hearings may take the form of, but are not limited to:

(i) Informal meetings in which the employee and Board representative are given full opportunity to present evidence, witnesses, and argument;

(ii) Informal meetings in which the hearing official interviews the employee and Board representative; or

(iii) Formal written submissions with an opportunity for oral presentation.

(4) *Paper hearing.* If the hearing official determines that an oral hearing is not necessary, he or she will make the determination based upon a review of the formal written record, including any documentation submitted by the employee or the Board.

(5) *Record.* The hearing official shall maintain a summary record of any hearing conducted under this section.

(e) *Decision on hearing.* Unless the employee requests and the hearing official grants a delay in the proceedings, at the earliest practicable date, but in any event no later than 60 days after the filing of the petition requesting the hearing, the hearing official will issue a written decision to the employee. The decision will state the Board's position concerning the existence and amount of the debt, facts purporting to evidence the nature and origin of the alleged debt, the hearing official's analysis, findings and conclusions, in light of the hearing, as to the employee's and/or Board's grounds, the amount and validity of the debt as determined by the hearing official, and the repayment schedule, if not established by written agreement between the employee and the Board. If the hearing official determines that a debt may not be collected under this section, but the Board finds that the debt is still valid, the Board may still seek collection of the debt through other means, including but not limited to offset of other Federal payments.

(f) *Deductions under this section.* The method of collection under this section is salary offset from disposable pay (as defined in 5 CFR 550.1103), except as described in this paragraph. The size of installment deductions shall ordinarily bear a reasonable relationship to the size of the debt and the employee's ability to pay. However, the amount deducted for any period under this section may not exceed 15 percent of disposable pay, unless the employee has agreed in writing to the deduction of a greater amount or a higher deduction has been ordered by a court under section 124 of Public Law 97–276 (97 stat. 1195). Ordinarily, debts must be collected in one lump sum where possible. However, if the employee is financially unable to pay in one lump sum or the amount of the debt exceeds 15 percent of disposable pay (or other applicable limitation as provided in this paragraph) for an officially established pay interval, collection must be made in installments. Such installment deductions must be made over a period not greater than the anticipated period of active duty or employment, as the case may be, except as provided in paragraph (g) of this section.

(g) *Separating or separated employees.* If the employee retires or resigns or if his or her employment or period of active duty ends before collection of the debt is completed, offset may be performed under 31 U.S.C. 3716 from subsequent payments of any nature (*e.g.* final salary payment, lump-sum leave, etc.) due the employee from the paying agency as of the date of separation to the extent necessary to liquidate the debt. Such offset may also be performed where appropriate against later payments of any kind due the former employee from the United States if the debt cannot be liquidated by offset from any final payment due the former employee as of the date of separation. Nothing in this section shall affect any limitation on alienation of benefits administered by the Federal Reserve System's Office of Employee Benefits.

(h) *Non-waiver and refunds of payments.* An employee's involuntary payment of all or any portion of a debt being collected under 5 U.S.C. 5514 must not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless there are statutory or contractual provisions to the contrary. Any amounts paid or deducted under this section will be promptly refunded when a debt is waived or otherwise found not owing to the United States (unless expressly prohibited by statute or regulation), or the employee's paying agency is directed by an administrative or judicial order to refund amounts deducted from his or her current pay. Refunds do not bear interest unless required or permitted by law or contract.

§ 267.6 Interest, penalties, and administrative costs.

Except with respect to debts referenced in 31 U.S.C. 3717(g), the Board will charge interest, costs, and a six percent penalty on debts covered by this regulation in accordance with 31 CFR 901.9. The Board will not impose interest charges on the portion of the debt that is paid within 30 days after the date on which interest began to accrue, nor impose penalty charges on the portion of the debt that is paid within 90 days after the date on which penalty began to accrue. The Board will not impose any charges during periods during which collection activity has been suspended pending any review provided for in this part if the reviewing official determines that collection of such charges is against equity and good conscience or is not in the best interest of the United States. The Board may, in its discretion, also waive interest, penalties, and cost charges for good cause shown by the debtor (for example, the debtor is unable to pay any significant portion of the debt within a reasonable period of time, or collection of these charges will jeopardize collection of the principal of the debt) or otherwise as authorized in 31 CFR 901.9(g) and 902.2.

By order of the Board of Governors of the Federal Reserve System, April 11, 2019.

