

Cairo, IL, Cairo Rgnl, NDB RWY 14, Amdt 2B  
Cairo, IL, Cairo Rgnl, RNAV (GPS) RWY 32, Orig-B  
Chicago/Prospect Heights/Wheeling, IL, Chicago Executive, RNAV (GPS) RWY 16, Amdt 1E  
Anderson, IN, Anderson Muni-Darlington Field, ILS OR LOC RWY 30, Amdt 2  
Anderson, IN, Anderson Muni-Darlington Field, NDB RWY 30, Amdt 7  
Indianapolis, IN, Indianapolis Rgnl, RNAV (GPS) RWY 25, Orig-C  
Logansport, IN, Logansport/Cass County, VOR-A, Amdt 7A  
Marion, IN, Marion Muni, ILS OR LOC RWY 4, Amdt 7D  
Peru, IN, Peru Muni, VOR RWY 1, Amdt 8C  
Wabash, IN, Wabash Muni, VOR-A, Amdt 11A  
Houma, LA, Houma-Terrebonne, ILS OR LOC RWY 18, Amdt 5  
New Iberia, LA, Acadiana Rgnl, ILS OR LOC RWY 35, Amdt 1  
New Iberia, LA, Acadiana Rgnl, RNAV (GPS) RWY 17, Amdt 1  
New Iberia, LA, Acadiana Rgnl, RNAV (GPS) RWY 35, Amdt 1  
New Iberia, LA, Acadiana Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1  
New Iberia, LA, Acadiana Rgnl, VOR OR TACAN RWY 17, Amdt 2  
New Iberia, LA, Acadiana Rgnl, VOR RWY 35, Amdt 2  
Cape Girardeau, MO, Cape Girardeau Rgnl, LOC/DME BC RWY 28, Amdt 8C  
Charleston, MO, Mississippi County, NDB RWY 36, Amdt 4B  
Gordon, NE, Gordon Muni, NDB RWY 22, Amdt 4B  
Gordon, NE, Gordon Muni, RNAV (GPS) RWY 4, Amdt 1B  
Gordon, NE, Gordon Muni, RNAV (GPS) RWY 22, Amdt 1A  
Burns Flat, OK, Clinton-Sherman, ILS OR LOC RWY 17R, Amdt 8  
Burns Flat, OK, Clinton-Sherman, Takeoff Minimums and Obstacle DP, Orig-A  
Burns Flat, OK, Clinton-Sherman, VOR RWY 35L, Amdt 12  
Clinton, OK, Clinton Rgnl, RNAV (GPS) RWY 17, Amdt 3  
Clinton, OK, Clinton Rgnl, RNAV (GPS) RWY 35, Amdt 4  
Clinton, OK, Clinton Rgnl, VOR/DME-A, Orig, CANCELED  
Elk City, OK, Elk City Rgnl Business, RNAV (GPS) RWY 17, Amdt 2  
Elk City, OK, Elk City Rgnl Business, RNAV (GPS) RWY 35, Amdt 2  
Weatherford, OK, Thomas P Stafford, RNAV (GPS) RWY 35, Amdt 3  
Latrobe, PA, Arnold Palmer Rgnl, ILS OR LOC RWY 23, Amdt 17  
Latrobe, PA, Arnold Palmer Rgnl, RNAV (GPS) RWY 5, Amdt 1  
Latrobe, PA, Arnold Palmer Rgnl, RNAV (GPS) RWY 23, Amdt 1  
Latrobe, PA, Arnold Palmer Rgnl, Takeoff Minimums and Obstacle DP, Amdt 6  
Majuro Atoll, RM, Marshall Islands Intl, NDB RWY 7, Amdt 1A  
Majuro Atoll, RM, Marshall Islands Intl, NDB RWY 25, Amdt 1A  
Majuro Atoll, RM, Marshall Islands Intl, RNAV (GPS) RWY 7, Orig-D  
Majuro Atoll, RM, Marshall Islands Intl, RNAV (GPS) RWY 25, Orig-D

