

Other Schedule I or II Substances

1 gm of Methaqualone =	0.7 mg of heroin/700 mg of marihuana
1 gm of Amobarbital =	2 mg of heroin/2 gm of marihuana
1 gm of Pentobarbital =	2 mg of heroin/2 gm of marihuana
1 gm of Secobarbital =	2 mg of heroin/2 gm of marihuana

Schedule III Substances

1 gm of Allobarbital =	2 mg of heroin/2 gm of marihuana
1 gm of Aprobarbital =	2 mg of heroin/2 gm of marihuana
1 gm of Barbiturate =	2 mg of heroin/2 gm of marihuana
1 gm of Butabarbital =	2 mg of heroin/2 gm of marihuana
1 gm of Butalbital =	2 mg of heroin/2 gm of marihuana
1 gm of Butobarbital/butethal =	2 mg of heroin/2 gm of marihuana
1 gm of Cyclobarbital	2 mg of heroin/2 gm of marihuana
1 gm of Cyclopentobarbital =	2 mg of heroin/2 gm of marihuana
1 gm of Glutethimide =	2 mg of heroin/2 gm of marihuana
1 gm of Heptabarbital =	2 mg of heroin/2 gm of marihuana
1 gm of Hexethal	2 mg of heroin/2 gm of marihuana
1 gm of Hexobarbital =	2 mg of heroin/2 gm of marihuana
1 gm of Metharbital	2 mg of heroin/2 gm of marihuana
1 gm of Talbutal	2 mg of heroin/2 gm of marihuana
1 gm of Thialbarbital	2 mg of heroin/2 gm of marihuana
1 gm of Thiomytal =	2 mg of heroin/2 gm of marihuana
1 gm of Thiobarbital =	2 mg of heroin/2 gm of marihuana
1 gm of Thiohexethal =	2 mg of heroin/2 gm of marihuana
1 gm of Thiopental =	2 mg of heroin/2 gm of marihuana
1 gm of Vinbarbital =	2 mg of heroin/2 gm of marihuana
1 gm of Vinylbital =	2 mg of heroin/2 gm of marihuana
1 gm of Phendimetrazine =	2 mg of heroin/2 gm of marihuana
1 gm of Paregoric =	2 mg of heroin/2 gm of marihuana
1 gm of Hydrocodone Cough Syrups =	2 mg of heroin/2 gm of marihuana

Schedule IV Substances

1 gm of Phentermine =	0.125 mg of heroin/0.125 gm of marihuana
1 gm of Pentazocine =	0.125 mg of heroin/0.125 gm of marihuana
1 gm of Barbital	0.125 mg of heroin/0.125 gm of marihuana
1 gm of Diazepam =	0.125 mg of heroin/0.125 gm of marihuana
1 gm of Phenobarbital	0.125 mg of heroin/0.125 gm of marihuana
1 gm of Mephobarbital =	0.125 mg of heroin/0.125 gm of marihuana
1 gm of Methohexital	0.125 mg of heroin/0.125 gm of marihuana
1 gm of Methylphenobarbital/Mephobarbital =	0.125 mg of heroin/0.125 gm of marihuana
1 gm of Nitrazepam =	0.125 mg of heroin/0.125 gm of marihuana

Schedule V Substances

1 gm of codeine cough syrup =	0.0125 mg of heroin/12.5 mg of marihuana
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To facilitate conversions to drug equivalencies, the following table is provided:

MEASUREMENT CONVERSION TABLE

1 oz = 28.35 gm
1 lb = 453.6 gm
1 lb = .4536 kg
1 gal = 3.785 liters
1 qt = .946 liters
1 gm = 1 ml (liquid)
1 liter = 1,000 ml
1 kg = 1,000 gm
1 gm = 1,000 mg
1 grain = 64.8 mg

The following dosage equivalents for certain common drugs are provided by the Drug Enforcement Administration to facilitate the application of §2D1.1 of the guidelines in cases where the number of doses, but not the weight of the controlled substances, are known. The dosage equivalents provided in these tables reflect the amount of the pure drug contained in an average dose.

