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1. [21 CFR 1308.11](#)

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Code of Federal Regulations > TITLE 21 -- FOOD AND DRUGS > CHAPTER II -- DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE > PART 1308 -- SCHEDULES OF CONTROLLED SUBSTANCES > SCHEDULES

Notice

 SEE NOTE AS TO EXPIRATION OF THIS SECTION.

§ 1308.11 Schedule I.

[PUBLISHER'S NOTE: [83 FR 44474, 44478](#), Aug. 31, 2018, added paragraph (h)(36), effective Aug. 31, 2018, through Aug. 31, 2020.]

[PUBLISHER'S NOTE: [83 FR 31877, 31882](#), July 10, 2018, added paragraphs (h)(31) to (35), effective July 10, 2018, through July 10, 2020.]

[PUBLISHER'S NOTE: [83 FR 10367, 10368](#), Mar. 9, 2018, amended paragraphs (h)(23) and (h)(29), effective Mar. 9, 2018, through Feb. 1, 2020.]

[PUBLISHER'S NOTE: [83 FR 5188, 5191](#), Feb. 6, 2018, added paragraphs (h)(30), effective Feb. 6, 2018, through Feb. 6, 2020.]

[PUBLISHER'S NOTE: [83 FR 4580, 4584](#), Feb. 1, 2018, added paragraphs (h)(23) through (h)(29), effective Feb. 1, 2018, through Feb. 1, 2020.]

[PUBLISHER'S NOTE: [83 FR 469, 472](#), Jan. 4, 2018, added paragraph (h)(22), effective Jan. 4, 2018, through Jan. 4, 2020.]

[PUBLISHER'S NOTE: [82 FR 51154, 51158](#), Oct. 26, 2017, added paragraph (h)(18), effective Nov. 3, 2017, through Nov. 4, 2019.]

[PUBLISHER'S NOTE: [82 FR 49504, 49508](#), Oct. 26, 2017, added paragraph (h)(15) through (h)(21), effective Oct. 26, 2017, through Oct. 28, 2019.]

[PUBLISHER'S NOTE: [82 FR 20544, 20547](#), May 3, 2017, added paragraph (h)(16), effective May 3, 2017, through May 3, 2019.]

[PUBLISHER'S NOTE: [82 FR 17119, 17123](#), April 10, 2017, added paragraphs (h)(10) through (h)(15), effective Apr. 10, 2017, and [84 FR 13796](#), Apr. 8, 2019, extended the is effective Apr. 10, 2019 and expires on Apr. 10, 2020.]

[PUBLISHER'S NOTE: [81 FR 29492, 29496](#), May 12, 2016, added paragraphs (h)(26) and (27), effective May 12, 2016, and [83 FR 21834](#), May 10, 2018, extended the is effective May 12, 2018 and expires on May 12, 2019.]

[PUBLISHER'S NOTE: [84 FR 15505, 15511](#), Apr. 16, 2019, added paragraphs (h)(37) through (41), effective Apr. 16, 2019, through Apr. 16, 2021.]

[PUBLISHER'S NOTE: [84 FR 34291, 34297](#), July 18, 2019, added paragraphs (h)(42) through (47), effective July 18, 2019, through July 18, 2021.]

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(a)Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

(b)Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation (for purposes of 3-methylthiofentanyl only, the term isomer includes the optical and geometric isomers):

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl 1-2-phenethyl)-4-piperidinyl-N-]phenylacetamide)	9815
(2) Acetylmethadol	9601
(3) Acetyl fentanyl (N -(1-phenethylpiperidin-4-yl)- N -phenylacetamide)--	9821
(4) Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide; other name: acryloylfentanyl).	9811
(5) AH-7921 (3,4-dichloro-N-[(1-dimethylamino) cyclohexylmethyl]benzamide	9551 9551
(6) Allylprodine	9602
(7) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM)	9603
(8) Alphameprodine	9604
(9) Alphamethadol	9605
(10) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine)	9814
(11) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl-N-] phenylpropanamide)	9832
(12) Benzethidine	9606
(13) Betacetylmethadol	9607
(14) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide)	9830
(15) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl] -N-phenylpropanamide)	9831
(16) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide (Other name: beta-Hydroxythiofentanyl)	9836
(17) Betameprodine	9608

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(18) Betamethadol	9609
(19) Betaprodine	9611
(20) Butyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide)	9822
(21) Clonitazene	9612
(22) Dextromoramide	9613
(23) Diampromide	9615
(24) Diethylthiambutene	9616
(25) Difenoxin	9168
(26) Dimenoxadol	9617
(27) Dimepheptanol	9618
(28) Dimethylthiambutene	9619
(29) Dioxaphetyl butyrate	9621
(30) Dipipanone	9622
(31) Ethylmethylthiambutene	9623
(32) Etonitazene	9624
(33) Etoxidine	9625
(34) 4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide; other name: para-fluoroisobutyryl fentanyl)	9824
(35) Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834
(36) Furethidine	9626
(37) Hydroxypethidine	9627
(38) Ketobemidone	9628
(39) Levomoramide	9629
(40) Levophenacetylmorphan	9631
(41) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl] -N-phenylpropanamide)	9813

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(42) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidiny] -N-phenylpropanamide)	9833
(43) Morpheridine	9632
(44) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)	9661
(45) MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine)	9560
(46) Noracymethadol	9633
(47) Norlevorphanol	9634
(48) Normethadone	9635
(49) Norpipanone	9636
(50) Ocfentanil (N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide)	9838
(51) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny] propanamide	9812
(52) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine	9663
(53) Phenadoxone	9637
(54) Phenampromide	9638
(55) Phenomorphan	9647
(56) Phenoperidine	9641
(57) Piritramide	9642
(58) Proheptazine	9643
(59) Properidine	9644
(60) Propiram	9649
(61) Racemoramide	9645
(62) Tetrahydrofuranyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide)	9843
(63) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny] -propanamide	9835
(64) Tilidine	9750

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(65) Trimeperidine	9646
(66) U-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547

(c)Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine	9319
(2) Acetyldihydrocodeine	9051
(3) Benzylmorphine	9052
(4) Codeine methylbromide	9070
(5) Codeine-N-Oxide	9053
(6) Cyprenorphine	9054
(7) Desomorphine	9055
(8) Dihydromorphine	9145
(9) Drotebanol	9335
(10) Etorphine (except hydrochloride salt)	9056
(11) Heroin	9200
(12) Hydromorphanol	9301
(13) Methyldesorphine	9302
(14) Methyldihydromorphine	9304
(15) Morphine methylbromide	9305
(16) Morphine methylsulfonate	9306
(17) Morphine-N-Oxide	9307
(18) Myrophine	9308
(19) Nicocodeine	9309
(20) Nicomorphine	9312
(21) Normorphine	9313
(22) Pholcodine	9314
(23) Thebacon	9315

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(d)Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(1) Alpha-ethyltryptamine	7249
Some trade or other names: etryptamine; Monase; [alpha]-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; [alpha]-ET; and AET.	
(2) 4-bromo-2,5-dimethoxy-amphetamine	7391
Some trade or other names: 4-bromo-2,5-dimethoxy-[alpha]-methylphenethylamine; 4-bromo-2,5-DMA	
(3) 4-Bromo-2,5-dimethoxyphenethylamine	7392
Some trade or other names: 2-[4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus.	
(4) 2,5-dimethoxyamphetamine	7396
Some trade or other names: 2,5-dimethoxy-[alpha]-methylphenethylamine; 2,5-DMA	
(5) 2,5-dimethoxy-4-ethylamphet-amine	7399
Some trade or other names: DOET	
(6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7)	7348
(7) 4-methoxyamphetamine	7411
Some trade or other names: 4-methoxy-[alpha]-methylphenethylamine; paramethoxyamphetamine, PMA	
(8) 5-methoxy-3,4-methylenedioxy-amphetamine	7401
(9) 4-methyl-2,5-dimethoxy-amphetamine	7395
Some trade and other names: 4-methyl-2,5-dimethoxy-[alpha]-methylphenethylamine; "DOM"; and "STP"	
(10) 3,4-methylenedioxy amphetamine	7400

(11) 3,4-methylenedioxymethamphetamine (MDMA)	7405
(12) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA)	7404
(13) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA)	7402
(14) 3,4,5-trimethoxy amphetamine	7390
(15) 5-methoxy-N,N-dimethyltryptamine. Some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT	7431
(16) Alpha-methyltryptamine (other name: AMT)	7432
(17) Bufotenine Some trade and other names: 3-([beta]-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine	7433
(18) Diethyltryptamine Some trade and other names: N,N-Diethyltryptamine; DET	7434
(19) Dimethyltryptamine Some trade or other names: DMT	7435
(20) 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT)	7439
(21) Ibogaine Some trade and other names: 7-Ethyl-6,6 [beta] ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino 5,4-b indole; Tabernanthe iboga	7260
(22) Lysergic acid diethylamide	7315
(23) Marihuana	7360

- (24) Mescaline 7381
- (25) Parahexyl -- 7374; some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl.
- (26) Peyote 7415
- Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts
- (Interprets [21 USC 812\(c\)](#), Schedule I(c) (12))
- (27) N-ethyl-3-piperidyl benzilate 7482
- (28) N-methyl-3-piperidyl benzilate 7484
- (29) Psilocybin 7437
- (30) Psilocyn 7438
- (31) Tetrahydrocannabinols 7370
- Meaning tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:
- 1 cis or trans tetrahydrocannabinol, and their optical isomers
- 6 cis or trans tetrahydrocannabinol, and their optical isomers
- 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers
- (Since nomenclature of these substances is not internationally

standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(32) Ethylamine analog of phencyclidine	7455
Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE	
(33) Pyrrolidine analog of phencyclidine	7458
Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP	
(34) Thiophene analog of phencyclidine	7470
Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP	
(35) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine	7473
Some other names: TCPy	
(36) 4-methylmethcathinone (Mephedrone)	1248
(37) 3,4-methylenedioxypropylvalerone (MDPV)	7535
(38) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E)	7509
(39) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)	7508
(40) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)	7519
(41) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)	7518
(42) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)	7385
(43) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)	7532
(44) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)	7517
(45) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N)	7521

