amount of other Schedule I or II Depressants) or Schedule III substances (except Anabolic Steroids);

At least 250 but less than 1,000 units of Anabolic Steroids;

At least 2 KG but less than 8 KG of Schedule IV substances;

20 KG or more of Schedule V substances.'',

And inserting in lieu thereof:

''At least 250 but less than 1,000 units of Schedule I or II Depressants;

At least 250 but less than 1,000 units of Schedule III substances;

At least 4,000 but less than 16,000 units of Schedule IV substances;

At least 40,000 or more units of Schedule V substances.''.

Section 2D1.1(c)(17) is amended by deleting:

''Less than 125 G of Secobarbital (or the equivalent amount of other Schedule I or II Depressants) or Schedule III substances (except Anabolic Steroids);

Less than 250 units of Anabolic Steroids;

Less than 2 KG of Schedule IV substances;

Less than 20 KG of Schedule V substances.'',

And inserting in lieu thereof:

''Less than 250 units of Schedule I or II Depressants;

Less than 250 units of Schedule III substances;

Less than 4,000 units of Schedule IV substances;

Less than 40,000 units of Schedule V substances.''.

Section 2D1.1(c) is amended in the notes following the Drug Quantity Table by inserting the following additional note as the fifth note:

''In the case of Schedule I or II Depressants, Schedule III substances (except anabolic steroids), Schedule IV substances, and Schedule V substances, one 'unit' means one pill, capsule, or tablet. If the substance is in liquid form, one 'unit' means 0.5 gms.''.

The Commentary to § 2D1.1 captioned ''Application Notes'' is amended in Note 10d by deleting ''28 kilograms'' and inserting in lieu thereof ''56,000 units''; by deleting ''50 kilograms'' and inserting in lieu thereof ''100,000 units''; and by deleting ''100 kilograms'' and inserting in lieu thereof ''200,000 units''.

The Commentary to § 2D1.1 captioned ''Application Notes'' is amended in Note 10 in the Drug Equivalency Tables in the subsection captioned ''Secobarbital and Other Schedule I or II Depressants'' by deleting:

''1 gm of Amobarbital = 2 gm of marihuana

1 gm of Glutethimide = 0.4 gm of marihuana

1 gm of Methaqualone = 0.7 gm of marihuana

1 gm of Pentobarbital = 2 gm of marihuana

1 gm of Secobarbital = 2 gm of marihuana'',

And inserting in lieu thereof:

''1 unit = 1 gm of marihuana''.

The Commentary to § 2D1.1 captioned ''Application Notes'' is amended in Note 10 in the Drug Equivalency Tables in the subsection captioned ''Schedule III Substances'' by deleting:

''1 gm of a Schedule III Substance (except anabolic steroids) = 2 gm of marihuana

1 unit of anabolic steroids = 1 gm of marihuana

1 unit = 1 gm of marihuana''.

The Commentary to § 2D1.1 captioned ''Application Notes'' is amended in Note 10 in the Drug Equivalency Tables in the subsection captioned ''Schedule IV Substances'' by deleting:

''1 gm of a Schedule IV Substance = 0.125 gm of marihuana'',

And inserting in lieu thereof:

''1 unit = 0.0625 gm of marihuana''.

The Commentary to § 2D1.1 captioned ''Application Notes'' is amended in Note 10 in the Drug Equivalency Tables in the subsection captioned ''Schedule V Substances'' by deleting:

''1 gm of a Schedule V Substance = 0.0125 gm of marihuana'',

And inserting in lieu thereof:

''1 unit = 0.00625 gm of marihuana''.

The Commentary to § 2D1.1 captioned ''Application Notes'' is amended in Note 11 in the in the ''Typical Weight Per Unit'' by deleting:

'' Depressants

Methaqualone 300 mg''.

42. Synopsis of Proposed Amendment: This is a twelve-part amendment that addresses a number of miscellaneous issues in Chapter Two, Part D (Offenses Involving Drugs).

First, this amendment adds definitions of hashish and hashish oil to § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking; Attempt or Conspiracy) in the notes following the Drug Quantity Table. Currently, these terms are not defined by statute or in the guidelines, leading to litigation as to which substances are to be classified as hashish or hashish oil (as opposed to marihuana). This issue has arisen in sentencing hearings, see *United States* v. *Schultz*, 810 F. Supp. 230 (S.D. Ohio 1992) and *United States* v. *Gravelle*, 819 F. Supp. 1076 (S.D. Fla. 1993), training presentations, and hotline questions. This amendment adds a note following § 2D1.1(c) to address this issue.

Second, this amendment clarifies the treatment of marihuana that has a moisture content sufficient to render it unusable without drying (e.g., a bale of marihuana left in the rain or recently harvested marihuana that had not had time to dry). In such cases, including the moisture in the weight of the marihuana can increase the offense level for a factor that bears no relationship to the scale of the offense or the marketable form of the marihuana. Prior to the effective date of the 1993 amendments, two circuits had approved weighing wet marihuana despite the fact that the marihuana was not in a usable form. *United States* v. *Garcia*, 925 F.2d 170 (7th Cir. 1991); *United States* v. *Pinedo-Montoya*, 966 F.2d 591 (10th Cir. 1992). Although Application Note 1 in the Commentary to § 2D1.1, effective November 1, 1993 (pertaining to unusable parts of a mixture or substance) should produce the appropriate result because marihuana must be dried before being used, this type of case is sufficiently distinct to warrant a specific reference in Application Note 1 to ensure correct application of the guideline.

Third, a frequently recurring issue is that of what constitutes a marihuana plant. Several circuits have confronted the issue of when a cutting from a marihuana plant becomes a ''plant.'' The appellate courts generally have held that the term ''plant'' should be defined by ''its plain and ordinary dictionary meaning * * * [A] marihuana 'plant' includes those cuttings accompanied by root balls.'' *United States* v. *Edge*, 989 F.2d 871, 878 (6th Cir. 1993) (quoting *United States* v. *Eves*, 932 F.2d 856, 860 (10th Cir. 1991)). See also *United States* v. *Malbrough*, 922 F.2d 458, 465 (8th Cir. 1990) (acquiescing in the district court's apparent determination that certain marihuana cuttings that did not have their own ''root system'' should not be counted as plants), cert. denied, 111 S. Ct. 2907; *United States* v. *Angell*, 794 F. Supp. 874, 875 (D. Minn. 1990) (refusing to count as plants marihuana cuttings that have no visible root structure); *United States* v. *Fitol*, 733 F. Supp. 1312 (D. Minn. 1990) (''individual cuttings, planted with the intent of growing full size plants, and which had grown roots, are 'plants' both within common parlance and within Section 841(b)''); United States v. Speltz, 733 F. Supp. 1311, 1312 (D. Minn. 1990) (small marijuana plants, e.g., cuttings with roots, are nonetheless still marijuana plants), aff'd. 938 F.2d 188 (8th Cir. 1991); United States v. Carlisle, 907 F.2d 94, 96 (9th Cir. 1990) (finding that cuttings were plants where each cutting had various degrees of root formation not clearly erroneous).