Millington, TN, Millington Rgnl Jetport, Takeoff Minimums and Obstacle DP, Orig-A  
Canadian, TX, Hemphill County, RNAV (GPS) RWY 4, Amdt 2  
Kerrville, TX, Kerrville Muni/Louis Schreiner Fld, NDB RWY 30, Amdt 4, CANCELED  
Terrell, TX, Terrell Muni, NDB RWY 17, Amdt 4  
Wheeler, TX, Wheeler Muni, RNAV (GPS) RWY 17, Orig-A, CANCELED  
Wheeler, TX, Wheeler Muni, RNAV (GPS) RWY 35, Orig-A, CANCELED  
Wheeler, TX, Wheeler Muni, RNAV (GPS)-A, Orig  
Wheeler, TX, Wheeler Muni, RNAV (GPS)-B, Orig  
Wheeler, TX, Wheeler Muni, VOR/DME-A, Amdt 2, CANCELED

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1308

[Docket No. DEA-446]

#### Schedules of Controlled Substances: Temporary Placement of Six Synthetic Cannabinoids (5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA) into Schedule I

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** Temporary scheduling order.

**SUMMARY:** The Administrator of the Drug Enforcement Administration is issuing this temporary scheduling order to schedule six synthetic cannabinoids: methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate [5F-ADB]; 5F-MDMB-PINACA]; methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate [5F-AMB]; N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide [5F-APINACA, 5F-AKB48]; N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide [ADB-FUBINACA]; methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate [MDMB-CHMICA, MMB-CHMINACA] and methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate [MDMB-FUBINACA], and their optical, positional, and geometric isomers, salts, and salts of isomers into schedule I pursuant to the temporary scheduling provisions of the Controlled Substances

Act. This action is based on a finding by the Administrator that the placement of these synthetic cannabinoids into schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle, 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA.

**DATES:** This temporary scheduling order is effective on April 10, 2017. This temporary order will expire on April 10, 2019, unless it is extended for an additional year or a permanent scheduling proceeding is completed.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Lewis, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (202) 598-6812.

#### SUPPLEMENTARY INFORMATION:

##### Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. 21 U.S.C. 801-971. Titles II and III are referred to as the "Controlled Substances Act" and the "Controlled Substances Import and Export Act," respectively, and are collectively referred to as the "Controlled Substances Act" or the "CSA" for the purpose of this action. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while ensuring an adequate supply is available for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, every controlled substance is classified into one of five schedules based upon its potential for abuse, its currently accepted medical use in treatment in the United States, and the degree of dependence the drug or other substance may cause. 21 U.S.C.

812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of all scheduled substances is published at 21 CFR part 1308.

Section 201 of the CSA, 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance into schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if he finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary scheduling<sup>1</sup> for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA, 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1). The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

### Background

Section 201(h)(4) of the CSA 21 U.S.C. 811(h)(4), requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of his intention to temporarily place a substance into schedule I of the CSA.<sup>2</sup> The Acting Administrator transmitted notice of his intent to place 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA into schedule I on a temporary basis to the Assistant Secretary by letter dated April 22, 2016. The Assistant Secretary responded to this notice by letter dated May 2, 2016, and advised that based on a review by the Food and Drug Administration (FDA), there were no investigational new drug applications or approved new

drug applications for 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA. The Assistant Secretary also stated that the HHS had no objection to the temporary placement of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA into schedule I of the CSA. The DEA has taken into consideration the Assistant Secretary's comments as required by 21 U.S.C. 811(h)(4). 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA are not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA under section 505 of the FDCA, 21 U.S.C. 355. The DEA has found that the control of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, and as required by 21 U.S.C. 811(h)(1)(A), a notice of intent to temporarily schedule 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA was published in the **Federal Register** on December 21, 2016. 81 FR 93595.

To find that placing a substance temporarily into schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in section 201(c) of the CSA, 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. 21 U.S.C. 811(h)(3). Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling may only be placed into schedule I. 21 U.S.C. 811(h)(1). Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1).