(46) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P)	7524
(47) 3,4-Methylenedioxy-N-methylcathinone (Methylone)	7540
(48) (1-pentyl-1H -indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144)	(7144)
(49) [1-(5-fluoro-pentyl)-1H -indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (5-fluoro-UR-144, XLR11)	(7011)
(50) N -(1-adamantyl)-1-pentyl-1H -indazole-3-carboxamide (APINACA, AKB48)	(7048)
(51) quinolin-8-yl 1-pentyl-1H -indole-3-carboxylate (PB-22; QUPIC)	(7222)
(52) quinolin-8-yl 1-(5-fluoropentyl)-1H -indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22)	(7225)
(53) N -(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H -indazole-3-carboxamide (AB-FUBINACA)	(7012)
(54) N -(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H -indazole-3-carboxamide (ADB-PINACA)	(7035)
(55) 2-(4-iodo-2,5-dimethoxyphenyl)- N- (2-methoxybenzyl)ethanamine	(7538) [25I-NBO Me, 2C-I-NBO Me)
(56) 2-(4-chloro-2,5-dimethoxyphenyl)- N- (2-methoxybenzyl)ethanamine (25C-NBOMe, 2C-C-NBOMe)	(7537)
(57) 2-(4-bromo-2,5-dimethoxyphenyl)- N- (2-methoxybenzyl)ethanamine	(7536) [25B-NBO Me, 2C-B-NBO Me)
(58) Marihuana Extract--	(7350)

Meaning an extract containing

one or more cannabinoids that has been

derived from any plant of the genus

Cannabis, other than the separated

resin (whether crude or purified)

obtained from the plant

(59) 4-methyl-N -ethylcathinone (4-MEC)	(1249)
(60) 4-methyl-alpha -pyrrolidinopropiophenone (4-MePPP)	(7498)
(61) alpha -pyrrolidinopentiophenone (alpha -PVP)	(7545)
(62) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone, bk-MBDB)	(7541)
(63) 2-(methylamino)-1-phenylpentan-1-one (pentedrone)	(1246)
(64) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone, bk-MBDP)	(7542)
(65) 4-fluoro-N -methylcathinone (4-FMC; flephedrone)	(1238)
(66) 3-fluoro-N -methylcathinone (3-FMC)	(1233)
(67) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone)	(1258)
(68) alpha -pyrrolidinobutiophenone (alpha -PBP)	(7546)
(69) N -(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H -indazole-3-carboxamide (AB-CHMINACA)	(7031)
(70) N -(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H -indazole-3- carboxamide (AB-PINACA)	(7023)
(71) [1-(5-fluoropentyl)-1H -indazol-3-yl](naphthalen-1- yl)methanone (THJ-2201).	(7024)
(72) N-(1-amino-3,3-dimethyl-1- oxobutan-2-yl)-1-(cyclohexylm ethyl)-1 H-	(7032)

indazole-3-carboxamide (MAB-
CHMINACA; ADB-CHMINACA)

(e)Depressants. 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 depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- | | |
|--|------|
| (1) gamma-hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate) | 2010 |
| (2) Mecloqualone | 2572 |
| (3) Methaqualone | 2565 |

(f)Stimulants. 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) Aminorex (Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-1585 oxazolamine) | 1585 |
| (2) N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine) | 7493 |
| (3) Cathinone
Some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone | 1235 |
| (4) Fenethylline | 1503 |
| (5) Methcathinone
(Some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432), its salts, optical isomers and salts of optical isomers | 1237 |
| (6) ([+/-])cis-4-methylaminorex | 1590 |

(([+/-])cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine)

(7) N-ethylamphetamine 1475

(8) N,N-dimethylamphetamine (also known as N,N-alpha-trimethylbenzeneethanamine; N,N-alpha-trimethylphenethylamine) 1480

(g)Cannabimimetic agents. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497)	7297
(2) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog)	7298
(3) 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678)	7118
(4) 1-butyl-3-(1-naphthoyl)indole (JWH-073)	7173
(5) 1-hexyl-3-(1-naphthoyl)indole (JWH-019)	7019
(6) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200)	7200
(7) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250)	6250
(8) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081)	7081
(9) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122)	7122
(10) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398)	7398
(11) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201)	7201
(12) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694)	7694
(13) 1-pentyl-3-[4-methoxy-benzoyl]indole (SR-19 and RCS-4)	7104
(14) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole 7008 (SR-18 and RCS-8)	7008
(15) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203)	7203

(h)Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

(1)[Reserved]

(2)[Reserved]

(3)[Reserved]

(4)[Reserved]

(5)[Reserved]

(6) methyl 2-(1-(5-fluoropentyl)-1H -indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5F-ADB; 5F-MDMB-PINACA) (7034)

(7) methyl 2-(1-(5-fluoropentyl)-1H -indazole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5F-AMB). (7033)

(8) N -(adamantan-1-yl)-1-(5-fluoropentyl)-1H -indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5F-APINACA, 5F-AKB48) (7049)

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- (9) N -(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H -indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: ADB-FUBINACA) (7010)
- (10) methyl 2-(1-(cyclohexylmethyl)-1H -indole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MDMA-CHMICA, MMB-CHMINACA) (7042)
- (11) methyl 2-(1-(4-fluorobenzyl)-1H -indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MDMA-FUBINACA) (7020)
- (12)[Y][Reserved]
- (13)[Y][Reserved]
- (14)[Y][Reserved]
- [Effective Oct. 26, 2017, through Oct. 28, 2019.] (15) through (17) [Reserved]
- (18)**[Effective Nov. 3, 2017, through Nov. 4, 2019.] methyl 2-(1-(4-fluorobenzyl)-1 H -indazole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: FUB-AMB, MMB-FUBINACA, AMB-FUBINACA) (7021)
- [Effective Oct. 26, 2017, through Oct. 28, 2019.]
- (19) N -(2-fluorophenyl)-N -(1-phenethylpiperidin-4-yl)propionamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other names: ortho -fluorofentanyl, 2-fluorofentanyl) (9816)
- (20) [Reserved]
- (22) [Effective Jan. 4, 2018, through Jan. 4, 2020.] N -(1-phenethylpiperidin-4-yl)- N -phenylcyclopropanecarboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: cyclopropyl fentanyl).(9845)
- [Effective Mar. 9, 2018, through Feb. 1, 2020.]
- (23) N -(1-phenethylpiperidin-4-yl)-N -phenylpentanamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: Valeryl fentanyl) (9840)
- (24) N -(4-fluorophenyl)-N -(1-phenethylpiperidin-4-yl)butyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: para -fluorobutyryl fentanyl) (9823)
- (25) N -(4-methoxyphenyl)-N -(1-phenethylpiperidin-4-yl)butyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: para -methoxybutyryl fentanyl) (9837)
- (26) N -(4-chlorophenyl)-N -(1-phenethylpiperidin-4-yl)isobutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: para -chloroisobutyryl fentanyl) (9826)
- (27) N -(1-phenethylpiperidin-4-yl)-N -phenylisobutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: isobutyryl fentanyl) (9827)
- (28) N -(1-phenethylpiperidin-4-yl)-N -phenylcyclopentanecarboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: cyclopentyl fentanyl) (9847)
- (29) [Reserved]
- [Effective Feb. 6, 2018, through Feb. 6, 2020.]
- (30) Fentanyl-related substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers 9850

(i)[Effective Feb. 6, 2018, through Feb. 6, 2020.] Fentanyl-related substance means any substance not otherwise listed under another Administration Controlled Substance Code Number, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act [\[21 U.S.C. 355\]](#), that is structurally related to fentanyl by one or more of the following modifications:

- (A)[Effective Feb. 6, 2018, through Feb. 6, 2020.] Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;
- (B)[Effective Feb. 6, 2018, through Feb. 6, 2020.] Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino or nitro groups;
- (C)[Effective Feb. 6, 2018, through Feb. 6, 2020.] Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;
- (D)[Effective Feb. 6, 2018, through Feb. 6, 2020.] Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or
- (E)[Effective Feb. 6, 2018, through Feb. 6, 2020.] Replacement of the N -propionyl group by another acyl group.

(ii)[Effective Feb. 6, 2018, through Feb. 6, 2020.] This definition includes, but is not limited to, the following substances:

(A)[Effective Feb. 6, 2018, through Feb. 6, 2020.] [Reserved]

(B)[Effective Feb. 6, 2018, through Feb. 6, 2020.] [Reserved]

[Effective July 10, 2018, through July 10, 2020.]

(31) Naphthalen-1-yl 1-(5-fluoropentyl)-1 H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: NM2201; CBL2201)	(72 21)
(32) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl) -1 H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5F-AB-PINACA)	(70 25)
(33) 1-(4-cyanobutyl)- N-(2-phenylpropan-2-yl)-1 H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN-BINACA; SGT-78)	(70 89)
(34) methyl 2-(1-(cyclohexylmethyl)-1 H-indole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MMB-CHMICA, AMB-CHMICA)	(70 44)
(35) 1-(5-fluoropentyl)- N-(2-phenylpropan-2-yl)-1 H-pyrrolo[2,3-b]pyridine-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5F-CUMYL-P7AICA)	(70 85)
(36) [Effective Aug. 31, 2018, through Aug. 31, 2020.] N-Ethylpentylone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: ephylone, 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one)	(75 43)

[Effective Apr. 16, 2019, through Apr. 16, 2021]

(37) ethyl 2-(1-(5-fluoropentyl)-1 H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (trivial name: 5F-EDMB-PINACA)	7036
(38) methyl 2-(1-(5-fluoropentyl)-1 H-indole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (trivial name: 5F-MDMB-PICA)	7041
(39) N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1 H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (trivial names: FUB-AKB48; FUB-APINACA; AKB48 N-(4-FLUOROBENZYL))	7047
(40) 1-(5-fluoropentyl)- N-(2-phenylpropan-2-yl)-1 H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (trivial names: 5F-CUMYL-PINACA; SGT-25)	7083
(41) (1-(4-fluorobenzyl)-1 H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) methanone, its optical, positional, and geometric isomers, salts and salts of isomers (trivial name: FUB-144)	7014

[Effective July 18, 2019, through July 18, 2021]