Ann Misback,

Secretary of the Board.

[FR Doc. 2019–07537 Filed 4–15–19; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–491]

Schedules of Controlled Substances: Temporary Placement of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Temporary amendment; temporary scheduling order.

SUMMARY: The Acting Administrator of the Drug Enforcement Administration is issuing this temporary scheduling order to schedule the synthetic cannabinoids (SC), ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (trivial name: 5F-EDMB-PINACA); methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (trivial name: 5F-MDMB-PICA); *N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (trivial names: FUB-AKB48; FUB-APINACA; AKB48 N-(4-FLUOROBENZYL)); 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (trivial names: 5F-CUMYL-PINACA; SGT-25); and (1-(4-fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) methanone (trivial name: FUB-144), and their optical, positional, and geometric isomers, salts, and salts of isomers in

schedule I. This action is based on a finding by the Acting Administrator that the placement of these SCs in 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-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144.

DATES: This temporary scheduling order is effective April 16, 2019, until April 16, 2021. If this order is extended or made permanent, the DEA will publish a document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Lynnette M. Wingert, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

Section 201 of the Controlled Substances Act (CSA), 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance in 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 [1] 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.

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

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 in schedule I of the CSA.[2] The Acting Administrator transmitted notice of his intent to place 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 in schedule I on a temporary basis to the Assistant Secretary for Health of HHS by letter dated August 24, 2018. The Assistant Secretary responded to this notice by letter dated September 6, 2018, and advised that based on a review by the Food and Drug Administration (FDA), there are currently no active investigational new drug applications or approved new drug applications for 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144. The Assistant Secretary also stated that the HHS has no objection to the temporary placement of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 in 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-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 are not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 under section 505 of the FDCA, 21 U.S.C. 355. The DEA has found that the control of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 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-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 was published in the **Federal Register** on December 28, 2018. 83 FR 67166.

To find that placing a substance temporarily in 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 in 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-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144, 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 September 6, 2018 letter are available in their entirety under the tab ''Supporting Documents'' of the public docket of this action at *www.regulations.gov.*

Synthetic Cannabinoids

The illicit use of SCs continues to cause severe adverse effects, overdoses and deaths in the United States. SCs are substances synthesized in laboratories that mimic the biological effects of delta-9-tetrahydrocannabinol (THC), the main psychoactive ingredient in marijuana. SCs were introduced to the designer drug market in several European countries as ''herbal incense'' before the initial encounter in the United States by U.S. Customs and Border Protection (CBP) in November 2008. Since 2009, misuse of SCs has escalated in the United States as evidenced by large numbers of law enforcement encounters of SCs applied onto plant material and in other designer drug products intended for human consumption. Recent hospital reports, scientific publications, and/or law enforcement reports demonstrate that 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, FUB-144 and their associated designer drug products are being abused for their psychoactive properties (*see* DEA 3-Factor Analysis). As with many generations of SCs encountered since 2009, the abuse of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-

[2] 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 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.

CUMYL-PINACA and FUB-144 is negatively impacting communities in the United States.

As noted by the DEA and CBP, SCs originate from foreign sources, such as China. Bulk powder substances are smuggled via common carrier into the United States and find their way to clandestine designer drug product manufacturing operations located in residential neighborhoods, garages, warehouses, and other similar destinations throughout the country. According to online discussion boards and law enforcement encounters, spraying or mixing the SCs with plant material provides a vehicle for the most common route of administration—smoking (using a pipe, a water pipe, or rolling the drug-laced plant material in cigarette papers).

5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 have no accepted medical use in the United States. Use of 5F-MDMB-PICA, 5F-EDMB-PINACA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 has been reported to result in adverse effects in humans in the United States (*see* DEA 3-Factor Analysis). In addition, there have been multiple law enforcement seizures of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 in the United States. Use of other SCs has resulted in signs of addiction and withdrawal. Based on the pharmacological similarities between 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 and other SCs, these five SCs are likely to produce signs of addiction and withdrawal similar to those produced by other SCs.

5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 are SCs that have pharmacological effects similar to the schedule I hallucinogen THC, and other temporarily and permanently controlled schedule I SCs. In addition, the misuse of 5F-CUMYL-PINACA, 5F-EDMB-PINACA and FUB-144 has been associated with multiple overdoses requiring emergency medical intervention (*see* DEA 3-Factor Analysis) while deaths have been reported that involved FUB-AKB48. With no approved medical use and limited safety or toxicological information, 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 have emerged in the designer drug market, and the abuse of these substances for their psychoactive properties is concerning.