Available data and information for 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA, summarized below, indicate that these synthetic cannabinoids (SCs) have a high

potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. The DEA's three-factor analysis, and the Assistant Secretary's May 2, 2016 letter are available in their entirety under the tab "Supporting Documents" of the public docket of this action at [www.regulations.gov](http://www.regulations.gov) under FDMS Docket ID: DEA-2016-0020 (Docket Number DEA-446).

### Factor 4. History and Current Pattern of Abuse

Synthetic cannabinoids have been developed over the last 30 years as tools for investigating the endocannabinoid system (*e.g.*, determining CB1 and CB2 receptor activity). The first encounter of SCs within the United States occurred in November 2008 by U.S. Customs and Border Protection. Since then the popularity of SCs and their associated products has increased steadily as evidenced by law enforcement seizures, public health information, and media reports. 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA are SCs that have been recently encountered (see "Supporting and Related Material," factor 5). Multiple overdoses involving emergency medical intervention or deaths have been associated with 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA.

Research and clinical reports have demonstrated that SCs are applied onto plant material so that the material may be smoked as users attempt to obtain a euphoric and/or psychoactive "high," believed to be similar to marijuana. Data gathered from published studies, supplemented by discussions on Internet discussion Web sites, demonstrate that these products are being abused mainly by smoking for their psychoactive properties. The adulterated products are marketed as "legal" alternatives to marijuana. In recent overdoses, 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA have been shown to be applied onto plant material, similar to the SCs that have been previously available.

Law enforcement personnel have encountered various application methods, including buckets or cement mixers, in which plant material and one or more SCs (including 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and/or MDMB-FUBINACA) are mixed together, as well as large areas where the plant material is spread out so that a dissolved SC

<sup>1</sup> Though DEA has used the term "final order" with respect to temporary scheduling orders in the past, this notification adheres to the statutory language of 21 U.S.C. 811(h), which refers to a "temporary scheduling order." No substantive change is intended.

<sup>2</sup> As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the Department of Health and Human Service (HHS) in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

mixture can be applied directly. Once mixed, the SC plant material is then allowed to dry before manufacturers package the product for distribution, ignoring any control mechanisms to prevent contamination or to ensure a consistent, uniform concentration of the substance in each package. Adverse health consequences may also occur from directly ingesting the substance(s) during the manufacturing process. 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA, similar to other SCs, have been encountered in the form of dried leave or herbal blends.

The designer drug products laced with SCs, including 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA, are often sold under the guise of "herbal incense" or "potpourri," use various product names, and are routinely labeled "not for human consumption." Additionally, these products are marketed as a "legal high" or "legal alternative to marijuana" and are readily available over the Internet, in head shops, or sold in convenience stores. There is an incorrect assumption that these products are safe, that they are a synthetic form of marijuana, and that labeling these products as "not for human consumption" is a legal defense to criminal prosecution.

A major concern, as reiterated by public health officials and medical professionals, is the targeting and direct marketing of SCs and SC-containing products to adolescents and youth. This is supported by law enforcement encounters and reports from emergency departments; however, all age groups have been reported by media as abusing these substances and related products. Individuals, including minors, are purchasing SCs from Internet Web sites, gas stations, convenience stores, and head shops.

#### **Factor 5. Scope, Duration and Significance of Abuse**

SCs, including 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA, continue to be encountered on the illicit market regardless of scheduling actions that attempt to safeguard the public from the adverse effects and safety issues associated with these substances. Numerous substances are encountered each month, differing only by small modifications intended to avoid prosecution while maintaining the pharmacological effects. Law enforcement and health care professionals continue to report abuse of

these substances and their associated products.

As described by the National Institute on Drug Abuse (NIDA), many substances being encountered in the illicit market, specifically SCs, have been available for years but have reentered the marketplace due to a renewed popularity.

The threat of serious injury to the individual following the ingestion of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA and other SCs persists. Numerous calls have been received by poison centers regarding the abuse of products potentially laced with SCs that have resulted in visits to emergency departments. Law enforcement continues to encounter novel SCs on the illicit market, including 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA (see factor 5 in "Supporting and Related Material").

The following information details information obtained through NFLIS<sup>3</sup> (queried on November 7, 2016), including dates of first encounter, exhibits/reports, and locations.