(42) N-Ethylhexedrone, its optical, positional, and geometric isomers, salts and salts of isomers (Other name: 2-(ethylamino)-1-phenylhexan-1-one)	7246
(43) alpha-Pyrrolidinohexanophenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: a-PHP;	7544

alpha-pyrrolidinohexiophenone; 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one	
(44) 4-Methyl- alpha-ethylaminopentiophenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 4-MEAP; 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one)	7245
(45) 4'-Methyl- alpha-pyrrolidinohexiophenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MPHP; 4'-methyl- alpha-pyrrolidinohexanophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one)	744 6
(46) alpha-Pyrrolidinoheptaphenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: PVP; 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one)	7548
(47) 4'-Chloro- alpha-pyrrolidinovalerophenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 4-chloro- PVP; 4'-chloro- alpha-pyrrolidinopentiophenone; 1-(4-chlorophenyl)-2-(pyrrolidin-1- yl)pentan-1-one)	74 43

Statutory Authority

[21 U.S.C. 811](#), 812, 871(b)

History

[[39 FR 22141](#), June 20, 1974; [51 FR 4723](#), [5320](#), [9440](#), [15474](#), [21912](#), [28695](#), [33593](#), [36560](#), [42834](#), [1986](#); [52 FR 2516](#), [2517](#), [6546](#), [7270](#), [20072](#), [27198](#), [38226](#), [1987](#); [53 FR 501](#), [2226](#), [3744](#), [5158](#), [29233](#), [40061](#), [1988](#); [54 FR 14798](#), [14800](#), [28415](#), [31815](#), [1989](#); [55 FR 3588](#), [9117](#), [1990](#); [57 FR 18825](#), May 1, 1992; [57 FR 43401](#), Sept. 21, 1992; [58 FR 4317](#), [4318](#), Jan. 14, 1993; [58 FR 13534](#), March 12, 1993; [58 FR 25934](#), Apr. 29, 1993; [58 FR 43796](#), Aug. 18, 1993; [58 FR 44612](#), Aug. 24, 1993; [58 FR 53406](#), Oct. 15, 1993; [59 FR 673](#), Jan. 6, 1994; [59 FR 12829](#), [12830](#), March 18, 1994; [59 FR 46579](#), Sept. 12, 1994; [59 FR 65710](#), Dec. 21, 1994; [60 FR 28719](#), June 2, 1995; [65 FR 13235](#), [13238](#), Mar. 13, 2000; [67 FR 59161](#), [59162](#), [59163](#), [59165](#), Sept. 20, 2002; [68 FR 14114](#), [14119](#), Mar. 21, 2003; [68 FR 16427](#), [16430](#), Apr. 4, 2003; [69 FR 12794](#), [12796](#), Mar. 18, 2004; [69 FR 17034](#), Apr. 1, 2004; [69 FR 58050](#), [58053](#), Sept. 29, 2004; [75 FR 37300](#), [37301](#), June 29, 2010; [75 FR 79296](#), [79300](#), Dec. 20, 2010; [76 FR 11075](#), [11078](#), Mar. 1, 2011; [76 FR 65371](#), [65374](#), Oct. 21, 2011; [77 FR 4228](#), [4235](#), Jan. 27, 2012; [78 FR 664](#), [665](#), Jan. 4, 2013; [78 FR 21818](#), [21825](#), Apr. 12, 2013; [78 FR 28735](#), [28738](#), May 16, 2013; [78 FR 68716](#), [68719](#), Nov. 15, 2013; [79 FR 7577](#), [7582](#), Feb. 10, 2014; [79 FR 12938](#), [12942](#), Mar. 7, 2014; [80 FR 5042](#), [5047](#), Jan. 30, 2015; [80 FR 14842](#), [14844](#), Mar. 20, 2015; [80 FR 42381](#), [42385](#), July 17, 2015; [81 FR 6171](#), [6175](#), Feb. 5, 2016; [81 FR 22023](#), [22025](#), Apr. 14, 2016; [81 FR 29142](#), [29145](#), May 11, 2016; [81 FR 29492](#), [29496](#), May 12, 2016; [81 FR 61130](#), [61133](#), Sept. 6, 2016; [81 FR 66181](#), [66184](#), Sept. 27, 2016; [81 FR 79389](#), [79393](#), Nov. 14, 2016; [81 FR 85873](#), [85877](#), Nov. 29, 2016; [81 FR 90194](#), [90196](#), Dec. 14, 2016; [82 FR 2218](#), Jan. 9, 2017; [82 FR 12171](#), [12177](#), Mar. 1, 2017; [82 FR 17119](#), [17123](#), Apr. 10, 2017; [82 FR 20544](#), [20547](#), May 3, 2017; [82 FR 26349](#), [26351](#), June 7, 2017; [82 FR 32453](#), [32457](#), July 14, 2017; [82 FR 47971](#), [47974](#), Oct. 16, 2017; [82 FR 49504](#), [49508](#), Oct. 26, 2017; [82 FR 51154](#), [51158](#), Nov. 3, 2017; [82 FR 58557](#), [58559](#), Dec. 13, 2017; [83 FR 469](#), [472](#), Jan. 4, 2018; [83 FR 4580](#), [4584](#), Feb. 1, 2018; [83 FR 5188](#), [5191](#), Feb. 6, 2018; [83 FR 10367](#), [10368](#), Mar. 9, 2018; [83 FR 17486](#), [17488](#), Apr. 20, 2018; [83 FR 21834](#), May 10, 2018; [83 FR 31877](#), [31882](#), July 10, 2018; [83 FR 44474](#), [44478](#), Aug. 31, 2018; [83 FR 61320](#), [61323](#), Nov. 29, 2018; [84 FR 444](#), [448](#), Jan. 29, 2019; [84 FR 13796](#), Apr. 8, 2019; [84 FR 15505](#), [15511](#), Apr. 16, 2019; [84 FR 20023](#), May 8, 2019; [84 FR 34291](#), [34297](#), July 18, 2019]

Annotations

Notes

[EFFECTIVE DATE NOTE:

[78 FR 21818, 21825](#), Apr. 12, 2013, added paragraph (d)(47), effective Apr. 12, 2013; [78 FR 28735, 28738](#), May 16, 2013, added paragraphs (h)(9), (h)(10) and (h)(11), effective May 16, 2013; [78 FR 68716, 68719](#), Nov. 15, 2013, added paragraphs (h)(12), (h)(13), and (h)(14), effective Nov. 15, 2013; [79 FR 7577, 7582](#), Feb. 10, 2014, added paragraphs (h)(15) through (h)(18), effective Feb. 10, 2014; [79 FR 12938, 12942](#), Mar. 7, 2014, added paragraphs (h)(19) through (h)(28), effective Mar. 7, 2014; [80 FR 5042, 5047](#), Jan. 30, 2015, added paragraphs (h)(29) through (h)(31), effective Jan. 30, 2015; [80 FR 14842, 14844](#), Mar. 20, 2015, amended paragraph (h), effective Mar. 20, 2015; [80 FR 42381, 42385](#), July 17, 2015, added paragraph (h)(24), effective July 17, 2015; [81 FR 6171, 6175](#), Feb. 5, 2016, added paragraph (h)(25), effective Feb. 5, 2016; [81 FR 22023, 22025](#), Apr. 14, 2016, amended paragraph (b), effective May 16, 2016; [81 FR 29142, 29145](#), May 11, 2016, amended this section, effective May 11, 2016; [81 FR 29492, 29496](#), May 12, 2016, added paragraphs (h)(26) and (27), effective May 12, 2016; [81 FR 61130, 61133](#), Sept. 6, 2016, amended this section, effective Sept. 6, 2016; [81 FR 66181, 66184](#), Sept. 27, 2016, amended this section, effective Oct. 27, 2016; [81 FR 79389, 79393](#), Nov. 14, 2016, added paragraph (h)(18), effective Nov. 14, 2016; [81 FR 85873, 85877](#), Nov. 29, 2016, added paragraph (h)(19), effective Nov. 29, 2016; [81 FR 90194, 90196](#), Dec. 14, 2016, added paragraph (d)(58), effective Jan. 13, 2017; [82 FR 2218, 2218](#), Jan. 9, 2017, amended this section, effective Jan. 9, 2017; [82 FR 12171, 12177](#), Mar. 1, 2017, amended this section, effective Mar. 1, 2017; [82 FR 26349, 26351](#), June 7, 2017, amended this section, effective June 7, 2017; [82 FR 47971, 47974](#), Oct. 16, 2017, amended this section, effective Oct. 16, 2017; [82 FR 58557, 58559](#), Dec. 13, 2017, amended paragraph (b), effective Jan. 12, 2018; [83 FR 17486, 17488](#), Apr. 20, 2018, amended this section, effective Apr. 20, 2018; [83 FR 61320, 61323](#), Nov. 29, 2018, amended this section, effective Nov. 29, 2018; [84 FR 444, 448](#), Jan. 29, 2019, amended this section, effective Jan. 29, 2019; [84 FR 15505, 15511](#), Apr. 16, 2019, added paragraphs (h)(37) through (h)(41), effective Apr. 16, 2021; [84 FR 20023, 20023](#), May 8, 2019, amended paragraph (b), effective May 8, 2019; [84 FR 20023, 20027](#), May 8, 2019, amended this section, effective May 8, 2019; [84 FR 34291, 34297](#), July 18, 2019, added paragraphs (h)(41) through (h)(47), effective July 18, 2019, through July 18, 2021.]

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Constitutional Law : Congressional Duties & Powers : General Overview

[Kanani v. United States, 2002 U.S. Dist. LEXIS 13668](#) (ED NY June 28, 2002).