Factor 4. History and Current Pattern of Abuse

SCs have been developed by researchers 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 intended for illicit use within the United States occurred in November 2008 by CBP. Since then, the popularity of SCs as product adulterants and objects of abuse has increased as evidenced by law enforcement seizures, public health information, and media reports.

Numerous SCs have been identified as product adulterants, and law enforcement has seized bulk amounts of these substances. As successive generations of SCs have been identified and controlled as schedule I substances, illicit distributors have developed new SC substances that vary only by slight modifications to their chemical structure while retaining pharmacological effects related to their abuse potential. These substances, and products laced with these substances, are marketed under the guise of ''herbal incense'' and promoted as a ''legal high'' with a disclaimer that they are ''not for human consumption.'' Thus, after section 1152 of the Food and Drug Administration Safety and Innovation Act (FDASIA), Public Law 112–144, placed cannabimimetic agents and 26 specific substances (15 of these are SCs) into schedule I, law enforcement documented the emergence of new SCs including UR-144, XLR11, AKB48, PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA. After these substances were temporarily scheduled (78 FR 28735, May 16, 2013; 79 FR 7577, February 10, 2014) other generations of SCs appeared and were temporarily controlled, including AB-CHMINACA, AB-PINACA, THJ-2201 (80 FR 5042, January 30, 2015), MAB-CHMINACA (81 FR 6171, February 5, 2016), 5F-ADB, 5F-AMB, 5F-ABK48, ADB-FUBINACA, MDMB-CHMICA, MDMB-FUBINACA (82 FR 17119, April 10, 2017), FUB-AMB (82 FR 51154, November 3, 2017) NM2201, 5F-AB-PINACA, 4-CN-CUMYL-BUTINACA, MMB-CHMICA and 5F-CUMYL-P7AICA (83 FR 31877, July 10, 2018).

FUB-AKB48 was first identified in seized drug evidence in October 2013, followed by FUB-144 (January 2014), 5F-MDMB-PICA (October 2016), 5F-EDMB-PINACA (October 2017) and 5F-CUMYL-PINACA (February 2018). Following their manufacture in China, SCs are often encountered in countries including New Zealand, Australia, and Russia before appearing throughout Europe, and eventually in the United States. 5F-CUMYL-PINACA was first reported in the German and Swiss illicit drug markets in 2015 but didn't show up in the United States until February 2018; 5F-EDMB-PINACA was reported in China in 2016 but didn't appear in the United States until October 2017; and 5F-MDMB-PICA was reported in Germany in August 2016 and November 2016 in Belgium, a few months before showing up in the United States. These data further support that based upon trends, SCs appear in the illicit drug markets of other countries including those in Europe, often before being trafficked in the United States. The misuse of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 has been associated with law enforcement seizures, overdoses requiring emergency medical intervention, or both (*see* DEA 3-Factor Analysis).

The powder form of SCs is typically dissolved in solvents (*e.g.,* acetone) before being applied to plant material, or dissolved in a propellant intended for use in electronic cigarette devices. In addition, 5F-EDMB-PINACA was identified as an adulterant on pieces of paper that were smuggled into a detention facility and later found partially burned (*see* DEA 3—Factor Analysis). Law enforcement personnel have encountered various application methods including buckets or cement mixers in which plant material and one or more SCs are mixed together, or in large areas where the plant material is spread out so that a dissolved SC 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 uniform concentration of the substance in each package. Adverse health consequences may also occur from directly ingesting the drug during the manufacturing process. The failure to adhere to any manufacturing standards with regard to amounts, the substance(s) included, purity, or contamination may increase the risk of adverse events. However, it is important to note that adherence to manufacturing standards would not eliminate their potential to produce adverse effects because the toxicity and safety profile of these SCs have not been studied.

5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144, similar to other SCs, have been found in powder form or mixed with dried leaves or herbal blends are marketed under the guise of ''herbal

incense'' and promoted as ''legal high'' with disclaimer that they are ''not for human consumption.'' Presentations at emergency departments directly linked to the abuse of 5F-EDMB-PINACA and FUB-144 have included seizures, agitation, vomiting, tachycardia and elevated blood pressure (*see* DEA 3-Factor Analysis).

