STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING	:	
PROCEEDINGS BEFORE THE	:	NOTICE OF PUBLIC HEARING
CONTROLLED SUBSTANCES BOARD	:	Clearinghouse Rule 06-059

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Controlled Substances Board in ss. 961.11 (1) and 961.14, Stats., Stats., and interpreting ss. 961.11 (1) and 961.14, Stats., the Controlled Substances Board will hold a public hearing at the time and place indicated below to consider an order to create CSB 2.33 and 2.34, relating to the scheduling of two schedule I controlled substances, alpha-methyltryptamine (AMT) and 5-methyox-N, N-diisopropyltryptamine (5-MeO-DIPT) under chapter 961, Stats., of the Uniform Controlled Substances Act.

Hearing Date, Time and Location

Date:	**September 7, 2006**
Time:	**9:40 a.m.**
Location:	**1400 East Washington Avenue** **(Enter at 55 North Dickinson Street)** **Room 121A** **Madison, Wisconsin**

APPEARANCES AT THE HEARING:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Legal Counsel, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by September 8, 2006, to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Sections 961.11 (1) and 961.14, Stats.

Statutory authority:

Sections 961.11 (1) and 961.14, Stats.

Explanation of agency authority:

The Controlled Substances Board is authorized by s. 961.11 (1) Stats., to add substances to or delete or reschedule substances listed under schedule I, in s. 961.14 Stats., pursuant to the rulemaking procedures of ch. 227, Stats.

Related statute or rule:

21 CFR Sec. 1308.11 (d) (15) and (19)

Plain language analysis:

By final rule of the Drug Enforcement Administration (DEA), adopted effective October 3, 2004, alpha-methyltryptamine (AMT) and 5-methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT) were classified as schedule I controlled substances under the federal Controlled Substances Act (CSA). Neither AMT nor 5-MeO-DIPT have been so scheduled under the Wisconsin Controlled Substances Act in Chapter 961, Wis. Stats. The objective of this proposed rule-making order is to bring the treatment of these drugs into conformity with that at the federal level.

Drugs that are classified as "controlled substances" under federal and state laws are subject to higher civil and criminal penalties for their illicit possession, distribution and use. Health care providers are also subject to greater record keeping requirements respecting their obtaining, prescribing and dispensing of such drugs. This is due to the fact that certain drugs have a greater likelihood of abuse, addiction and adverse consequences to patient health if utilized inappropriately, than do other drugs. The National Forensic Laboratory Information System (NFLIS) has registered 10 cases of AMT and 12 cases of 5-MeO-DIPT. The Drug Enforcement Agency (DEA) asserts that AMT shares pharmacological effects of amphetamine and LSD and that 5-MeO-DIPT copies the effects of MDMA, both Schedule I hallucinogens. Three deaths have been associated with its consumption. The DEA administers the Controlled Substances Act. This forms the basis for the DEA action. The policy alternative to not scheduling the indicated substances concurrent with federal scheduling will be that state prosecutions will not be available. Generally, state prosecutions at the local level, rather than federal prosecutions, are more likely to occur where smaller amounts of a scheduled substance are involved.

SECTION 1 schedules alpha-methyltryptamine (AMT) into schedule I of the Uniform Controlled Substances Act.

SECTION 2 schedules 5-methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT) into schedule I of the Uniform Controlled Substances Act.

Summary of, and comparison with, existing or proposed federal regulation:

21 CFR § 13.08.11 has been amended as follows:

(d)***

(15) Alpha-methyltryptamine (other name: AMT)
****
(19) 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT)

Comparison with rules in adjacent states:

Illinois: AMT is included in schedule I of that state's controlled substances act.

Michigan: Not scheduled.

Minnesota: Not scheduled.

Iowa: Not scheduled.

Summary of factual data and analytical methodologies:

The Wisconsin Controlled Substances board reviewed the federal rule summary and its basis for the scheduling of these two substances. The National Forensic Laboratory Information System (NFLIS) has registered 10 cases of AMT and 12 cases of 5-MeO-DIPT. The Drug Enforcement Agency (DEA) asserts that AMT shares pharmacological effects of amphetamine and LSD and that 5-MeO-DIPT copies the effects of MDMA, both schedule I hallucinogens. Three deaths have been associated with its consumption.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

Since there is no anticipated impact on small business from this rule, no additional compliance, bookkeeping, reporting, recordkeeping or professional skills are required.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Entities affected by the rule:

Enforcement agencies; the Wisconsin Department of Justice, local District Attorneys.

Fiscal estimate:

The department estimates that the proposed rule will have no significant fiscal impact.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Effect on small business:

These proposed rules will be reviewed by the department's small business review advisory committee to determine whether they will have any significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935. Telephone: (608) 266-0495. Email: pamela.haack@drl.state.wi.us.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@drl.state.wi.us. Comments must be received on or before September 7, 2006 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. CSB 2.33 is created to read:

CSB 2.33 Addition of alpha-methyltryptamine (AMT) to schedule I. (1) Section 961.14 (4) (wi) is created to read:

Section 961.14 (4) (wi) Alpha-methyltryptamine, commonly known as "AMT";

SECTION 2. CSB 2.34 is created to read:

CSB 2.34 Addition of 5-methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT) (1) Section 961.14 (4) (wj) is created to read:

Section 961.14 (4) (wj) 5-methoxy-N, N-diisopropyltryptamine, commonly known as "5-MeO-DIPT";