*5F-ADB*: NFLIS-2,311 reports, first encountered in September 2014, locations include: Arizona, Arkansas, California, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Missouri, New Jersey, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia, and Wisconsin.

*5F-AMB*: NFLIS-3,349 reports, first encountered in January 2014, locations include: Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Wisconsin, and Wyoming.

*5F-APINACA*: NFLIS-1,936 reports, first encountered in August 2012, locations include: Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, North Dakota, Ohio, Oklahoma,

Pennsylvania, Puerto Rico, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming.

*ADB-FUBINACA*: NFLIS-942 reports, first encountered in March 2014, locations include: Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, New Mexico, New York, North Dakota, Ohio, Pennsylvania, Texas, Utah, Virginia, and Wyoming.

*MDMB-CHMICA*: NFLIS-227 reports, first encountered in March 2015, locations include: Arkansas, Georgia, Indiana, Kentucky, Louisiana, Nevada, Ohio, Oklahoma, South Carolina, and Texas.

*MDMB-FUBINACA*: NFLIS-507 reports, first encountered in July 2015, locations include: Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Missouri, Nevada, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Texas, Virginia, Wisconsin, and West Virginia.

#### **Factor 6. What, if Any, Risk There Is to the Public Health**

5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA have all been identified in overdose and/or cases involving death attributed to their abuse. Adverse health effects reported from these incidents involving 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and/or MDMB-FUBINACA have included: Nausea, persistent vomiting, agitation, altered mental status, seizures, convulsions, loss of consciousness and/or cardio toxicity. Large clusters of overdoses requiring medical care have been reported involving 5F-AMB, MDMB-FUBINACA, MDMB-CHMICA and 5F-ADB. Reported deaths involving these SCs have included 5F-ADB (8); 5F-AMB (6); 5F-APINACA (1); ADB-FUBINACA (2); and MDMB-CHMICA (4). The European Monitoring Centre for Drugs and Drug Addiction has reported an additional 12 deaths involving MDMB-CHMICA; and MDMB-FUBINACA (1) (see factor 6 in "Supporting and Related Material").

#### **Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety**

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information summarized above, the continued uncontrolled manufacture, distribution, importation, exportation, conduct of research and chemical

<sup>3</sup> The National Forensic Laboratory Information System (NFLIS) is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by state and local forensic laboratories in the United States.

analysis, possession, and abuse of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA pose an imminent hazard to the public safety. The DEA is not aware of any currently accepted medical uses for these substances in the United States. A substance meeting the statutory requirements for temporary scheduling, 21 U.S.C. 811(h)(1), may only be placed into schedule I. Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA indicate that these SCs have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. As required by section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), the Administrator, through a letter dated April 22, 2016, notified the Assistant Secretary of the DEA's intention to temporarily place these six substances into schedule I. A notice of intent was subsequently published in the **Federal Register** on December 21, 2016.<sup>4</sup> 81 FR 93595.

### Conclusion

In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Administrator considered available data and information, and herein set forth the grounds for his determination that it is necessary to temporarily schedule methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate [5F-ADB; 5F-MDMA-PINACA]; methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate [5F-AMB]; N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide [5F-APINACA, 5F-AKB48]; N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide [ADB-FUBINACA]; methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate [MDMA-CHMICA, MDMA-CHMINACA] and methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-

dimethylbutanoate [MDMA-CHMICA-FUBINACA] into schedule I of the CSA to avoid an imminent hazard to the public safety.

Because the Administrator hereby finds it necessary to temporarily place these SCs into schedule I to avoid an imminent hazard to the public safety, this temporary order scheduling these substances will be effective on the date of publication in the **Federal Register**, and will be in effect for a period of two years, with a possible extension of one additional year, pending completion of the regular (permanent) scheduling process. 21 U.S.C. 811(h) (1) and (2).