Factor 5. Scope, Duration and Significance of Abuse

SCs continue to be encountered in the illicit market despite scheduling actions that attempt to safeguard the public from the adverse effects and safety issues associated with these substances (*see* DEA 3-Factor Analysis). Novel substances continue to be encountered, differing only by small chemical structural modifications intended to avoid prosecution while maintaining the pharmacological effects. Law enforcement and health care professionals continue to report the abuse of these substances and their associated products.

As described by 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 and the imminent threat to public safety following the ingestion of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 and other SCs persist.

Full reports of information obtained through STARLiMS,[3] STRIDE,[4] and NFLIS [5] for the past five years may be found in the DEA 3-Factor Analysis. According to NFLIS, STARLiMS and STRIDE data, forensic laboratories have detected the following information about the SCs in question:

- 5F-EDMB-PINACA was identified in 366 different NFLIS reports from eight states, since 2017 [6] and 22 STRIDE/STARLiMS reports from two states, since 2017.
- 5F-MDMB-PICA was identified in 381 NFLIS reports from 22 states, since 2016 and 32 STRIDE/STARLiMS reports from seven states and the District of Columbia, since 2017.
- FUB-AKB48 was identified in 362 NFLIS reports from 21 states, since 2014 and 37 STRIDE/STARLiMS reports from eight states, since 2014.
- 5F-CUMYL-PINACA was identified in 54 NFLIS reports from three states, since 2018.
- FUB-144 was identified in 403 NFLIS reports from 27 states, since 2014 and 79 STARLiMS reports from 14 states plus Washington, DC, since 2014.

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

Since first being identified in the United States in 2008, the ingestion of SCs continues to result in serious adverse effects. Details of these events involving 5F-CUMYL-PINACA, 5F-EDMB-PINACA, FUB-144, FUB-AKB48 and 5F-MDMB-PICA are summarized below.

1. In 2015, in London (United Kingdom), a 34-year-old male was hospitalized after ingesting a synthetic cannabinoid product. Toxicological analysis identified 5F-AKB48 and 5F-CUMYL-PINACA in biological samples.

2. In late November and early December 2015, in Jackson, Mississippi, five individuals presented at local emergency facilities following ingestion of a synthetic cannabinoid-containing product. Evidence collected from the individuals tested positive for THC, MAB-CHMINACA and FUB-144. Toxicological analysis of biological samples in all five patients identified THC, MAB-CHMINACA, and FUB-144.

3. In March 2017, in Chaves, New Mexico, a 14-year-old female was found in the bathroom of her home with seizure-like activity. Following transport to a local hospital by family members, she was pronounced dead approximately 20 minutes later. Toxicological analysis upon autopsy identified three SCs: FUB-AKB48, AB-CHMINACA, and ADB-CHMINACA (MAB-CHMINACA). The cause of death was determined to be toxic effects of synthetic cannabinoids (FUB-AKB48, AB-CHMINACA, and ADB-CHMINACA).

4. In January 2018, in Pittsburgh, Pennsylvania, 13 correctional facility workers were treated for overdose symptoms including diaphoresis, hypertension and tachycardia following ingestion of an airborne substance while conducting cell searches for contraband. In response to the overdose events, evidence retrieved from the searches tested positive for the synthetic cannabinoids 5F-ADB, 5F-EDMB-PINACA, and 4-CN-CUMYL-BUTINACA.

5. In March 2018, in Chicago, Illinois, a 22-year-old male expired at a local hospital. Toxicological analysis confirmed buprenorphine, brodifacoum, bromadiolone, FUB-AMB and FUB-AKB48 in biological samples of this decedent.

6. In April 2018, in Harrisburg, Pennsylvania, a 38-year-old male presented at a local hospital due to repeated nosebleeds, gastrointestinal bleeding with anemia and bruising on his arms. Toxicological analysis confirmed brodifacoum, FUB-AMB, and FUB-AKB48 in biological samples.

7. In April 2018, in Harrisburg, Pennsylvania, another patient presented at a local hospital due to significant bleeding and anemia requiring a transfusion. Toxicological analysis confirmed brodifacoum, FUB-AMB, and FUB-AKB48 in biological samples.

8. In June 2018, in Chicago, Illinois, a 25-year-old male expired at a local hospital. Toxicological analysis confirmed brodifacoum, bromadiolone, FUB-AMB and FUB-AKB48 in biological samples of this decedent.

