

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: June 11, 2019

TRD-201901775

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 12, 2019



Department of State Health Services

Order Adding the Chemical Names of Five Substances that Fall within the Definition of Fentanyl-Related Substances; Extending the Temporary Scheduling of Six Synthetic Cannabinoids; and Temporarily Scheduling Five other Synthetic Cannabinoids

The Drug Enforcement Administration (DEA) is providing additional descriptive information with respect to five specific substances already covered by a temporary scheduling order that appeared in the *Federal Register* on February 6, 2018. That order placed fentanyl-related substances temporarily in schedule I of the Controlled Substances Act. The order further stated that if and when DEA identifies a specific new substance that falls under the definition of a fentanyl-related substance, the agency will publish in the *Federal Register*, and on the agency website, the chemical name of such substance. This notification provides the chemical names of five substances that fall within the definition of fentanyl-related substances that were temporarily controlled under the scheduling order issued February 6, 2018. This notification has the same effective period as the temporary scheduling order published on February 6, 2018 (83 FR 5188). This notification was published in the April 19, 2019, issue of the *Federal Register* (84 FR 16397). These substances are:

- (1) 2'-fluoro *ortho*-fluorofentanyl;
- (2) *ortho*-methyl acetylfentanyl;
- (3) beta'-phenyl fentanyl;
- (4) thiofuranfentanyl; and
- (5) crotonyl fentanyl.

The Acting Administrator of the Drug Enforcement Administration is issuing a temporary scheduling order to extend the temporary schedule I status of six synthetic cannabinoids. The substances are: methyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate [5F-MDMB-PINACA]; methyl-2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3-methylbutanoate [5F-AMB]; *N*-(adamantan-1-yl)-1-(5-fluoropentyl)-1*H*-indazole-3-carboxamide [5F-APINACA, 5F-AKB48]; *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide [ADB-FUBINACA]; methyl 2-(1-(cyclohexylmethyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate [MDMB-CHMICA, MMB-CHMINACA] and methyl 2-(1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate [MDMB-FUBINACA], including their optical, positional and geometric isomers, salts, and salts of isomers. This order is effective April 10, 2019, and expires on April 10, 2020, or until the permanent scheduling action for these six substances is completed, whichever occurs first. This order was published in the April 8, 2019, issue of the *Federal Register* (84 FR 13796)

The Acting Administrator of the Drug Enforcement Administration issued a temporary scheduling order placing the synthetic

cannabinoids, ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (trivial name: 5FEDMB-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 order was published in the April 16, 2019 issue of the *Federal Register* (84 FR 15505). This action was taken based on the following:

1. Temporary placement of 5F-EDMB-PINACA, 5F-MDMBPICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 into schedule I is necessary to avoid an imminent hazard to the public safety;
2. 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 have no accepted medical use in the United States;
3. Use of 5F-MDMBPICA, 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;
4. 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 are pharmacologically related to other synthetic cannabinoids and are likely to produce signs of addiction and withdrawal similar to those produced by other synthetic cannabinoids.

- Schedule I temporarily listed substances subject to emergency scheduling by the United States Drug Enforcement Administration.

Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances or that contains any of the substance's salts; isomers; optical, positional, and geometric isomers; esters; ethers; and salts of isomers, esters and ethers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation.

- (1) *N*-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-*N*-phenylpropionamide, also known as *N*-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-*N*-phenylpropanamide (Other name: beta-hydroxythiofentanyll);
- * (2) methyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (Other names: 5F-ADB; 5F-MDMB-PINACA);
- * (3) methyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3-methylbutanoate (Other names: 5F-AMB);
- * (4) *N*-(adamantan-1-yl)-1-(5-fluoropentyl)-1*H*-indazole-3-carboxamide (Other names: 5F-APINACA, 5F-AKB48);
- * (5) *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (Other names: ADB-FUBINACA);
- * (6) methyl 2-(1-(cyclohexylmethyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (Other names: MDMB-CHMICA, MMB-CHMINACA);
- * (7) methyl 2-(1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (Other names: MDMB-FUBINACA);