The CSA sets forth specific criteria for scheduling a drug or other substance. Permanent scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done "on the record after opportunity for a hearing" conducted pursuant to the provisions of 5 U.S.C. 556 and 557. 21 U.S.C. 811. The permanent scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a determination. Final decisions that conclude the permanent scheduling process of formal rulemaking are subject to judicial review. 21 U.S.C. 877. Temporary scheduling orders are not subject to judicial review. 21 U.S.C. 811(h)(6).

### Requirements for Handling

Upon the effective date of this temporary order, 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA will become subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, engagement in research, and conduct of instructional activities or chemical analysis with, and possession of schedule I controlled substances including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312, as of April 10, 2017. Any person who currently handles 5F-ADB, 5F-AMB, 5F-APINACA, ADB-

FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA and is not registered with the DEA, must submit an application for registration and may not continue to handle 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA as of April 10, 2017, unless the DEA has approved that application for registration. Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of these substances in a manner not authorized by the CSA on or after April 10, 2017 is unlawful and those in possession of any quantity of these substances may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is not able to obtain a schedule I registration to handle 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA, must surrender all quantities of currently held 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA.

3. *Security.* 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA are subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b), and in accordance with 21 CFR 1301.71-1301.93, as of April 10, 2017.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA must be in compliance with 21 U.S.C. 825, 958(e), and be in accordance with 21 CFR part 1302. Current DEA registrants shall have 30 calendar days from April 10, 2017, to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA on the effective date of this order, must take an inventory of all stocks of these substances on hand, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA) on hand on a biennial basis, pursuant to 21 U.S.C. 827

<sup>4</sup> A publication error occurred with the December 21, 2016 notification (81 FR 93595), which resulted in 21 CFR 1308.11 being amended. As a result, a correction was issued by the **Federal Register** on January 9, 2017 (82 FR 2218), and the amended text was removed. The original notice of intent was republished on January 9, 2017 (82 FR 2280), with the corrected non-amendatory language.

and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304, 1312, and 1317 and § 1307.11. Current DEA registrants authorized to handle 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA shall have 30 calendar days from the effective date of this order to be in compliance with all recordkeeping requirements.

7. *Reports.* All DEA registrants who manufacture or distribute 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA must submit reports pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312 as of April 10, 2017.

8. *Order Forms.* All DEA registrants who distribute 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of April 10, 2017.

9. *Importation and Exportation.* All importation and exportation of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA must be in compliance with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312 as of April 10, 2017.

10. *Quota.* Only DEA registered manufacturers may manufacture 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303 as of April 10, 2017.

11. *Liability.* Any activity involving 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA not authorized by, or in violation of the CSA, occurring as of April 10, 2017, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

### Regulatory Matters

Section 201(h) of the CSA, 21 U.S.C. 811(h), provides for a temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. As provided in this subsection, the Attorney General may, by order, schedule a substance in schedule I on a temporary basis. Such an order may not be issued before the

expiration of 30 days from (1) the publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary. 21 U.S.C. 811(h)(1).

Inasmuch as section 201(h) of the CSA directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued, the DEA believes that the notice and comment requirements of the Administrative Procedure Act (APA) at 5 U.S.C. 553, do not apply to this temporary scheduling action. In the alternative, even assuming that this action might be subject to 5 U.S.C. 553, the Administrator finds that there is good cause to forgo the notice and comment requirements of section 553, as any further delays in the process for issuance of temporary scheduling orders would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety.

Further, the DEA believes that this temporary scheduling action is not a "rule" as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism) it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. However, if this were a rule, pursuant to the Congressional Review Act, "any rule for which an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall

take effect at such time as the federal agency promulgating the rule determines. 5 U.S.C. 808(2). It is in the public interest to schedule these substances immediately because they pose a public health risk. This temporary scheduling action is taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable the DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h) exempts the temporary scheduling order from standard notice and comment rulemaking procedures to ensure that the process moves swiftly. For the same reasons that underlie 21 U.S.C. 811(h), that is, the need to move quickly to place these substances into schedule I because they pose an imminent hazard to public safety, it would be contrary to the public interest to delay implementation of the temporary scheduling order. Therefore, this order shall take effect immediately upon its publication. The DEA has submitted a copy of this temporary order to both Houses of Congress and to the Comptroller General, although such filing is not required under the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act), 5 U.S.C. 801-808, because, as noted above, this action is an order, not a rule.

