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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. SB 94

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act . . . designating flunitrazepam as a BRU: Criminal Division  
schedule IVA controlled substance . . ." Component: Criminal Division  
 Sponsor: Senator Ellis  
 Requester: Senate HESS Committee COMPONENT SERIAL NO. 2085

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill designates the drug flunitrazepam, the "date-rape" drug, as a schedule IVA controlled substance. Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone: 465-5370  
 Division: Administrative Services Division Date: 2/20/97  
 Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce Botelho for* Date: 2/20/97  
 Agency: Department of Law

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1997 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Rohypnol as Schedule IV-A Drug DPS Statewide Support  
 Component: Commissioner's Office  
 Sponsor: Senator Ellis  
 Requestor: S. HESS COMPONENT SERIAL NO. 0523

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ( )	-0-	-0-	-0-	-0-	-0-	-0-
Code Revenue						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

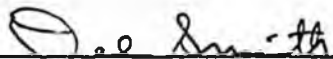
Estimate of current year (FY 97) impact: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner Phone: 465-4322  
 Division: Commissioner's Office Date: 1/24/97  
 Approved by Commissioner:  Date: 2/21/97  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. SB 94

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to designation flunitrazepam as a schedule IVA controlled substance"  
 Sponsor: Senator Ellis  
 Requestor: (S) HESS

Department Affected: Administration  
 BRU: Public Defender Agency  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 97) cost: \$ 0.0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

The bill makes flunitrazepam a schedule IVA controlled substance and could result in charges ranging in offense level from a class B felony down to an A misdemeanor. The Department of Law has not been made aware of any such cases in Alaska.

Prepared by: Barbara K. Brink, Director  
 Division: Public Defender Agency

Phone: (907) 264-4414  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

*Alison M. Sela*  
 Date: 2/21/97

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# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 2/14/97

FURTHER: Judiciary

Date of 5-Day Notice: 2/20/97  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 2/24/97

HESS Committee considered

SENATE BILL NO. 94

"An Act relating to designating flunitrazepam as a schedule IVA controlled substance; and providing for an effective date."

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

new: SCR# \_\_\_\_\_

SIGNING DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<b>CHAIR:</b> <i>[Signature]</i>	✓	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
Law	2/20/97	✓	
Public Safety	2/2/97	✓	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# ALASKA STATE LEGISLATURE

Senate Health, Education and  
Social Services Committee

•  
Senate Judiciary Committee

•  
Department of Health and Social  
Services Budget Subcommittee

•  
Department of Law  
Budget Subcommittee



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State Capitol, Rm. 9  
Juneau, Alaska 99801  
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## SENATOR JOHNNY ELLIS

### SPONSOR STATEMENT

#### **Senate Bill 94 Legislation to Criminalize Flunitrazepam**

Currently in the state of Alaska, possession of the drug Rohypnol is not illegal. This bill would classify Flunitrazepam (Rohypnol) as a Schedule IVA. With the passage of Senate Bill 94, possession of this drug would become a Class C Felony, carrying a penalty of 1-5 years. If Rohypnol is used to commit a sexual assault, the perpetrator can receive a sentence of up to thirty years.

Rohypnol has become the drug of choice by predators who commit sexual assault. Numerous sexual assaults have occurred around the nation after victims were slipped Rohypnol in their drinks, leaving them completely incapacitated, and unable to remember their assault. Blackouts from the use of Rohypnol can last from 8 to 24 hours. The combination of Rohypnol and alcohol is especially hazardous because together their effects on memory and judgment are greater than the effects resulting from either taken alone.

According to the DEA, Rohypnol is also being used by young people to increase the effects of alcohol. By consuming only one alcoholic beverage and a small amount of Rohypnol, a teenager may feel and appear drunk in only a matter of minutes. Many drug addicts also use Rohypnol to enhance the effects of various drugs. Youth and adults alike are attracted to Rohypnol because of its low price--\$3-\$5 per pill.

In ten years, DEA officials confiscated more than 375,000 tablets--more than 80 percent of these pills seized in just the last two years.

Rohypnol has various street names including rophies, ruffies, roofies, roche, mexican valium, rib, and rope.