DOSAGE EQUIVALENCY TABLE

Hallucinogens

Anhalamine	300 mg
Anhalonide	300 mg
Anhalonine	300 mg
Bufotenine	1 mg
Diethyltryptamine	60 mg
Dimethyltryptamine	50 mg
Lophophorine	300 mg
LSD (Lysergic acid diethylamide)	.1 mg
LSD tartrate	.05 mg
MDA	100 mg
Mescaline	500 mg
PCP	5 mg
Pellotine	300 mg
Peyote	12 mg
Psilocin	10 mg
Psilocybin	10 mg
STP (DOM) Dimethoxyamphetamine	3 mg

Depressants

Barbiturates	100 mg
Brallobarbitol	30 mg
Eldoral	100 mg
Eunarcon	100 mg
Hexethel	100 mg
Methaqualone	300 mg
Thiobarbitol	50 mg
Thiohexethal	60 mg

Stimulants

<i>Amphetamines</i>	10 mg
<i>Ethylamphetamine HCl</i>	12 mg
<i>Ethylamphetamine SO₄</i>	12 mg
<i>Methamphetamine combinations</i>	5 mg
<i>Methamphetamines</i>	5 mg
<i>Preludin</i>	25 mg

11. Types and quantities of drugs not specified in the count of conviction may be considered in determining the offense level. See §1B1.3(a)(2) (Relevant Conduct). If the amount seized does not reflect the scale of the offense, see Application Note 2 of the Commentary to §2D1.4. If the offense involved negotiation to traffic in a controlled substance, see Application Note 1 of the Commentary to §2D1.4.

Background: Offenses under 21 U.S.C. §§ 841 and 960 receive identical punishment based upon the quantity of the controlled substance involved, the defendant's criminal history, and whether death or serious bodily injury resulted from the offense.

The base offense levels in §2D1.1 are either provided directly by the Anti-Drug Abuse Act of 1986 or are proportional to the levels established by statute, and apply to all unlawful trafficking. Levels 32 and 26 in the Drug Quantity Table are the distinctions provided by the Anti-Drug Abuse Act; however, further refinement of drug amounts is essential to provide a logical sentencing structure for drug offenses. To determine these finer distinctions, the Commission consulted numerous experts and practitioners, including authorities at the Drug Enforcement Administration, chemists, attorneys, probation officers, and members of the Organized Crime Drug Enforcement Task Forces, who also advocate the necessity of these distinctions.

The base offense levels with two asterisks represent mandatory minimum sentences established by the Anti-Drug Abuse Act of 1986. These levels reflect sentences with a lower limit as close to the statutory requirement as possible; e.g., level 32 ranges from 121 to 151 months, where the statutory minimum is ten years or 120 months.

Frequently, a term of supervised release to follow imprisonment is required by statute for offenses covered by this guideline. Guidelines for the imposition, duration, and conditions of supervised release are set forth in Chapter Five, §§5D3.1-5D3.3.

§2D1.2. Involving Juveniles in the Trafficking of Controlled Substances

(a) Base Offense Level:

- (1) Level from §2D1.1, corresponding to triple the drug amount involved, but in no event less than level 13, for involving an individual fourteen years of age or less; or
- (2) Level from §2D1.1, corresponding to double the drug amount involved, for involving an individual at least fifteen years of age and less than eighteen years of age.

Commentary

Statutory Provision: 21 U.S.C. § 845b.

Application Notes:

1. If multiple drugs or offenses occur and all or some of them involve juveniles, double or triple the drug amounts for those offenses involving juveniles before totalling the amounts. For example, if there are three drug offenses of conviction and only one involves juveniles in trafficking, add the amount from the first and second offense, double the amount for the offense involving juveniles, and total. Use that total to determine the base offense level.
2. The reference to the level from §2D1.1 includes the base offense level plus the specific offense characteristic dealing with a weapon. Under §2D1.1(b)(1) there is a 2-level increase for possession of a firearm or other dangerous weapon during commission of the offense.

Background: The statute addressed by this section punishes any person eighteen years of age or older who knowingly employs or uses any person younger than eighteen to violate or to conceal any violation of any provision of Title 21. Section 845b provides a minimum mandatory period of imprisonment of one year. An increased penalty for the employment or use of persons fourteen years of age or younger reflects the enhanced sentence authorized by 21 U.S.C. § 845b(d).