Overview: *The district court found that the prisoner's claims, regardless of whether they were restricted or not by his plea agreement, were insufficient to entitle the prisoner to the relief he demanded where his arguments were all found to be without merit.*

- Although methylenedioxymethamphetamine (MDMA) is not included among the five categories of prohibited controlled substances listed by Congress in [21 U.S.C.S. § 812](#), this dangerous "designer drug" has been identified as a controlled substances by the U.S. Attorney General in [21 C.F.R § 1308.11\(d\)\(10\)](#) pursuant to authority conferred by Congress in [21 U.S.C.S. § 811\(a\)](#). From the U.S. Constitution's separation of powers among the three branches of government, the United States Supreme Court has derived the principle that Congress may not constitutionally delegate its legislative power to another branch of Government. But, as the Court has also recognized, the non-delegation doctrine does not prevent Congress from seeking the assistance of other branches of government. So long as Congress lays down by legislative act an intelligible principle to which the person or body authorized to act is directed to conform, such legislative action is not a forbidden delegation of legislative power. [21 U.S.C.S. §§ 211, 212](#) establish detailed procedural requirements to both direct and constrain the U.S. Attorney General's discretion in designating controlled substances. [Go To Headnote](#)

Constitutional Law : Separation of Powers

[Kanani v. United States, 2002 U.S. Dist. LEXIS 13668](#) (ED NY June 28, 2002).

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Criminal Law & Procedure : Criminal Offenses : Controlled Substances : General Overview

[United States v. Abdulle, 564 F.3d 119, 2009 U.S. App. LEXIS 8699](#) (2d Cir Apr. 22, 2009).

Overview: *Convictions for conspiracy to distribute and possess with intent to distribute cathinone, under [21 U.S.C.S. §§ 841\(a\)\(1\), 846](#), and possession with intent to distribute cathinone were affirmed because evidence was sufficient to show that defendant knew cathinone was a controlled substance and that he conspired to possess and distribute cathinone.*

- Because khat is not listed on the controlled substance schedules, [21 C.F.R. §§ 1308.11-15](#), the mens rea requirement of [21 U.S.C.S. § 841\(a\)](#) cannot be satisfied merely by proving that a defendant knowingly possessed khat. Instead, where the government seeks to satisfy the mens rea requirement of § 841(a) for a khat-related offense, the government must prove that the defendant knew that he or she possessed some regulated substance. Accordingly, when an indictment charges a defendant with knowing possession with intent to distribute cathinone, the government need not prove that the defendant knew that he or she possessed cathinone. The mens rea requirement would be satisfied if, for example, the government proved that the defendant knew that he or she possessed a controlled substance, but thought that substance was cathine or another regulated substance. Similarly, where an indictment charges a defendant with conspiracy to distribute and possess with intent to distribute cathinone, the mens rea requirement for conspiracy is satisfied simply if the government shows that the defendant intended to distribute and possess with the intent to distribute any controlled substance. [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Analogues : General Overview

[United States v. Skelton, 901 F.2d 1204, 1990 U.S. App. LEXIS 6224](#) (4th Cir Apr. 20, 1990).

Overview: *After being convicted of drug charges relating to PCPy, defendants' base offense level was properly determined because PCPy was treated as the equal to PCP or heroin for purposes of determining the base offense level under the sentencing guidelines.*

- Phencyclidine, PCP, is listed as a Schedule II depressant, [21 C.F.R. § 1308.12\(e\)\(3\)](#), whereas PCPy is listed as a Schedule I hallucinogenic substance, [21 C.F.R. § 1308.11\(d\)\(24\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Analogues : Elements

[Kanani v. United States, 2002 U.S. Dist. LEXIS 13668](#) (ED NY June 28, 2002).

Overview: *The district court found that the prisoner's claims, regardless of whether they were restricted or not by his plea agreement, were insufficient to entitle the prisoner to the relief he demanded where his arguments were all found to be without merit.*

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[United States v. Colberg, 1995 U.S. App. LEXIS 36890](#) (6th Cir Oct. 31, 1995) (Unpublished).

Overview: *In sentencing defendants for conspiracy to manufacture methcathinone, a district court attributed an inflated quantity of methcathinone to defendants by applying a legally erroneous conversion factor in converting ephedrine to methcathinone.*

- Effective May 1, 1992, methcathinone was added to the Schedule 1 controlled substance list. [21 U.S.C.S. § 812, 21 C.F.R. § 1308.11\(f\)\(4\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Definitions

[Singh v. Ag of the United States, 839 F.3d 273, 2016 U.S. App. LEXIS 18155](#) (3rd Cir Oct. 6, 2016).

Overview: *Alien was improperly found to be removable based on state conviction for aggravated felony since alien's conviction for possession with intent to deliver counterfeit controlled substance, which was not drug identity listed as federal controlled substance, did not sufficiently match elements of generic federal offense of drug trafficking.*

- The Controlled Substances Act (CSA), [21 U.S.C.S. § 801](#) et seq., defines a counterfeit substance as a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser. [21 U.S.C.S. § 802\(7\)](#). The CSA further defines controlled substance as a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of title 21, chapter 13, subchapter I. § 802(6). These schedules are codified at [21 C.F.R. § 1308.11](#) to.15. [Go To Headnote](#)

[United States v. Hassan, 542 F.3d 968, 2008 U.S. App. LEXIS 20237](#) (2d Cir Sept. 19, 2008).

Overview: *While there was no direct evidence that any of the khat defendant imported actually contained a controlled substance, the government presented sufficient circumstantial evidence from which jury could have*

inferred requisite scienter, i.e., that defendant knowingly intended to import and possess with intent to distribute khat containing cathinone.

- Khat may sometimes, but does not always, contain one or two stimulants that are controlled substances under U.S. law: cathinone and cathine. [21 C.F.R. §§ 1308.11\(f\), 1308.14\(e\)](#). [Go To Headnote](#)

[United States v. Hassan, 578 F.3d 108, 2008 U.S. App. LEXIS 27723](#) (2d Cir Sept. 19, 2008).

Overview: *Due to repeated testimony that khat was a controlled substance and the jury instructions failed to correctly inform that bare intent to import or possess khat was insufficient to convict as to cathinone, a controlled substance that dissipated from khat over time, defendant's convictions under [21 U.S.C.S. §§ 841\(a\), 846, 952\(a\), 963](#), were vacated.*

- Cathinone and cathine have been deemed "controlled substances" under United States law, [21 C.F.R. §§ 1308.11\(f\), 1308.14\(e\)](#); [21 U.S.C.S. § 812](#). Cathinone, which has properties similar to those of amphetamines, is the stronger of the two substances. It is very unstable and rapidly decomposes into less potent substances, including cathine. There is no reasonable basis for the conclusion that khat, the leaf of the plant *catha edulis*, a shrub that grows in parts of East Africa and the Arabian Peninsula, always contains cathine. Khat itself is not a controlled substance under United States law. However, khat is subject to an unusual and, indeed, unique dual regulatory scheme that employs a distinction based upon the chemical composition of khat. When khat contains cathinone, khat is a Schedule I substance, and when khat does not contain cathinone, but does contain cathine, khat is a Schedule IV substance. Importation or distribution of cathinone, the Schedule I substance, is subject to a maximum penalty of twenty years, [21 U.S.C.S. § 960\(b\)\(3\)](#); [21 U.S.C.S. § 841\(b\)\(1\)\(C\)](#), while importation of cathine, which was "temporarily" placed on Schedule IV in 1988, is subject to a maximum penalty of five years, [21 U.S.C.S. § 960\(b\)\(4\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Delivery, Distribution & Sale :

[United States v. Ammar, 714 F.2d 238, 1983 U.S. App. LEXIS 26180](#) (3rd Cir June 30, 1983).

Overview: *Out-of-court statements made by conspiracy members were proper because there was independent evidence that proved existence of conspiracy, because statements were made in furtherance of conspiracy, and because statements were made during conspiracy.*

- The schedules of controlled substances are set forth in [21 U.S.C.S. § 812](#), and are listed in [21 C.F.R. § 1308.11](#). The Schedule I substances are drugs or other substances which have a high potential for abuse, no currently accepted medical use in treatment in the United States, and as to which there is a lack of accepted safety for use of the drug or other use under medical supervision. [21 U.S.C.S. § 812 \(b\)\(1\)](#). [Go To Headnote](#)

[United States v. Hamilton, 390 A.2d 449, 1978 D.C. App. LEXIS 548](#) (DC Aug. 2, 1978).

Overview: *Defendant was not entitled to the suppression of currency seized from her at the time of her arrest because, although she was charged with violating a statute which required suppression, her conduct supported a felony charge under another statute.*

- Dilaudid is the brand name for hydromorphenol, which is a controlled substance under [21 U.S.C.S. § 812, 21 C.F.R. § 1308.11\(c\) \(1977\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Delivery, Distribution & Sale : Reporting :

[United States v. Williams, 2013 U.S. App. LEXIS 24695](#) (10th Cir Dec. 12, 2013).

Overview: Defendant's conviction for conspiracy to misbrand prescription drugs was affirmed where the indictment had not been constructively amended by the evidence at trial or the jury instructions, and the district court had not plainly or otherwise erred in instructing the jury.

- The Controlled Substances Act classifies and regulates controlled substances. [21 U.S.C.S. § 812](#); [21 C.F.R. §§ 1308.11-1308.15](#). If controlled substances are distributed for medical uses through an online pharmacy, the online pharmacy is required to be licensed in each state from which it, and in each state to which it, delivers controlled substances by means of the Internet. [21 U.S.C.S. § 831\(b\)](#). [21 U.S.C.S. § 841\(h\)](#) renders it unlawful for any person to knowingly or intentionally deliver, distribute, or dispense a controlled substance by means of the Internet, unless that person is a registered person acting pursuant to a valid prescription. [21 U.S.C.S. §§ 822](#), 829(e), 841(h)(1)(A), (h)(4). A valid prescription is one issued by a practitioner who has conducted at least 1 in-person medical evaluation of the patient. [21 U.S.C.S. § 829\(e\)\(2\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Manufacture : General Overview

[Stubblefield v. Gonzales, 2005 U.S. App. LEXIS 21054](#) (9th Cir Sept. 26, 2005).

Overview: Under [21 U.S.C.S. § 802\(27\)](#), individuals using marijuana for medical treatment were not the ultimate users under Controlled Substances Act (CSA); thus, their mere possession of it violated CSA. Even if they were ultimate users, they could not manufacture it. Thus, they were not entitled to a declaration that CSA could not be enforced against them.

- Marijuana is a Schedule I controlled substance, [21 C.F.R. § 1308.11\(d\)\(22\)](#), and, thus, may be lawfully manufactured only for use in federally approved research projects. [Go To Headnote](#)

[United States v. Hamilton, 390 A.2d 449, 1978 D.C. App. LEXIS 548](#) (DC Aug. 2, 1978).