9. In July 2018, in Washington, DC, in excess of 260 overdoses and four deaths were reported following use of a synthetic cannabinoid product. Analysis of drug evidence from the overdose event confirmed the presence of the synthetic cannabinoids FUB-AMB, EMB-FUBINACA and FUB-144.

10. In August 2018, in New Haven, Connecticut, in excess of 47 overdoses were reported following the use of a synthetic cannabinoid product. Analysis of drug evidence from the overdose event confirmed the presence of the synthetic cannabinoids 5F-ADB, FUB-AMB and 5F-MDMB-PICA.

11. In September 2018, law enforcement in Georgia seized multiple electronic cigarettes with various colored viscous liquids following the reports of overdoses. Laboratory analysis on the seized evidence determined the substance to be 5F-CUMYL-PINACA.

12. From September 10 to 16, 2018, in Washington, DC, at least 244 overdoses were reported following use of a synthetic cannabinoid product. Analysis of drug evidence from the overdose event confirmed the presence of the synthetic cannabinoids FUB-AMB and 5F-MDMB-PICA.

Because they share pharmacological similarities with schedule I substances (Δ^9-THC, JWH-018 and other temporarily and permanently controlled schedule I SCs), 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-

[3] STARLiMS is a laboratory information management system that systematically collects results from drug chemistry analyses conducted by DEA laboratories. On October 1, 2014, STARLiMS replaced System to Retrieve Information from Drug Evidence (STRIDE) as the DEA laboratory drug evidence data system of record.

[4] STRIDE is a database of drug exhibits sent to DEA laboratories for analysis. Exhibits from the database are from the DEA, other federal agencies, and some local law enforcement agencies.

[5] The National Forensic Laboratory Information System (NFLIS) is a national forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by State and local forensic laboratories in the United States.

[6] At the time of query, 2018 data were still reporting.

PINACA, and FUB-144 pose serious risks to an abuser. Tolerance to SCs may develop fairly rapidly with larger doses being required to achieve the desired effect. Acute and chronic abuse of SCs in general have been linked to adverse health effects including signs of addiction and withdrawal, numerous reports of emergency department admissions, and overall toxicity and deaths. Psychiatric case reports have been reported in the scientific literature detailing the SC abuse and associated psychoses. As abusers obtain these drugs through unknown sources, the identity and purity of these substances is uncertain and inconsistent, thus posing significant adverse health risks to users.

5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 are being encountered on the illicit drug market and have no accepted medical use in the United States. Regardless, these products continue to be easily available and abused by diverse populations.

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, reverse distribution, importation, exportation, conduct of research and chemical analysis, possession, and abuse of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 pose an imminent hazard to the public safety. The DEA is not aware of any currently accepted medical uses for 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 in the United States. A substance meeting the statutory requirements for temporary scheduling, 21 U.S.C. 811(h)(1), may only be placed in 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-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 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 Acting Administrator, through a letter dated August 24, 2018, notified the Assistant Secretary of the DEA's intention to temporarily place 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 in schedule I. A notice of intent was subsequently published in the **Federal Register** on December 28, 2018. 83 FR 67166.

Conclusion

In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Acting Administrator considered available data and information, and herein sets forth the grounds for his determination that it is necessary to temporarily schedule ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (trivial name: 5F-EDMB-PINACA); methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (trivial name: 5F-MDMB-PICA); *N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (trivial names: FUB-AKB48; FUB-APINACA; AKB48 N-(4-FLUOROBENZYL)); 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (trivial names: 5F-CUMYL-PINACA; SGT-25); and (1-(4-fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (trivial name: FUB-144) in schedule I of the CSA to avoid an imminent hazard to the public safety.

Because the Acting Administrator hereby finds it necessary to temporarily place 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 in schedule I to avoid an imminent hazard to the public safety, this temporary order scheduling these substances is effective on the date of publication in the **Federal Register**, and is 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-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 will be 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-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 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 16, 2019. Any person who currently handles 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144, and is not registered with the DEA, must submit an application for registration and may not continue to handle 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 as of April 16, 2019, unless the DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312. 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 16, 2019 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-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 must surrender all currently held quantities of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144.

