

STATE OF WISCONSIN  
CONTROLLED SUBSTANCES BOARD

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IN THE MATTER OF RULE-MAKING : NOTICE OF TIME PERIOD  
PROCEEDINGS BEFORE THE : FOR COMMENTS FOR THE  
CONTROLLED SUBSTANCES BOARD : ECONOMIC IMPACT ANALYSIS

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NOTICE IS HEREBY GIVEN of the time period for public comment on the economic impact of this proposed rule of the Controlled Substances Board relating to scheduling isotonitazene and 1P-LSD, including how this proposed rule may affect businesses, local government units and individuals. The comments will be considered when the Department of Safety and Professional Services prepares the Economic Impact Analysis pursuant to § 227.137. Written comments may be submitted to:

Sharon Henes, Administrative Rules Coordinator  
Division of Policy Development  
Department of Safety and Professional Services  
PO Box 8366  
Madison, WI 53708-8366  
[DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov)

The deadline for submitting economic impact comments is July 2, 2020.

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.72 relating to scheduling isotonitazene and 1P-LSD.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** s. 961.14, Stats.

**Statutory authority:** ss. 961.11 (1) and (4m), Stats.

**Explanation of agency authority:**

The controlled substances board shall administer this subchapter and may add substances to or delete or reschedule all substances listed in the schedules in ss. 961.14, 961.16, 961.18, 961.20 and 961.22 pursuant to the rule-making procedures of ch. 227. (s. 961.11(1), Stats.)

The controlled substances board, by rule and without regard to the requirements of sub. (1m), may schedule a controlled substance analog as a substance in schedule I regardless of whether the substance is substantially similar to a controlled substance in schedule I or II, if the board

finds that scheduling of the substance on an emergency basis is necessary to avoid an imminent hazard to the public safety and the substance is not included in any other schedule or no exemption or approval is in effect for the substance under 21 USC 355. Upon receipt of notice under s. 961.25, the board shall initiate scheduling of the controlled substance analog on an emergency basis under this subsection. The scheduling of a controlled substance analog under this subsection expires one year after the adoption of the scheduling rule. With respect to the finding of an imminent hazard to the public safety, the board shall consider whether the substance has been scheduled on a temporary basis under federal law or factors under sub. (1m) (d), (e) and (f), and may also consider clandestine importation, manufacture or distribution, and, if available, information concerning the other factors under sub. (1m). The board may not promulgate a rule under this subsection until it initiates a rule-making proceeding under subs. (1), (1m), (1r) and (2) with respect to the controlled substance analog. A rule promulgated under this subsection lapses upon the conclusion of the rule-making proceeding initiated under subs. (1), (1m), (1r) and (2) with respect to the substance. (s. 961.11 (4m), Stats.)

**Related statute or rule:** s. 961.14, Stats.

**Plain language analysis:**

This rule schedules isotonitazene and 1P-LSD as Schedule I controlled substances.

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

Isotonitazene and 1P-LSD are not currently scheduled under the Controlled Substances Act.

**Comparison with rules in adjacent states:**

**Illinois:** Illinois has not scheduled isotonitazene or 1P-LSD as controlled substances.

**Iowa:** Iowa has not scheduled isotonitazene or 1P-LSD as controlled substances.

**Michigan:** Michigan has not scheduled isotonitazene or 1P-LSD as controlled substances.

**Minnesota:** Minnesota has not scheduled isotonitazene or 1P-LSD as controlled substances.

**Summary of factual data and analytical methodologies:**

Based upon the Walworth County District Attorney's request for emergency scheduling, additional information from the Milwaukee Medical Examiner and the finding of an imminent hazard to the public safety, the Controlled Substances Board decided to schedule isotonitazene. Based upon the Calumet County District Attorney's request for emergency scheduling and the finding of an imminent hazard to the public safety, the Controlled Substances Board decided to schedule 1P-LSD. In making the findings of imminent hazard to the public safety, the Controlled Substances Board considered the following factors: the history and current pattern of abuse; the scope, duration and significance of abuse; and the risk to the public health.

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

**Fiscal Estimate and Economic Impact Analysis:**

The department is currently soliciting information and advice from businesses, local government units and individuals in order to prepare the Economic Impact Analysis.

**Effect on small business:**

**Agency contact person:**

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at [DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov).

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TEXT OF RULE

SECTION 1. CSB 2.72 is created to read:

**CSB 2.72 Scheduling of isotonitazene and 1P-LCD.** Section 961.14 (2) (pe) and (4) (jm), Stats., are created to read:

*961.14 (2) (pe) Isotonitazene.*

*961.14 (4) (jm) 1-propionyl-lysergic acid diethylamide, commonly known as 1P-LSD.*

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)

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