**Questions and Answers Concerning Flunitrazepam (Rohypnol)**  
**Senate Bill 94**  
**Sponsored by Senator Ellis**

**Senate Bill 94 would designate Flunitrazepam as a schedule IVA drug. Currently this drug is not illegal in the state of Alaska.**

**What is Flunitrazepam (Rohypnol)?**

Flunitrazepam is a drug belonging to the drug class called benzodiazepines. Its primary pharmacological actions include sedation, hypnosis and muscle relaxation.

**What is Rohypnol?**

Rohypnol is the trade name of a product containing Flunitrazepam and marketed by Hoffman La Roche. It comes in 0.5, 1.0 and 2.0 mg tablets and as an injectable solution. It is currently marketed in 64 countries.

**What are the clinical uses of Flunitrazepam?**

Flunitrazepam is primarily used as a sedative/hypnotic in the clinical setting. It has been used for the short-term treatment of insomnia.

**Are there any medical situations in which Flunitrazepam is the only treatment drug available?**

No. The DEA is not aware of any medical conditions for which Flunitrazepam is the only treatment drug available.

**Is Flunitrazepam available for medical use in the United States?**

No. Flunitrazepam has never been approved by the Food and Drug Administration for marketing and medical use in the United States. Flunitrazepam is not used for the treatment of any medical disorder, including insomnia in the United States. In the U.S. doctors do not prescribe Flunitrazepam, pharmacists do not dispense Flunitrazepam and patients do not use Flunitrazepam.

**Is it possible to bring small quantities of Rohypnol into the United States.**

No. As of March 1996, it became illegal to bring Rohypnol into the United States with or without a prescription. United States Customs currently seize all Rohypnol products regardless of whether a medical prescription for the medication was presented.

**Can Rohypnol be synthesized in home laboratories?**

The DEA believes that the synthesis of Rohypnol appears to be beyond the capabilities of most street chemists.

**What are the populations who abuse Rohypnol in the United States?**

Populations that abuse Rohypnol include middle and high school students, college students, street gang members, nightclub attendees, rave party attendees, heroin abusers, and cocaine abusers.

In addition to the "recreational" users, Rohypnol is being used to aid in sexual assault. Most often individuals are slipped Rohypnol in their drinks. Incapacitation can come within twenty minutes and last up to 24 hours. Currently the DEA is aware of ongoing sexual assault cases involving Rohypnol in Florida, Texas, California and Virginia.

**How many law enforcement cases involving Rohypnol has the DEA documented?**

As of January 24, 1997 the DEA had documented 3,773 federal, state and local law enforcement cases involving Rohypnol. Of this total, 136 were DEA, 407 were United States Customs' and 3,230 were state and local law enforcement cases.

**In what states has the DEA documented federal, state or local law enforcement cases?**

**In Alaska:** It appears that Alaska has its first drug possession case of Rohypnol. According to Everett Clary of the State Crime Lab, there has been a seizure of 200-300 tablets of what looks to be Rohypnol. The tablets were seized along with cocaine and heroin.

Other states include: Alabama, Arizona, Arkansas, California, Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Kansas, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Montana, Missouri, Nevada, New Jersey, New Mexico, New York, North Carolina, Tennessee, Texas, Virginia and Washington.

**Is it difficult to test for Rohypnol?**

The current screening method for this category of drugs does not react well with Rohypnol and consequently is hard to detect. But according to Everett Clary they have the technology to modify the test for a total one time cost of \$200.



## HLR Service

A Member of the Roche Group

HLR Service Corporation  
9707 166th Street Ct. E.  
Puyallup, WA 98373

February 21, 1997

Jon Christensen  
Senior Regional Manager  
Tel 206-770-3741  
1-800-LA-ROCHE Ext. 8-9772  
Fax 206-770-3723

The Honorable Senator Johnny Ellis  
State Capitol  
Juneau, AK 99801

Dear Senator Ellis:

We at Roche are pleased to support you Senate Bill 94.

At Hoffmann-La Roche, the manufacturer of Rohypnol, we are extremely concerned by the issue of drug-induced sexual assault and reports that one of our medications may be one of the many misused in this way.

Rohypnol belongs to the class of medications known as benzodiazepines, which collectively have more than 30 years of medical use for the treatment of a variety of central nervous system conditions. They are currently classified in the U.S. in Schedule IV of the Federal Controlled Substances Act.