3. *Security.* 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 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 16, 2019.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 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 16, 2019, to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 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-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144) on hand on a biennial basis, pursuant to 21 U.S.C. 827 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-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304, 1312, 1317 and § 1307.11. Current DEA registrants authorized to handle 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 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-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 must submit reports pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304 and 1312 as of April 16, 2019.

8. *Order Forms.* All DEA registrants who distribute 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of April 16, 2019.

9. *Importation and Exportation.* All importation and exportation of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 must be in compliance with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312 as of April 16, 2019.

10. *Quota.* Only DEA registered manufacturers may manufacture 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303 as of April 16, 2019.

11. *Liability.* Any activity involving 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA or FUB-144 not authorized by, or in violation of the CSA, occurring as of April 16, 2019, 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 (as distinct from a rule) and sets forth the procedures by which such orders are to be issued, the DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, which are applicable to rulemaking, do not apply to this temporary scheduling order. The specific language chosen by Congress indicates an intention for the DEA to proceed through the issuance of an order instead of proceeding by rulemaking. Given that Congress specifically requires the Attorney General to follow rulemaking procedures for *other* kinds of scheduling actions, see section 201(a) of the CSA, 21 U.S.C. 811(a), it is noteworthy that, in section 201(h), Congress authorized the issuance of temporary scheduling actions by order rather than by rule.

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. 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 CRA, ''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 to avoid an imminent hazard to the public safety. 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 DEA's need to move quickly to place these substances in schedule I because they pose an imminent hazard to the 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 follows:

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

■ 2. In § 1308.11, add paragraphs (h)(37) through (41) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(h) * * *

(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

Dated: April 5, 2019.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2019–07460 Filed 4–15–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0955]

RIN 1625–AA09

Drawbridge Operation Regulations; Belle River, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Coast Guard is issuing a temporary deviation to the operating schedule that regulates the State Route 70 (SR 70), pontoon bridge across the Belle River mile 23.8, near Pierre Part, Assumption Parish, Louisiana. This temporary deviation is needed to collect and analyze information on vehicle traffic congestion on SR 70 created when the drawbridge opens to vessel traffic and the impact to the reasonable needs of navigation when the bridge closes to vessels during periods of high vehicle traffic. During this temporary deviation the drawbridge will remain closed to navigation.

DATES: This deviation is effective from 6 a.m. on May 17, 2019 to 6 a.m. on August 30, 2019. Comments and related material must be received by the Coast Guard on or before September 23, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0955 using Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administrator; telephone (504) 671–2128, email *Douglas.A.Blakemore@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
LA DOTD Louisiana Department of Transportation and Development
SR State Route
§ Section
U.S.C. United States Code

II. Background, Purpose and Legal Basis

LA DOTD has requested to change the operating requirements for the SR 70 pontoon bridge across the Belle River mile 23.8, near Pierre Part, Assumption Parish, Louisiana. This bridge currently opens on signal, except that from 10 p.m. to 6 a.m. the draw shall open on signal if at least four hour notice is given according to 33 CFR 117.424.

LA DOTD requested changing this bridge operating schedule because vehicle traffic has become congested during June, July, and August. This waterway is heavily used by recreational vessels during the summer months.

LA DOTD conducted a field study that showed that about 80 cars were delayed approximately 15 minutes each time the bridge opened to vessel traffic and that the bridge sometimes opened as many as 4 times per hour. To alleviate this congestion LA DOTD has requested to open the bridge to vessel traffic on the hour from 6 a.m. to 10 p.m. each day.

This 105-day temporary deviation to the regulations will allow LA DOTD to collect additional vehicle traffic data to measure the impact of bridge closures on traffic congestion. It will also allow the Coast Guard to collect data on the impact of the proposed regulation change on vessels.

This bridge has a vertical clearance of zero feet in the closed to vessel traffic position and unlimited vertical clearance in the open to vessel traffic position. In June, July, and August 2017 the bridge opened for vessels 374 times. During this temporary deviation the bridge will operate as follows:

From 6 a.m. on June 1, 2019 through 6 p.m. on August 31, 2019 the draw of the SR 70 pontoon bridge across the Belle River mile 23.8, near Pierre Part, Assumption Parish, Louisiana shall open on signal on the hour from 6 a.m. to 10 p.m.; and that from 10 p.m. to 6 a.m. the draw shall open on signal if at least four hour notice is given. The bridge will open on signal for emergencies.

The Coast Guard will inform the users of this waterway through Local and Broadcast Notice to Mariners of the