(8) methyl 2-(1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamido)-3-methylbutanoate (Other names: FUB-AMB, MMB-FUBINACA, AMB-FUBINACA);

(9) *N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)propionamide (Other names: ortho-fluorofentanyl, 2-fluorofentanyl);

(10) 2-methoxy-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: methoxyacetyl fentanyl);

(11) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopropanecarboxamide (Other name: cyclopropyl fentanyl);

(12) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylpentanamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: valeryl fentanyl);

(13) *N*-(4-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: *para*-fluorobutyryl fentanyl);

(14) *N*-(4-methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: *para*-methoxybutyryl fentanyl);

(15) *N*-(4-chlorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: *para*-chloroisobutyryl fentanyl);

(16) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylisobutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: isobutyryl fentanyl);

(17) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopentanecarboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: cyclopentyl fentanyl);

(18) Fentanyl-related substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers.

* (18-1) Fentanyl-related substance means any substance not otherwise listed under another Administration Controlled Substance Code Number, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355], that is structurally related to fentanyl by one or more of the following modifications:

(18-1-1) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(18-1-2) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino or nitro groups;

(18-1-3) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

(18-1-4) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or

(18-1-5) Replacement of the *N*-propionyl group by another acyl group;

* (18-2) This definition includes, but is not limited to, the following substances:

* (18-2-1) *N*-(1-(2-fluorophenethyl)piperidin-4-yl)-*N*-(2-fluorophenyl)propionamide (2'-fluoro *ortho*-fluorofentanyl);

* (18-2-2) *N*-(2-methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)acetamide (*ortho*-methyl acetylfentanyl);

* (18-2-3) *N*-(1-phenethylpiperidin-4-yl)-*N*,3-diphenylpropanamide (beta'-phenyl fentanyl; hydrocinnamoyl fentanyl);

* (18-2-4) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylthiophene-2-carboxamide (thiofuranyl fentanyl);

* (18-2-5) (*E*)-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbut-2-enamide (crotonyl fentanyl);

(19) Naphthalen-1-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (other name: NM2201; CBL2201);

(20) *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1*H*-indazole-3-carboxamide (other name: 5F-AB-PINACA);

(21) 1-(4-cyanobutyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN-BINACA; SGT-78);

(22) methyl 2-(1-(cyclohexylmethyl)-1*H*-indole-3-carboxamido)-3-methylbutanoate (other names: MMB-CHMICA, AMB-CHMICA);

(23) 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-pyrrolo[2,3-*b*]pyridine-3-carboxamide (other name: 5F-CUMYL-P7AICA);

(24) *N*-ethylpentylone (Other names: ephylone; 1-(1,3-benzodioxil-5-yl)-2-(ethylamino)-pentan-1-one);

* (25) ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate and their optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 5FEDMB-PINACA);

* (26) methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate and their optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 5F-MDMB-PICA);

* (27) *N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide and their optical, positional, and geometric isomers, salts, and salts of isomers (Other names: FUB-AKB48; FUB-APINACA); AKB48 *N*-(4-FLUOROBENZYL));

* (28) 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide and their optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 5F-CUMYL-PINACA; SGT-25); and,

* (29) (1-(4-fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone their optical, positional, and geometric isomers, salts, and salts of isomers (Other name: FUB-144).

Changes are marked by an asterisk(*)

TRD-201901780

Barbara L. Klein

General Counsel

Department of State Health Services

Filed: June 12, 2019

State Independent Living Council

Request for Proposal

The Texas State Independent Living Council (Texas SILC) is a non-profit organization that assists Texans with a disability to live as independently as they choose. Texas SILC is federally authorized by the Rehabilitation Act of 1973 and Workforce Innovation Act of 2014 and develops the State Plan for Independent Living (SPIL) that serves as a strategic plan to employ Independent Living Services.

Texas SILC has partnered with the Administration for Community Living (ACL) to provide quality of life grants over the next three years to