Overview: Defendant was not entitled to the suppression of currency seized from her at the time of her arrest because, although she was charged with violating a statute which required suppression, her conduct supported a felony charge under another statute.

- Dilaudid is the brand name for hydromorphenol, which is a controlled substance under [21 U.S.C.S. § 812](#). [21 C.F.R. § 1308.11\(c\) \(1977\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Manufacture : Elements

[United States v. Hussein, 351 F.3d 9, 2003 U.S. App. LEXIS 22335](#) (1st Cir Oct. 30, 2003).

Overview: Defendant's conviction was affirmed; while statutory provisions could have been more clear, regulating khat by name in addition to regulating its active chemical ingredient, they sufficed to give defendant fair warning that his conduct was illegal.

- The Drug Enforcement Administration (DEA) regulations provide that any material, compound, mixture, or preparation which contains cathinone is itself a Schedule I controlled substance and is subject to the same prohibitions as the chemical itself. [21 C.F.R. § 1308.11\(f\)\(2\)](#). [21 C.F.R. 1308.14\(e\)](#) declares that any material, compound, mixture, or preparation containing cathine is a Schedule IV controlled substance and treated similarly. [Go To Headnote](#)

[United States v. Colberg, 1995 U.S. App. LEXIS 36890](#) (6th Cir Oct. 31, 1995) (Unpublished).

Overview: *In sentencing defendants for conspiracy to manufacture methcathinone, a district court attributed an inflated quantity of methcathinone to defendants by applying a legally erroneous conversion factor in converting ephedrine to methcathinone.*

- Effective May 1, 1992, methcathinone was added to the Schedule 1 controlled substance list. [21 U.S.C.S. § 812, 21 C.F.R. § 1308.11\(f\)\(4\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Possession : General Overview

[Seeley v. State, 132 Wn.2d 776, 940 P.2d 604, 1997 Wash. LEXIS 554](#) (Wash July 24, 1997).

Overview: *The categorization of marijuana as a schedule I controlled substance under the Uniform Controlled Substances Act did not violate the state Privileges and Immunities Clause or the Frequent Recurrence to Fundamental Principles Clause.*

- Both the Comprehensive Drug Abuse Prevention and Control Act of 1970, [21 U.S.C.S. § 801](#) (1996 Supp.), and the Uniform Controlled Substances Act, Wash. Rev. Code § 69.50, list marijuana in schedule I of controlled substances. Wash. Rev. Code § 69.50.204(c)(14); [21 C.F.R. § 1308.11\(d\)\(19\) \(1996\)](#). Thus, it is illegal for use under all circumstances except under narrow exceptions for research. [Go To Headnote](#)

[United States v. Ticchiarelli, 943 F. Supp. 77, 1996 U.S. Dist. LEXIS 15228](#) (D Me Oct. 2, 1996).

Overview: *Defendants were subject to more severe penalties because substance they possessed had characteristics of hashish oil agreed upon by experts and defined by guidelines, which put defendants on notice that they trafficked in more serious substance.*

- Hashish oil, for the purposes of this guideline, means a preparation of the soluble cannabinoids derived from cannabis that includes (i) one or more of the tetrahydrocannabinols (as listed in [21 C.F.R. § 1308.11\(d\)\(25\)](#)), (ii) at least two of the following: cannabiniol, cannabidiol, or cannabichromene, and (iii) is essentially free of plant material (e.g., plant fragments). Typically, hashish oil is a viscous, dark colored oil, but it can vary from a dry resin to a colorless liquid. U.S. Sentencing Guidelines Manual, § 2D1.1(c) note (J). [Go To Headnote](#)

[United States v. Colberg, 1995 U.S. App. LEXIS 36890](#) (6th Cir Oct. 31, 1995) (Unpublished).

Overview: *In sentencing defendants for conspiracy to manufacture methcathinone, a district court attributed an inflated quantity of methcathinone to defendants by applying a legally erroneous conversion factor in converting ephedrine to methcathinone.*

- Effective May 1, 1992, methcathinone was added to the Schedule 1 controlled substance list. [21 U.S.C.S. § 812, 21 C.F.R. § 1308.11\(f\)\(4\)](#). [Go To Headnote](#)

[United States v. Hamilton, 390 A.2d 449, 1978 D.C. App. LEXIS 548](#) (DC Aug. 2, 1978).

Overview: *Defendant was not entitled to the suppression of currency seized from her at the time of her arrest because, although she was charged with violating a statute which required suppression, her conduct supported a felony charge under another statute.*

- Dilaudid is the brand name for hydromorphenol, which is a controlled substance under [21 U.S.C.S. § 812, 21 C.F.R. § 1308.11\(c\) \(1977\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Possession : Intent to Distribute :

[Hussein v. Ag of the United States, 2008 U.S. App. LEXIS 7553](#) (3rd Cir Apr. 4, 2008).

Overview: Alien was properly denied asylum, withholding of removal, and CAT relief because his drug conviction was aggravated felony under [8 U.S.C.S. § 1101\(a\)\(43\)\(B\)](#), conviction was presumptively "particularly serious" crime, he failed to show extraordinary and compelling circumstances to rebut presumption, and he was properly denied deferral of removal.

- The Controlled Substances Act (CSA) makes it illegal for any person knowingly to possess a controlled substance with intent to distribute, [21 U.S.C.S. § 841\(a\)\(1\)](#), and for purposes of the statute, a controlled substance is one listed in Schedules I through IV, [21 U.S.C.S. § 812](#) (codifying the schedules). Neither cathinone nor cathine, the chemical building blocks of khat, appear in any of the schedules. However, the regulations promulgated after passage of the CSA and published in the Code of Federal Regulations have expressly classified cathinone as a Schedule I controlled substance, [21 C.F.R. § 1308.11\(f\)\(2\) \(1993\)](#), and cathine as a Schedule IV controlled substance, [21 C.F.R. § 1308.14\(e\) \(1988\)](#). Thus, cathinone and cathine are controlled substances. The regulations further provide that any material, compound, mixture, or preparation which contains cathinone is itself a Schedule I controlled substance and is subject to the same prohibitions as the chemical itself, [21 C.F.R. § 1308.11\(f\)\(2\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Possession : Intent to Distribute : Elements

[United States v. Hussein, 351 F.3d 9, 2003 U.S. App. LEXIS 22335](#) (1st Cir Oct. 30, 2003).

Overview: Defendant's conviction was affirmed; while statutory provisions could have been more clear, regulating khat by name in addition to regulating its active chemical ingredient, they sufficed to give defendant fair warning that his conduct was illegal.

- The Controlled Substances Act (CSA) makes it illegal for any person knowingly to possess a controlled substance with intent to distribute. [21 U.S.C.S. § 841\(a\)\(1\)](#). For the purpose of this statutory scheme, a "controlled substance" is one listed in Schedules I through IV of the CSA. [21 U.S.C.S. § 802\(6\)](#) defines "controlled substance" and [21 U.S.C.S. § 812](#) codifies the schedules. Neither cathinone nor cathine appear in any of the schedules. But Drug Enforcement Administration (DEA) regulations -- promulgated after passage of the CSA and published in the Code of Federal Regulations -- have expressly classified cathinone as a Schedule I controlled substance, [21 C.F.R. § 1308.11\(f\)\(2\) \(1993\)](#), and cathine as a Schedule IV controlled substance, [21 C.F.R. § 1308.14\(e\) \(1988\)](#). These accretions have the force of law. [21 U.S.C.S. § 811\(a\)](#) authorizes the Attorney General to add substances to the CSA schedules and [28 C.F.R. § 0.100\(b\)](#) delegates that authority to the DEA. [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Substance Schedules : General Overview

[Walker v. Ag United States, 2015 U.S. App. LEXIS 14488](#) (3rd Cir Aug. 18, 2015).

Overview: Alien was wrongly subjected to summary removal proceedings as if he had been previously convicted of aggravated felony under [8 U.S.C.S. § 1101\(a\)\(43\)\(B\)](#) as his conviction for possession with intent to distribute marijuana under 35 Pa. Stat. Ann. § 780-113(a)(30) did not constitute aggravated felony under modified categorical approach.

- Under the definitions of the Immigration and Nationality Act, illicit trafficking in a controlled substance (as defined in [21 U.S.C.S. § 802](#)) is an aggravated felony. [8 U.S.C.S. § 1101\(a\)\(43\)\(B\)](#). Under [21 U.S.C.S. § 802\(6\)](#), a controlled substance means a drug included in schedule I, II, III, IV, or V of part B of this

subchapter. Marijuana is a Schedule I drug. [21 C.F.R. § 1308.11\(d\)\(23\)](#); [21 U.S.C.S. § 811\(a\)](#) (authorizing Attorney General to place drugs on schedules). [Go To Headnote](#)

[Borrome v. Ag, 687 F.3d 150, 2012 U.S. App. LEXIS 14676](#) (3rd Cir July 18, 2012).

Overview: Order of removal was vacated. Alien's conviction for violating the FDCA wholesale distribution provisions, [21 U.S.C.S. §§ 331\(t\)](#) & [353\(e\)\(2\)\(A\)](#), was not an aggravated felony under [8 U.S.C.S. §§ 1101\(a\)\(43\)\(B\)](#) and [1227\(a\)\(2\)\(A\)\(iii\)](#), and same FDCA provisions were not laws relating to a controlled substance under [8 U.S.C.S. § 1227\(a\)\(2\)\(B\)\(i\)](#).

- A controlled substance is defined in the Controlled Substances Act, [21 U.S.C.S. §§ 801-904](#), to mean a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter. [21 U.S.C.S. § 802\(6\)](#). A list of controlled substances is provided in [21 U.S.C.S. § 812](#) and supplemented by [21 C.F.R. §§ 1308.11-15](#). [Go To Headnote](#)

[Hemp Indus. Ass'n v. Dea, 357 F.3d 1012, 2004 U.S. App. LEXIS 1846](#) (9th Cir Feb. 6, 2004).

Overview: Rules promulgated by the DEA that purported to amend DEA regulations and Schedule I with the effect of banning the possession of items containing naturally-occurring THC were unenforceable because formal rulemaking procedures were not followed.