§2D1.3. Distributing Controlled Substances to Individuals Younger than Twenty-One Years, To Pregnant Women, or Within 1000 Feet of a School or College

(a) Base Offense Level:

- (1) Level from §2D1.1, corresponding to double the drug amount involved, but in no event less than level 13, for distributing a controlled substance to a pregnant woman;
- (2) (A) Level from §2D1.1, corresponding to double the drug amount involved, but in no event less than level 13, for distributing a controlled substance other than five grams or less of marihuana to an individual under the age of twenty-one years; or
(B) Level from §2D1.1, corresponding to double the drug amount involved, but in no event less than level 13, for distributing or manufacturing a controlled substance other than five grams or less of marihuana within 1000 feet of a schoolyard.

Commentary

Statutory Provisions: 21 U.S.C. §§ 845, 845a.

Application Notes:

1. The provisions addressed by this section contain a mandatory minimum period of imprisonment of one year. The base offense level is determined as in §2D1.2. If both subsections (a)(1) and (a)(2) apply to a single distribution (e.g., the distribution of 10 grams of a controlled substance to a pregnant woman under twenty-one years of age), the enhancements are applied cumulatively, i.e., by using four times rather than two times the amount distributed. However, only one of the enhancements in §2D1.3(a)(2) shall apply in a given case.
2. If multiple drugs or offenses occur, determine the offense level as described in the Commentary to §2D1.2.
3. The reference to the level from §2D1.1 includes the base offense level plus the specific offense characteristic dealing with a weapon. Under §2D1.1(b)(1) there is a 2-level increase for possession of a firearm, or other dangerous weapon during the commission of the offense.

Background: The guideline sentences for distribution of controlled substances to individuals under twenty-one years of age or within 1000 feet of a school or college treat the distribution of less than five grams of marijuana less harshly than other controlled substances. This distinction is based on the statutory provisions that specifically exempt convictions for the distribution of less than five grams of marijuana from the mandatory minimum one-year imprisonment requirement.

§2D1.4. Attempts and Conspiracies

- (a) Base Offense Level: If a defendant is convicted of participating in an incomplete conspiracy or an attempt to commit any offense involving a controlled substance, the offense level shall be the same as if the object of the conspiracy or attempt had been completed.

Commentary

Statutory Provisions: 21 U.S.C. §§ 846, 963.

Application Notes:

1. If the defendant is convicted of a conspiracy that includes transactions in controlled substances in addition to those that are the subject of substantive counts of conviction, each conspiracy transaction shall be included with those of the substantive counts of conviction to determine scale. If the defendant is convicted of an offense involving negotiation to traffic in a controlled substance, the weight under negotiation in an uncompleted distribution shall be used to calculate the applicable amount. Where the defendant was not reasonably capable of producing the negotiated amount the court may depart and impose a sentence lower than the sentence that would otherwise result. If the defendant is convicted of conspiracy, the sentence should be imposed only on the basis of the defendant's conduct or the conduct of co-conspirators in furtherance of the conspiracy that was known to the defendant or was reasonably foreseeable.

2. *Where there is no drug seizure or the amount seized does not reflect the scale of the offense, the sentencing judge shall approximate the quantity of the controlled substance. In making this determination, the judge may consider, for example, the price generally obtained for the controlled substance, financial or other records, similar transactions in controlled substances by the defendant, and the size or capability of any laboratory involved.*
3. *See Commentary to §2D1.1 regarding weapon possession.*

§2D1.5. Continuing Criminal Enterprise

(a) Base Offense Level:

- (1) 32, for the first conviction of engaging in a continuing criminal enterprise;
or
- (2) 38, for the second or any subsequent conviction of engaging in a continuing criminal enterprise; or
- (3) 43, for engaging in a continuing criminal enterprise as the principal administrator, leader, or organizer, if either the amount of drugs involved was 30 times the minimum in the first paragraph (*i.e.*, the text corresponding to Level 36) of the Drug Quantity Table or 300 times the minimum in the third paragraph (*i.e.*, the text corresponding to Level 32), or the principal received \$10 million in gross receipts for any twelve-month period.

Commentary

Statutory Provision: 21 U.S.C. § 848.

Application Note:

1. *Do not apply any adjustment from Chapter Three, Part B (Role in the Offense).*

Background: *The base offense levels for continuing criminal enterprises are mandatory minimum sentences provided by the statute that mandate imprisonment for leaders of large scale drug enterprises. A conviction establishes that the defendant controlled and exercised decision-making authority over one of the most serious forms of ongoing criminal activity. Therefore, an adjustment for role in the offense in Chapter Three, Part B, is not applicable.*

§2D1.6. Use of Communication Facility in Committing Drug Offense

(a) Base Offense Level: 12

Commentary

Statutory Provision: 21 U.S.C. § 843(b).