I am happy to answer any further question you may have and welcome the opportunity to speak with you further on this issue.

Sincerely,

Jon C. Christensen

**Effect of amendments.** — The 1990 amendment repealed paragraph (b)(4) and added paragraphs (c)(12) and (f)(4)-(f)(6).

**Sec. 11.71.170. Schedule IVA.** (a) A substance shall be placed in schedule IVA if it is found under AS 11.71.120(c) to have a degree of danger or probable danger to a person or the public which is less than the substances listed in schedule IIIA, but higher than the substances listed in schedule VA.

(b) Schedule IVA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) barbital;
- (2) chloral betaine;
- (3) chloral hydrate;
- (4) chlordiazepoxide;
- (5) clonazepam;
- (6) clorazepate;
- (7) diazepam;
- (8) ethchlorvynol;
- (9) ethinamate;
- (10) flurazepam;
- (11) lorazepam;
- (12) mebutamate;
- (13) meprobamate;
- (14) methohexital;
- (15) methylphenobarbital, also known as mephobarbital;
- (16) oxazepam;
- (17) paraldehyde;
- (18) petrichloral;
- (19) phenobarbital;
- (20) prazepam;
- (21) alprazolam;
- (22) halazepam;
- (23) temazepam;
- (24) triazolam;
- (25) midazolam;
- (26) quazepam.

(c) Schedule IVA includes any material, compound, mixture or preparation which contains any quantity of the following substance, including its salts, isomers whether optical, position, or geometric, and salts of these isomers, whenever the existence of these salts, isomers, and salts of isomers is possible: fenfluramine.

(d) Schedule IVA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers whether optical, position, or geometric, and salts of these isomers whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) diethylpropion;
- (2) phentermine;
- (3) pemoline, including organometallic complexes and chelates of this substance;
- (4) mazindol;
- (5) pipradol;

- (6) SPA ((-)-1-dimethylamino-1,2-diphenylethane);
- (7) cathine;
- (8) fencamfamin;
- (9) fenproporex;
- (10) mefenorex.

(e) Schedule IVA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or their salts calculated as the free anhydrous base or alkaloid.

(f) Schedule IVA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including their salts:

- (1) dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl- 3-methyl-2-propionoxybutane);
- (2) pentazocine;
- (3) propoxyphene. (§ 2 ch 45 SLA 1982; am §§ 8, 9 ch 76 SLA 1990)

*Effect of amendments.* — The 1990 amendment added paragraphs (b)(21)-(b)(26) and (d)(4)-(d)(10).

**Sec. 11.71.180. Schedule VA.** (a) A substance shall be placed in schedule VA if it is found under AS 11.71.120(c) to have a degree of danger or probable danger to a person or the public which is less than substances listed in schedule IVA, but higher than substances listed in schedule VIA.

(b) Schedule VA includes any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or their salts, calculated as the free anhydrous base or alkaloid, in limited quantities as specified in (1) — (6) of this subsection, which includes one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by schedule IA substances alone:

- (1) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;
- (2) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;
- (3) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;
- (4) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
- (5) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;
- (6) not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) *[Repealed, § 1 ch 66 SLA 1987.]*

(d) Schedule VA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the narcotic drug buprenorphine and its salts.

(e) Schedule VA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

- (1) propylhexedrine, except when contained in a Benzedrex inhaler;
- (2) pyrovalerone. (§ 2 ch 45 SLA 1982; am § 1 ch 66 SLA 1987; am § 10 ch 76 SLA 1990)

(f) Five members of the committee constitute a quorum, except that a smaller number may adjourn a meeting in the absence of a quorum. A quorum being present, a majority vote of the total membership is required to take official action. (§ 2 ch 45 SLA 1982)

**Sec. 11.71.110. Duties of committee.** The committee shall

(1) advise the governor of the need to add, delete or reschedule substances in the schedules in AS 11.71.140 — 11.71.190;

(2) recommend regulations for adoption by the Board of Pharmacy to prevent excessive prescription of controlled substances and the diversion of prescription drugs into illicit channels;