- The definition of tetrahydrocannabinols (THC) under the Controlled Substances Act includes only synthetic THC. [21 C.F.R. § 1308.11\(d\)\(27\)](#). [Go To Headnote](#)
- DEA-205F, which amended [21 C.F.R. § 1308.11\(d\)\(27\)](#), may ban products that contain any quantity of tetrahydrocannabinols (THC) only insofar as it does not improperly expand the definition of THC as it is used in the Controlled Substances Act. [Go To Headnote](#)

[Morales v. United States, 2003 U.S. Dist. LEXIS 22982](#) (D Minn Dec. 18, 2003).

Overview: Due to a lack of evidence of the production capabilities of the inmate's methamphetamine laboratory, the due process right to be sentenced on the basis of reliable information was implicated and an evidentiary hearing was needed as to drug quantity.

- No Apprendi conflict exists between [21 U.S.C.S. § 812](#) and [21 C.F.R. §§ 1308.11-1308.15](#), because the statute itself explicitly states that its content is subject to yearly updating and republication. [21 U.S.C.S. § 812\(a\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Substance Schedules : Changes & Exceptions

[United States v. Hussein, 351 F.3d 9, 2003 U.S. App. LEXIS 22335](#) (1st Cir Oct. 30, 2003).

Overview: Defendant's conviction was affirmed; while statutory provisions could have been more clear, regulating khat by name in addition to regulating its active chemical ingredient, they sufficed to give defendant fair warning that his conduct was illegal.

- The Controlled Substances Act (CSA) makes it illegal for any person knowingly to possess a controlled substance with intent to distribute. [21 U.S.C.S. § 841\(a\)\(1\)](#). For the purpose of this statutory scheme, a "controlled substance" is one listed in Schedules I through IV of the CSA. [21 U.S.C.S. § 802\(6\)](#) defines "controlled substance" and [21 U.S.C.S. § 812](#) codifies the schedules. Neither cathinone nor cathine appear in any of the schedules. But Drug Enforcement Administration (DEA) regulations -- promulgated after passage of the CSA and published in the Code of Federal Regulations -- have expressly classified cathinone as a Schedule I controlled substance, [21 C.F.R. § 1308.11\(f\)\(2\) \(1993\)](#), and cathine as a

Schedule IV controlled substance, [21 C.F.R. § 1308.14\(e\) \(1988\)](#). These accretions have the force of law. [21 U.S.C.S. § 811\(a\)](#) authorizes the Attorney General to add substances to the CSA schedules and [28 C.F.R. § 0.100\(b\)](#) delegates that authority to the DEA. [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Substance Schedules : Hashish & Marijuana

[Canna Care, Inc. v. Comm'r, T.C. Memo 2015-206, 110 T.C.M. \(CCH\) 408, 2015 Tax Ct. Memo LEXIS 215](#) (Oct. 22, 2015).

Overview: *Commissioner of Internal Revenue did not err when he disallowed business expenses a California not-for-profit corporation claimed under I.R.C. § 162, and assessed deficiencies of \$229,473, \$304,090, and \$339,604 in income tax the corporation owed for 2006, 2007, and 2008, because the corporation's primary business was selling medical marijuana.*

- Drug Enforcement Administration regulations list marijuana as a schedule I controlled substance for purposes of the Federal Controlled Substances Act. [21 C.F.R. § 1308.11\(d\)\(22\)](#). [Go To Headnote](#)

[Stubblefield v. Gonzales, 2005 U.S. App. LEXIS 21054](#) (9th Cir Sept. 26, 2005).

Overview: *Under 21 U.S.C.S. § 802(27), individuals using marijuana for medical treatment were not the ultimate users under Controlled Substances Act (CSA); thus, their mere possession of it violated CSA. Even if they were ultimate users, they could not manufacture it. Thus, they were not entitled to a declaration that CSA could not be enforced against them.*

- Marijuana is a Schedule I controlled substance, [21 C.F.R. § 1308.11\(d\)\(22\)](#), and, thus, may be lawfully manufactured only for use in federally approved research projects. [Go To Headnote](#)

[Doe v. Express Servs., 2002 U.S. Dist. LEXIS 20329](#) (D Or Aug. 16, 2002).

Overview: *Employee's disability discrimination claims failed because the employer had no control over its client revoking the job order, and the employee failed to show the employer was untruthful in regard to the availability of a work assignment.*

- Department of Transportation (DOT) regulations state that no driver shall be on duty and possess, be under the influence of, or use, any substance set forth in Schedule I of the DOT regulations, which includes marijuana and synthetic equivalents. [49 C.F.R. § 392.4](#); [21 C.F.R. § 1308.11](#). [Go To Headnote](#)

[Seeley v. State, 132 Wn.2d 776, 940 P.2d 604, 1997 Wash. LEXIS 554](#) (Wash July 24, 1997).

Overview: *The categorization of marijuana as a schedule I controlled substance under the Uniform Controlled Substances Act did not violate the state Privileges and Immunities Clause or the Frequent Recurrence to Fundamental Principles Clause.*

- Both the Comprehensive Drug Abuse Prevention and Control Act of 1970, [21 U.S.C.S. § 801](#) (1996 Supp.), and the Uniform Controlled Substances Act, Wash. Rev. Code § 69.50, list marijuana in schedule I of controlled substances. Wash. Rev. Code § 69.50.204(c)(14); [21 C.F.R. § 1308.11\(d\)\(19\) \(1996\)](#). Thus, it is illegal for use under all circumstances except under narrow exceptions for research. [Go To Headnote](#)

[United States v. Jones, 1991 U.S. App. LEXIS 11839](#) (10th Cir May 28, 1991).

Overview: *When the terms of supervised release forbid a parolee from using a "controlled substance," that phrase includes marijuana; parolee was not denied due process in his revocation hearing.*

- Both the original and updated schedules of the Controlled Substances Act, list "marihuana," [21 U.S.C.S. § 812\(c\)](#), Schedule I(c)(10), and [21 C.F.R. § 1308.11\(d\)\(16\) \(1990\)](#); and "tetrahydrocannabinol" (THC), [21 U.S.C.S. § 812\(c\)](#), Schedule I(c)(17), and [21 C.F.R. § 1308.11](#), Schedule I(d)(24) (1990); as controlled substances. [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Substance Schedules : Methamphetamines

[Morales v. United States, 2003 U.S. Dist. LEXIS 22982](#) (D Minn Dec. 18, 2003).

Overview: *Due to a lack of evidence of the production capabilities of the inmate's methamphetamine laboratory, the due process right to be sentenced on the basis of reliable information was implicated and an evidentiary hearing was needed as to drug quantity.*

- [21 U.S.C.S. § 812\(a\)](#) clearly states that the schedules are merely initial schedules to be updated and republished on an annual basis. The current schedules name all forms of methamphetamine under Schedule II. [21 C.F.R. §§ 1308.11-1308.15](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Substance Schedules : Miscellaneous Drugs

[United States v. Abdulle, 564 F.3d 119, 2009 U.S. App. LEXIS 8699](#) (2d Cir Apr. 22, 2009).

Overview: *Convictions for conspiracy to distribute and possess with intent to distribute cathinone, under [21 U.S.C.S. §§ 841\(a\)\(1\)](#), 846, and possession with intent to distribute cathinone were affirmed because evidence was sufficient to show that defendant knew cathinone was a controlled substance and that he conspired to possess and distribute cathinone.*

- Khat, the common name for the plant *catha edulis*, is not itself a controlled substance under the Controlled Substances Act. Its leaves, however, may contain up to two stimulants that are controlled: (1) cathinone, a Schedule I controlled substance, [21 C.F.R. § 1308.11\(f\)\(3\)](#); and (2) cathine, a Schedule IV controlled substance, [21 C.F.R. § 1308.14\(e\)\(1\)](#). As a result, khat's regulation is dependent upon the chemical composition of the leaves at issue, which can vary depending on the particular leaf. That is, once a leaf is cut from a khat plant, any cathinone in the leaf becomes unstable and rapidly decomposes into the less potent substance cathine. Thus, a newly harvested leaf may contain cathinone, while the same leaf a few days later may contain only cathine, the weaker, Schedule IV stimulant. [Go To Headnote](#)
- Because khat is not listed on the controlled substance schedules, [21 C.F.R. §§ 1308.11-15](#), the mens rea requirement of [21 U.S.C.S. § 841\(a\)](#) cannot be satisfied merely by proving that a defendant knowingly possessed khat. Instead, where the government seeks to satisfy the mens rea requirement of § 841(a) for a khat-related offense, the government must prove that the defendant knew that he or she possessed some regulated substance. Accordingly, when an indictment charges a defendant with knowing possession with intent to distribute cathinone, the government need not prove that the defendant knew that he or she possessed cathinone. The mens rea requirement would be satisfied if, for example, the government proved that the defendant knew that he or she possessed a controlled substance, but thought that substance was cathine or another regulated substance. Similarly, where an indictment charges a defendant with conspiracy to distribute and possess with intent to distribute cathinone, the mens rea requirement for conspiracy is satisfied simply if the government shows that the defendant intended to distribute and possess with the intent to distribute any controlled substance. [Go To Headnote](#)

[United States v. Hassan, 578 F.3d 108, 2008 U.S. App. LEXIS 27723](#) (2d Cir Sept. 19, 2008).

Overview: Due to repeated testimony that khat was a controlled substance and the jury instructions failed to correctly inform that bare intent to import or possess khat was insufficient to convict as to cathinone, a controlled substance that dissipated from khat over time, defendant's convictions under [21 U.S.C.S. §§ 841\(a\)](#), 846, 952(a), 963, were vacated.