### List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA amends 21 CFR part 1308 as follows:

### PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

- 1. The authority citation for part 1308 continues to read as follow:

**Authority:** 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

- 2. Section 1308.11 is amended by adding paragraphs (h)(10) through (15) to read as follows:

#### § 1308.11 Schedule I.

\* \* \* \* \*  
(h) \* \* \*

(10) 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)

(11) 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)

- (12) *N*-(adamantan-1-yl)-1-(5-fluoropentyl)-1*H*-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5F-APINACA, 5F-AKB48) ..... (7049)
- (13) *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: ADB-FUBINACA) ..... (7010)
- (14) methyl 2-(1-(cyclohexylmethyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MDMA-CHMICA, MMB-CHMINACA) ..... (7042)
- (15) methyl 2-(1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MDMA-FUBINACA) ..... (7020)

Dated: April 4, 2017.

**Chuck Rosenberg,**

*Acting Administrator.*

[FR Doc. 2017-07118 Filed 4-7-17; 8:45 am]

BILLING CODE 4410-09-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket Number USCG-2017-0173]

**Drawbridge Operation Regulation; Upper Mississippi River, Rock Island, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Rock Island Railroad and Highway Drawbridge across the Upper Mississippi River, mile 482.9, at Rock Island, Illinois. The deviation is necessary to allow the Quad City Marathon to cross the bridge. This deviation allows the bridge to be maintained in the closed-to-navigation position for ninety minutes.

**DATES:** This deviation is effective from 9 a.m. to 10:30 a.m. on April 8, 2017.

**ADDRESSES:** The docket for this deviation, [USCG-2017-0173] is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH."

Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Eric A.

Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314-269-2378, email [Eric.Washburn@uscg.mil](mailto:Eric.Washburn@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The U.S. Army Rock Island Arsenal requested a temporary deviation for the Rock Island Railroad and Highway Drawbridge, across the Upper Mississippi River, mile 482.9, at Rock Island, Illinois to remain in the closed-to-navigation position for a one and 1/2 hour period from 9:00 a.m. to 10:30 a.m., April 8, 2017, while the River Bandits 5K is held between the cities of Davenport, IA and Rock Island, IL.

The Rock Island Railroad and Highway Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River.

The Rock Island Railroad and Highway Drawbridge has a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 31, 2017.

**Eric A. Washburn,**

*Bridge Administrator, Western Rivers.*

[FR Doc. 2017-07115 Filed 4-7-17; 8:45 am]

BILLING CODE 9110-04-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG-2017-0118]

RIN 1625-AA00

**Safety Zone; Columbia River, Sand Island, WA**

*Correction*

In rule document 2017-04196, appearing on pages 12416 through 12418, in the issue of Friday, March 3, 2017, make the following correction:

On page 12417, in the first column, on the fourteenth line from the bottom of the page, "46°5'5" N." should read, "46°15'45" N."

[FR Doc. C1-2017-04196 Filed 4-7-17; 8:45 am]

BILLING CODE 1301-00-D

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R01-OAR-2016-0552; A-1-FRL-9960-86-Region 1]

**Approval and Promulgation of Air Quality Implementation Plans; Maine, New Hampshire, Rhode Island and Vermont; Interstate Transport of Fine Particle and Ozone Air Pollution**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) submissions from the Maine Department of Environmental Protection (ME DEP), the New Hampshire Department of Environmental Services (NH DES), the Rhode Island Department of Environmental Management (RI DEM) and the Vermont Department of Environmental Conservation (VT DEC). These SIP submissions address provisions of the Clean Air Act that require each state to submit a SIP to address emissions that may adversely affect another state's air quality through interstate transport. The EPA is finding that all four States have adequate provisions to prohibit in-state emissions activities from significantly contributing to nonattainment, or interfering with the maintenance, of the 1997 ozone National Ambient Air Quality Standards (NAAQS) in other states, and that Rhode Island and Vermont have adequate provisions to prohibit in-state emissions