Background: This section covers the use of a communications facility in committing a drug offense. A communications facility includes any public or private instrument used in the transmission of writing, signs, signals, pictures, and sound; e.g., telephone, wire, radio.

§2D1.7. Unlawful Interstate Sale and Transporting of Drug Paraphernalia

- (a) Base Offense Level: 12

Commentary

Statutory Provision: 21 U.S.C. § 857.

§2D1.8. Renting or Managing a Drug Establishment

- (a) Base Offense Level: 16

- (b) Specific Offense Characteristic

- (1) If a firearm or other dangerous weapon was possessed during commission of the offense, increase by 2 levels.

Commentary

Statutory Provision: 21 U.S.C. § 856.

Application Note:

1. Definitions of "firearm" and "dangerous weapon" are found in the Commentary to §1B1.1 (Application Instructions).

Background: This section covers the offense of knowingly opening, maintaining, managing, or controlling any building, room, or enclosure for the purpose of manufacturing, distributing, storing, or using a controlled substance contrary to law (e.g., a "crack house").

§2D1.9. Placing or Maintaining Dangerous Devices on Federal Property to Protect the Unlawful Production of Controlled Substances

- (a) Base Offense Level: 23

Commentary

Statutory Provision: 21 U.S.C. § 841(e)(1).

Background: This section covers the offense of assembling, placing, or causing to be placed, or maintaining a "booby-trap" on federal property where a controlled substance is being manufactured or distributed.

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2. UNLAWFUL POSSESSION

§2D2.1. Unlawful Possession

(a) Base Offense Level:

- (1) 8, if the substance is heroin or any Schedule I or II opiate, or an analogue of these; or
- (2) 6, if the substance is cocaine, LSD, or PCP; or
- (3) 4, if the substance is any other controlled substance.

Commentary

Statutory Provision: 21 U.S.C. § 844(a).

Background: Absent a prior drug related conviction, the maximum term of imprisonment authorized by statute is one year. With a single prior drug related conviction, a mandatory minimum term of imprisonment of fifteen days is required by statute and the maximum term of imprisonment authorized is increased to two years. With two or more prior drug related convictions, a mandatory minimum term of imprisonment of ninety days is required by statute and the maximum term of imprisonment authorized is increased to three years.

§2D2.2. Acquiring a Controlled Substance by Forgery, Fraud, Deception, or Subterfuge

(a) Base Offense Level: 8

Commentary

Statutory Provision: 21 U.S.C. § 843(a)(3).

§2D2.3. Operating or Directing the Operation of a Common Carrier Under the Influence of Alcohol or Drugs

(a) Base Offense Level: 8

Commentary

Statutory Provision: 18 U.S.C. § 342.

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3. REGULATORY VIOLATIONS

§2D3.1. Illegal Use of Registration Number to Manufacture, Distribute, Acquire, or Dispense a Controlled Substance

- (a) Base Offense Level: 6

Commentary

Statutory Provision: 21 U.S.C. § 843(a).

Background: The maximum term of imprisonment authorized by statute is four years, except in a case with a prior drug related felony where the maximum term of imprisonment authorized by statute is eight years.

§2D3.2. Manufacture of Controlled Substance in Excess of or Unauthorized by Registration Quota

- (a) Base Offense Level: 4

Commentary

Statutory Provision: 21 U.S.C. § 842.

Background: This offense is a misdemeanor. The maximum term of imprisonment authorized by statute is one year.

§2D3.3. Illegal Use of Registration Number to Distribute or Dispense a Controlled Substance to Another Registrant or Authorized Person

- (a) Base Offense Level: 4

Commentary

Statutory Provision: 21 U.S.C. § 842.

Background: This offense is a misdemeanor. The maximum term of imprisonment authorized by statute is one year.

§2D3.4. Illegal Transfer or Transshipment of a Controlled Substance

- (a) Base Offense Level: 4

Commentary

Statutory Provision: 21 U.S.C. § 842.

Background: This offense is a misdemeanor. The maximum term of imprisonment authorized by statute is one year.