- Cathinone and cathine have been deemed "controlled substances" under United States law, [21 C.F.R. §§ 1308.11\(f\)](#), [1308.14\(e\)](#); [21 U.S.C.S. § 812](#). Cathinone, which has properties similar to those of amphetamines, is the stronger of the two substances. It is very unstable and rapidly decomposes into less potent substances, including cathine. There is no reasonable basis for the conclusion that khat, the leaf of the plant *catha edulis*, a shrub that grows in parts of East Africa and the Arabian Peninsula, always contains cathine. Khat itself is not a controlled substance under United States law. However, khat is subject to an unusual and, indeed, unique dual regulatory scheme that employs a distinction based upon the chemical composition of khat. When khat contains cathinone, khat is a Schedule I substance, and when khat does not contain cathinone, but does contain cathine, khat is a Schedule IV substance. Importation or distribution of cathinone, the Schedule I substance, is subject to a maximum penalty of twenty years, [21 U.S.C.S. § 960\(b\)\(3\)](#); [21 U.S.C.S. § 841\(b\)\(1\)\(C\)](#), while importation of cathine, which was "temporarily" placed on Schedule IV in 1988, is subject to a maximum penalty of five years, [21 U.S.C.S. § 960\(b\)\(4\)](#). [Go To Headnote](#)

[Hussein v. Ag of the United States, 2008 U.S. App. LEXIS 7553](#) (3rd Cir Apr. 4, 2008).

Overview: Alien was properly denied asylum, withholding of removal, and CAT relief because his drug conviction was aggravated felony under [8 U.S.C.S. § 1101\(a\)\(43\)\(B\)](#), conviction was presumptively "particularly serious" crime, he failed to show extraordinary and compelling circumstances to rebut presumption, and he was properly denied deferral of removal.

- The Controlled Substances Act (CSA) makes it illegal for any person knowingly to possess a controlled substance with intent to distribute, [21 U.S.C.S. § 841\(a\)\(1\)](#), and for purposes of the statute, a controlled substance is one listed in Schedules I through IV, [21 U.S.C.S. § 812](#) (codifying the schedules). Neither cathinone nor cathine, the chemical building blocks of khat, appear in any of the schedules. However, the regulations promulgated after passage of the CSA and published in the Code of Federal Regulations have expressly classified cathinone as a Schedule I controlled substance, [21 C.F.R. § 1308.11\(f\)\(2\) \(1993\)](#), and cathine as a Schedule IV controlled substance, [21 C.F.R. § 1308.14\(e\) \(1988\)](#). Thus, cathinone and cathine are controlled substances. The regulations further provide that any material, compound, mixture, or preparation which contains cathinone is itself a Schedule I controlled substance and is subject to the same prohibitions as the chemical itself, [21 C.F.R. § 1308.11\(f\)\(2\)](#). [Go To Headnote](#)

[Laffont-Irigoyen v. Gonzales, 2006 U.S. App. LEXIS 16592](#) (9th Cir June 29, 2006).

Overview: Court denied petition for review of decisions denying alien asylum and other relief. Per [8 U.S.C.S. § 1158\(b\)\(2\)\(A\)\(ii\)](#) and (b)(2)(B)(i) and [8 U.S.C.S. § 1101\(a\)\(43\)\(B\)](#), the alien's drug conviction rendered her ineligible for asylum under a modified categorical approach; alien knowingly delivered a controlled substance.

- Mandrax is another name for Methaqualone, which is a controlled substance under Schedule I of the federal Controlled Substances Act. [21 C.F.R. § 1308.11](#) (Schedule I). [Go To Headnote](#)

[Donnelly v. Faa, 411 F.3d 267, 2005 U.S. App. LEXIS 10796](#) (DC Cir June 10, 2005).

Overview: Substantial evidence supported the revocation of the pilot's airman certification under [49 U.S.C.S. § 44710\(b\)\(2\)](#) for exporting a controlled substance into Japan because, in addition to evidence of the pilot's Japanese conviction, the conviction was based on corroborating evidence and the pilot's own admissions to several relevant facts.

- MDMA, or Ecstasy, is listed in schedule I as 3, 4-methylendioxyamphetamine (MDMA). [21 C.F.R. § 1308.11\(d\)\(10\) \(1999\)](#). [Go To Headnote](#)

[United States v. Caseer, 399 F.3d 828, 2005 U.S. App. LEXIS 3390](#) (6th Cir Feb. 28, 2005).

Overview: *Where defendant arranged for the importation of khat and was convicted of conspiring to import cathinone, the scienter requirement of 21 U.S.C.S. § 960 saved the controlled substances schedules from being unconstitutionally vague, but the evidence was insufficient to find that defendant knew that khat was a controlled substance.*

- Although [21 C.F.R. § 1308.11\(f\)](#) makes clear that cathinone is a controlled substance, neither the U.S. Code nor the Code of Federal Regulations controlled substances schedules refers to the plant from which cathinone is derived, *Catha edulis*, commonly known as "khat." [Go To Headnote](#)

[United States v. Hussein, 351 F.3d 9, 2003 U.S. App. LEXIS 22335](#) (1st Cir Oct. 30, 2003).

Overview: *Defendant's conviction was affirmed; while statutory provisions could have been more clear, regulating khat by name in addition to regulating its active chemical ingredient, they sufficed to give defendant fair warning that his conduct was illegal.*

- The Controlled Substances Act (CSA) makes it illegal for any person knowingly to possess a controlled substance with intent to distribute. [21 U.S.C.S. § 841\(a\)\(1\)](#). For the purpose of this statutory scheme, a "controlled substance" is one listed in Schedules I through IV of the CSA. [21 U.S.C.S. § 802\(6\)](#) defines "controlled substance" and [21 U.S.C.S. § 812](#) codifies the schedules. Neither cathinone nor cathine appear in any of the schedules. But Drug Enforcement Administration (DEA) regulations -- promulgated after passage of the CSA and published in the Code of Federal Regulations -- have expressly classified cathinone as a Schedule I controlled substance, [21 C.F.R. § 1308.11\(f\)\(2\) \(1993\)](#), and cathine as a Schedule IV controlled substance, [21 C.F.R. § 1308.14\(e\) \(1988\)](#). These accretions have the force of law. [21 U.S.C.S. § 811\(a\)](#) authorizes the Attorney General to add substances to the CSA schedules and [28 C.F.R. § 0.100\(b\)](#) delegates that authority to the DEA. [Go To Headnote](#)
- The Drug Enforcement Administration (DEA) regulations provide that any material, compound, mixture, or preparation which contains cathinone is itself a Schedule I controlled substance and is subject to the same prohibitions as the chemical itself. [21 C.F.R. § 1308.11\(f\)\(2\)](#). [21 C.F.R. 1308.14\(e\)](#) declares that any material, compound, mixture, or preparation containing cathine is a Schedule IV controlled substance and treated similarly. [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Substance Schedules : Opiates

[United States v. Ammar, 714 F.2d 238, 1983 U.S. App. LEXIS 26180](#) (3rd Cir June 30, 1983).

Overview: *Out-of-court statements made by conspiracy members were proper because there was independent evidence that proved existence of conspiracy, because statements were made in furtherance of conspiracy, and because statements were made during conspiracy.*

- The schedules of controlled substances are set forth in [21 U.S.C.S. § 812](#), and are listed in [21 C.F.R. § 1308.11](#). The Schedule I substances are drugs or other substances which have a high potential for abuse, no currently accepted medical use in treatment in the United States, and as to which there is a lack of accepted safety for use of the drug or other use under medical supervision. [21 U.S.C.S. § 812 \(b\)\(1\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Controlled Substances : Substance Schedules : Phencyclidine

[United States v. Skelton, 901 F.2d 1204, 1990 U.S. App. LEXIS 6224](#) (4th Cir Apr. 20, 1990).

Overview: After being convicted of drug charges relating to PCPy, defendants' base offense level was properly determined because PCPy was treated as the equal to PCP or heroin for purposes of determining the base offense level under the sentencing guidelines.

- Phencyclidine, PCP, is listed as a Schedule II depressant, [21 C.F.R. § 1308.12\(e\)\(3\)](#), whereas PCPy is listed as a Schedule I hallucinogenic substance, [21 C.F.R. § 1308.11\(d\)\(24\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Vehicular Crimes : General Overview

[Doe v. Express Servs., 2002 U.S. Dist. LEXIS 20329](#) (D Or Aug. 16, 2002).

Overview: Employee's disability discrimination claims failed because the employer had no control over its client revoking the job order, and the employee failed to show the employer was untruthful in regard to the availability of a work assignment.

- Department of Transportation (DOT) regulations state that no driver shall be on duty and possess, be under the influence of, or use, any substance set forth in Schedule I of the DOT regulations, which includes marijuana and synthetic equivalents. [49 C.F.R. § 392.4](#); [21 C.F.R. § 1308.11](#). [Go To Headnote](#)

Criminal Law & Procedure : Trials : Burdens of Proof : Prosecution

[United States v. Abdulle, 564 F.3d 119, 2009 U.S. App. LEXIS 8699](#) (2d Cir Apr. 22, 2009).

Overview: Convictions for conspiracy to distribute and possess with intent to distribute cathinone, under [21 U.S.C.S. §§ 841\(a\)\(1\)](#), 846, and possession with intent to distribute cathinone were affirmed because evidence was sufficient to show that defendant knew cathinone was a controlled substance and that he conspired to possess and distribute cathinone.

- Because khat is not listed on the controlled substance schedules, [21 C.F.R. §§ 1308.11-15](#), the mens rea requirement of [21 U.S.C.S. § 841\(a\)](#) cannot be satisfied merely by proving that a defendant knowingly possessed khat. Instead, where the government seeks to satisfy the mens rea requirement of § 841(a) for a khat-related offense, the government must prove that the defendant knew that he or she possessed some regulated substance. Accordingly, when an indictment charges a defendant with knowing possession with intent to distribute cathinone, the government need not prove that the defendant knew that he or she possessed cathinone. The mens rea requirement would be satisfied if, for example, the government proved that the defendant knew that he or she possessed a controlled substance, but thought that substance was cathine or another regulated substance. Similarly, where an indictment charges a defendant with conspiracy to distribute and possess with intent to distribute cathinone, the mens rea requirement for conspiracy is satisfied simply if the government shows that the defendant intended to distribute and possess with the intent to distribute any controlled substance. [Go To Headnote](#)

Criminal Law & Procedure : Scienter : Knowledge

[United States v. Abdulle, 564 F.3d 119, 2009 U.S. App. LEXIS 8699](#) (2d Cir Apr. 22, 2009).

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[United States v. Caseer, 399 F.3d 828, 2005 U.S. App. LEXIS 3390](#) (6th Cir Feb. 28, 2005).

