

# STATEMENT OF SCOPE

## CONTROLLED SUBSTANCES BOARD

Rule No.: CSB 2.72

Relating to: Scheduling Isotonitazene and 1P-LSD

Rule Type: Both Permanent and Emergency

### 1. Finding/nature of emergency (Emergency Rule only):

The Walworth County District Attorney's office has provided the Controlled Substances Board with information relevant to emergency scheduling and the commencement of a prosecution concerning a controlled substance analog pursuant to s. 961.25, Stats. Isotonitazene is an analog of etonitazene which is a Schedule I controlled substance.

The Calumet County District Attorney's office has provided the Controlled Substances Board with information relevant to emergency scheduling and the commencement of a prosecution concerning a controlled substance analog pursuant to s. 961.25, Stats. 1P-LSD is an analog of lysergic acid diethylamide, commonly known as "LSD", which is a Schedule I controlled substance.

The Controlled Substance Board finds that scheduling Isotonitazene and 1P-LSD on an emergency basis is necessary to avoid an imminent hazard to the public safety. The substances are not included in any other schedule and no exemption or approval is in effect for the substance under 21 USC 355.

### 2. Detailed description of the objective of the proposed rule:

The objective is to schedule Isotonitazene and 1P-LSD as Schedule I controlled substances.

### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Currently Wisconsin has not scheduled Isotonitazene as a controlled substance. It is a synthetic opiate and an analog to etonitazene. There are documented drug overdoses and deaths in the Midwest, including Wisconsin. In addition to the information provided by the Walworth County District Attorney's office, the Milwaukee Medical Examiner's office has provided information involving recent overdose cases, including 1 death, that have involved isotonitazene in Milwaukee, Walworth and Jefferson Counties.

Currently Wisconsin has not scheduled 1P-LSD as a controlled substance. 1P-LSD is a synthetic hallucinogenic substance which is an analog of lysergic acid diethylamide (LSD).

### 4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

**961.11 (1)** 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.

**961.11(4m)** 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 rulemaking 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.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

60 hours

**6. List with description of all entities that may be affected by the proposed rule:**

Law enforcement, district attorney offices, Dept of Justice, state courts and the Controlled Substances Board

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

The federal government has not scheduled Isotonitazene or 1P-LSD

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

There is no anticipated economic impact of implementing the rule and it will not have an economic impact on small businesses.

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Authorized Signature

April 8, 2020

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Date Submitted