(3) evaluate the effectiveness of programs in the state providing treatment and counseling for persons who abuse controlled substances;

(4) recommend programs to the Alaska Court System to be instituted as alternatives to the prosecution or imprisonment of offenders who have no prior criminal record involving controlled substance offenses and who are charged with crimes involving controlled substances;

(5) review and evaluate enforcement policies and practices of the Department of Public Safety and the Department of Law with regard to crimes involving controlled substances, and recommend modifications of those policies and practices consistent with the committee's assessment of the probable danger of particular controlled substances; and

(6) review budget requests and recommend amounts for appropriations to the governor and the legislature for departments and agencies responsible for

(A) enforcing criminal laws pertaining to controlled substances;

(B) providing treatment and counseling of persons who abuse controlled substances; and

(C) regulating the legitimate handling of controlled substances. (§ 2 ch 45 SLA 1982)

**Sec. 11.71.120. Authority to schedule controlled substances.** (a) If, after considering the factors set out in (c) of this section, the committee decides to recommend that a substance should be added to, deleted from, or rescheduled in a schedule of controlled substances under AS 11.71.140 — 11.71.190, the governor shall introduce legislation in accordance with the recommendation of the committee.

(b) If a substance is added as a controlled substance under federal law, the governor shall introduce legislation in accordance with the federal law.

(c) In advising the governor of the need to add, delete, or reschedule a substance under AS 11.71.110(1), the committee shall assess the danger or probable danger of the substance after considering the following:

(1) the actual or probable abuse of the substance including

(A) the history and current pattern of abuse both in this state and in other states;

(B) the scope, duration, and significance of abuse;

(C) the degree of actual or probable detriment which may result from abuse of the substance;

(D) the probable physical and social impact of widespread abuse of the substance;

(2) the biomedical hazard of the substance including

(A) its pharmacology, in the effects and modifiers of the effects of the substance;

(B) its toxicology, the acute and chronic toxicity, interaction with other substances, whether controlled or not, and the degree to which it may cause psychological or physiological dependence;

(C) the risk to public health and the particular susceptibility of segments of the population;

(3) whether the substance is an immediate precursor of a substance already controlled under this chapter;

(4) the current state of scientific knowledge regarding the substance, including whether there is any acceptable means to safely use the substance under medical supervision;

(5) the relationship between the use of the substance and other criminal activity, including

(A) whether persons engaged in illicit trafficking of the substance are also engaged in other criminal activity;

(B) whether the nature and relative profitability of manufacturing or delivering the substance encourages illicit trafficking in the substance;

(C) whether the commission of other crimes is one of the effects of abuse of the substance;

(D) whether addiction to the substance relates to the commission of crimes to support the continued use of the substance.

(d) *[Repealed, § 40 ch 6 SLA 1984.]*

(e) The committee has no authority over tobacco or alcoholic beverages as defined in AS 04.21.080. (§ 2 ch 45 SLA 1982; am § 40 ch 6 SLA 1984)

**Legislative history reports.** — For statement of the purpose of the 1984 repeal of subsection (d) of this section, see the 1984 House Journal at p. 2287, in the paragraph captioned "Section 40."

#### NOTES TO DECISIONS

**Construction of former law.** — For construction of former AS 17.12.040, concerning regulations and authorizing the commissioner of health and social services to promulgate list of certain drugs, see *State v. Erikson*, 574 P.2d 1 (Alaska 1978).

**Sec. 11.71.140. Schedule IA.** (a) A substance shall be placed in schedule IA if it is found under AS 11.71.120(c) to have the highest degree of danger or probable danger to a person or the public.

(b) Schedule IA includes, unless specifically excepted or listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

- (A) raw opium;
- (B) opium extracts;
- (C) opium fluid extracts;
- (D) powdered opium;
- (E) granulated opium;
- (F) tincture of opium;
- (G) codeine;
- (H) ethylmorphine;
- (I) etorphine hydrochloride;
- (J) hydrocodone;
- (K) hydromorphone;
- (L) metopon;
- (M) morphine;
- (N) oxycodone;
- (O) oxymorphone;
- (P) thebaine;

(2) any salt, compound, derivative, or preparation of a substance included in (b)(1) of this section which is chemically equivalent or identical to any of the substances referred