Overview: *Where defendant arranged for the importation of khat and was convicted of conspiring to import cathinone, the scienter requirement of 21 U.S.C.S. § 960 saved the controlled substances schedules from being unconstitutionally vague, but the evidence was insufficient to find that defendant knew that khat was a controlled substance.*

- Not all items that may be seized by the U.S. Customs Service are classified as controlled substances pursuant to [21 U.S.C.S. § 812](#) and [21 C.F.R. § 1308.11](#). [Go To Headnote](#)

Criminal Law & Procedure : Scienter : Specific Intent

[United States v. Abdulle, 564 F.3d 119, 2009 U.S. App. LEXIS 8699](#) (2d Cir Apr. 22, 2009).

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- Because khat is not listed on the controlled substance schedules, [21 C.F.R. §§ 1308.11-.15](#), the mens rea requirement of [21 U.S.C.S. § 841\(a\)](#) cannot be satisfied merely by proving that a defendant knowingly possessed khat. Instead, where the government seeks to satisfy the mens rea requirement of § 841(a) for a khat-related offense, the government must prove that the defendant knew that he or she possessed some regulated substance. Accordingly, when an indictment charges a defendant with knowing possession with intent to distribute cathinone, the government need not prove that the defendant knew that he or she possessed cathinone. The mens rea requirement would be satisfied if, for example, the government proved that the defendant knew that he or she possessed a controlled substance, but thought that substance was cathine or another regulated substance. Similarly, where an indictment charges a defendant with conspiracy to distribute and possess with intent to distribute cathinone, the mens rea requirement for conspiracy is satisfied simply if the government shows that the defendant intended to distribute and possess with the intent to distribute any controlled substance. [Go To Headnote](#)

Criminal Law & Procedure : Sentencing : Guidelines : General Overview

[United States v. Ticchiarelli, 943 F. Supp. 77, 1996 U.S. Dist. LEXIS 15228](#) (D Me Oct. 2, 1996).

Overview: *Defendants were subject to more severe penalties because substance they possessed had characteristics of hashish oil agreed upon by experts and defined by guidelines, which put defendants on notice that they trafficked in more serious substance.*

- Hashish oil, for the purposes of this guideline, means a preparation of the soluble cannabinoids derived from cannabis that includes (i) one or more of the tetrahydrocannabinols (as listed in [21 C.F.R. § 1308.11\(d\)\(25\)](#)), (ii) at least two of the following: cannabidiol, or cannabichromene, and (iii) is essentially free of plant material (e.g., plant fragments). Typically, hashish oil is a viscous, dark colored oil, but it can vary from a dry resin to a colorless liquid. U.S. Sentencing Guidelines Manual, § 2D1.1(c) note (J). [Go To Headnote](#)

[United States v. Skelton, 901 F.2d 1204, 1990 U.S. App. LEXIS 6224](#) (4th Cir Apr. 20, 1990).

Overview: *After being convicted of drug charges relating to PCPy, defendants' base offense level was properly determined because PCPy was treated as the equal to PCP or heroin for purposes of determining the base offense level under the sentencing guidelines.*

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Criminal Law & Procedure : Sentencing : Imposition : Factors

[Morales v. United States, 2003 U.S. Dist. LEXIS 22982](#) (D Minn Dec. 18, 2003).

Overview: *Due to a lack of evidence of the production capabilities of the inmate's methamphetamine laboratory, the due process right to be sentenced on the basis of reliable information was implicated and an evidentiary hearing was needed as to drug quantity.*

- No Apprendi conflict exists between [21 U.S.C.S. § 812](#) and [21 C.F.R. §§ 1308.11-1308.15](#), because the statute itself explicitly states that its content is subject to yearly updating and republication. [21 U.S.C.S. § 812\(a\)](#). [Go To Headnote](#)

Governments : Agriculture & Food : Federal Food, Drug & Cosmetic Act

[Hemp Indus. Ass'n v. Dea, 357 F.3d 1012, 2004 U.S. App. LEXIS 1846](#) (9th Cir Feb. 6, 2004).

Overview: *Rules promulgated by the DEA that purported to amend DEA regulations and Schedule I with the effect of banning the possession of items containing naturally-occurring THC were unenforceable because formal rulemaking procedures were not followed.*

- The definition of tetrahydrocannabinols (THC) under the Controlled Substances Act includes only synthetic THC. [21 C.F.R. § 1308.11\(d\)\(27\)](#). [Go To Headnote](#)

Immigration Law : Deportation & Removal : Grounds : Criminal Activity : Aggravated Felonies

[Walker v. Ag United States, 2015 U.S. App. LEXIS 14488](#) (3rd Cir Aug. 18, 2015).

Overview: *Alien was wrongly subjected to summary removal proceedings as if he had been previously convicted of aggravated felony under [8 U.S.C.S. § 1101\(a\)\(43\)\(B\)](#) as his conviction for possession with intent to distribute marijuana under 35 Pa. Stat. Ann. § 780-113(a)(30) did not constitute aggravated felony under modified categorical approach.*

- Under the definitions of the Immigration and Nationality Act, illicit trafficking in a controlled substance (as defined in [21 U.S.C.S. § 802](#)) is an aggravated felony. [8 U.S.C.S. § 1101\(a\)\(43\)\(B\)](#). Under [21 U.S.C.S. § 802\(6\)](#), a controlled substance means a drug included in schedule I, II, III, IV, or V of part B of this

subchapter. Marijuana is a Schedule I drug. [21 C.F.R. § 1308.11\(d\)\(23\)](#); [21 U.S.C.S. § 811\(a\)](#) (authorizing Attorney General to place drugs on schedules). [Go To Headnote](#)

International Trade Law : Forfeitures & Penalties : Seizures

[United States v. Caseer, 399 F.3d 828, 2005 U.S. App. LEXIS 3390](#) (6th Cir Feb. 28, 2005).

Overview: *Where defendant arranged for the importation of khat and was convicted of conspiring to import cathinone, the scienter requirement of 21 U.S.C.S. § 960 saved the controlled substances schedules from being unconstitutionally vague, but the evidence was insufficient to find that defendant knew that khat was a controlled substance.*

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International Trade Law : Imports & Exports : General Overview

[United States v. Caseer, 399 F.3d 828, 2005 U.S. App. LEXIS 3390](#) (6th Cir Feb. 28, 2005).

Overview: *Where defendant arranged for the importation of khat and was convicted of conspiring to import cathinone, the scienter requirement of 21 U.S.C.S. § 960 saved the controlled substances schedules from being unconstitutionally vague, but the evidence was insufficient to find that defendant knew that khat was a controlled substance.*

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Transportation Law : Carrier Duties & Liabilities : Contraband

[King v. Mrs. Grissom's Salads, Inc., 1999 U.S. App. LEXIS 17944](#) (6th Cir July 22, 1999) (Unpublished).

Overview: *In an ADA claim, plaintiff failed to demonstrate he was otherwise qualified for a position as a commercial driver because he did not pursue procedure set forth by the Department of Transportation to resolve conflicting opinions between physicians.*

- Pursuant to [49 C.F.R. § 391.41\(b\)\(12\)\(j\)](#), Department of Transportation regulations state that a person using a "Schedule 1" controlled substance, listed at [21 C.F.R. § 1308.11](#), is presumptively unqualified to drive a commercial motor vehicle. [Go To Headnote](#)

Transportation Law : Commercial Vehicles : Maintenance & Safety

[Doe v. Express Servs., 2002 U.S. Dist. LEXIS 20329](#) (D Or Aug. 16, 2002).

Overview: *Employee's disability discrimination claims failed because the employer had no control over its client revoking the job order, and the employee failed to show the employer was untruthful in regard to the availability of a work assignment.*

- Department of Transportation (DOT) regulations state that no driver shall be on duty and possess, be under the influence of, or use, any substance set forth in Schedule I of the DOT regulations, which includes marijuana and synthetic equivalents. [49 C.F.R. § 392.4](#); [21 C.F.R. § 1308.11](#). [Go To Headnote](#)

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Overview: *In an ADA claim, plaintiff failed to demonstrate he was otherwise qualified for a position as a commercial driver because he did not pursue procedure set forth by the Department of Transportation to resolve conflicting opinions between physicians.*

- Pursuant to [49 C.F.R. § 391.41\(b\)\(12\)\(i\)](#), Department of Transportation regulations state that a person using a "Schedule 1" controlled substance, listed at [21 C.F.R. § 1308.11](#), is presumptively unqualified to drive a commercial motor vehicle. [Go To Headnote](#)

Research References & Practice Aids

NOTES APPLICABLE TO ENTIRE TITLE:

Cross References: Food Safety and Inspection Services, Department of Agriculture: See Meat and Poultry Inspection, 9 CFR CHAPTER III.

Federal Trade Commission: See Commercial Practices, 16 CFR chapter I.

U.S. Customs Service, Department of the Treasury: See Customs Duties, 19 CFR chapter I.

Internal Revenue Service, Department of the Treasury: See Internal Revenue, 26 CFR chapter I.

Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury: See Alcohol, Tobacco Production and Firearms, 27 CFR chapter I.

NOTES APPLICABLE TO ENTIRE PART:

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 1308 Controlled Substances Schedules, see: [62 FR 29288, 29289, 51774, 51776 \(1997\)](#); [65 FR 3124](#), Jan. 20, 2000, as confirmed at 43690, 43694, July 14, 2000; [66 FR 51530](#), Oct. 9, 2001; [68 FR 1964](#), Jan. 15, 2003, suspended at [68 FR 35293](#), June 13, 2003, withdrawn at [68 FR 53677](#), Sept. 12, 2003; [68 FR 53289](#), Sept. 10, 2003; [71 FR 10835](#), Mar. 3, 2006, as confirmed at [71 FR 61876, 61877](#), Oct. 20, 2006; [71 FR 51996](#), Sept. 1, 2006, as confirmed at [73 FR 14178, 14179](#), Mar. 17, 2008; [77 FR 12201](#), Feb. 29, 2012; [77 FR 64032](#), Oct. 18, 2012; [80 FR 27854](#), May 15, 2015; [84 FR 16397](#), Apr. 19, 2019.]

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 1308 Temporary rule, see: [83 FR 4411](#), Jan. 30, 2018.]

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