STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE CONTROLLED SUBSTANCES BOARD	:	PROPOSED ORDER OF THE CONTROLLED SUBSTANCES BOARD ADOPTING RULES (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.001, relating to scheduling Methiopropamine.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.14, Stats.

Statutory authority: s. 961.11 (1) and (4), Stats.

Explanation of agency authority:
Section 961.11 (1), Stats. provides that "[t]he 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."

Section 961.11(4), Stats. provides that "[i]f a substance is designated, rescheduled or deleted as a controlled substance under federal law and notice thereof is given to the controlled substances board, the board by affirmative action shall similarly treat the substance under this chapter after the expiration of 30 days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance or from the date of issuance of an order of temporary scheduling under 21 USC 811 (h), unless within that 30−day period, the board or an interested party objects to the treatment of the substance. If no objection is made, the board shall promulgate, without making the determinations or findings required by subs. (1), (1m), (1r) and (2) or s. 961.13, 961.15, 961.17, 961.19 or 961.21, a final rule, for which notice of proposed rulemaking is omitted, designating, rescheduling, temporarily scheduling or deleting the substance. If an objection is made the board shall publish notice of receipt of the objection and the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall make a determination with respect to the treatment of the substance as provided in subs. (1), (1m), (1r) and (2) and shall publish its decision, which shall be final unless altered by statute. Upon publication of an objection to the treatment by the board, action by the board under this chapter is stayed until the board promulgates a rule under sub. (2)."

Related statute or rule: s. 961.14, Stats.

Summary of, and comparison with, existing or proposed federal regulation:
On December 9, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register adding Methiopropamine to schedule I of the federal Controlled Substances Act. The scheduling action was effective January 9, 2023.

Plain language analysis:
This rule schedules Methiopropamine as a schedule I controlled substance.

The Controlled Substances Board will promulgate a final rule, without making the determinations or findings required by ss. 961.11(1), (1m), (1r) and (2) or s. 961.19 and omitting the notice of proposed rulemaking, listing Methiopropamine as a schedule I controlled substance.

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats Methiopropamine under chapter 961, Stats. by creating the following:

> **CSB 2.001 Addition of Methiopropamine to Schedule I**. Section 961.14 (7) (t), Stats., is created to read:
>
> **961.14 (7) (t)** N-methyl-1-(thiophen-2-yl)propan-2-amine, commonly known as Methiopropamine.

The Affirmative Action order, dated March 24, 2023 took effect on April 3, 2023, when it was published in the Administrative Register and expires upon promulgation of a final rule.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A

Comparison with rules in adjacent states:
Illinois: Illinois has not listed Methiopropamine as a schedule I controlled substance [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not listed Methiopropamine as a schedule I controlled substance [Iowa Code 124.204].

Michigan: Michigan has not listed Methiopropamine as a schedule I controlled substance [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not listed Methiopropamine as a schedule I controlled substance [Minnesota Statutes 152.02 (2)].

Summary of factual data and analytical methodologies:
The methodology was to schedule Methiopropamine to conform with the federal Controlled Substances Act.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:
The rule schedules Methiopropamine as a Schedule I controlled substance which will not have any effect on small business.

Fiscal Estimate:
The proposed rule was posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Effect on small business:
These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:
Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:
Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received by May 10, 2024 to be included in the record of rulemaking proceedings.

TEXT OF RULE

SECTION 1. CSB 2.001 is created to read:

CSB 2.001 Addition of Methiopropamine to Schedule I. Section 961.14 (7) (t), Stats., is created to read:

> **961.14 (7) (t)** N-methyl-1-(thiophen-2-yl)propan-2-amine, commonly known as Methiopropamine.

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

(END OF TEXT OF RULE)

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R09/2016)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Date
2/22/24

3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)
CSB 2.001

4. Subject
Scheduling Methiopropamine

5. Fund Sources Affected
☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

6. Chapter 20, Stats. Appropriations Affected
s. 20.165 (1) (hg)

7. Fiscal Effect of Implementing the Rule
☐ No Fiscal Effect ☐ Increase Existing Revenues ☒ Increase Costs ☐ Decrease Costs
☒ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget

8. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).
$0

10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be $10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?
☐ Yes ☒ No

11. Policy Problem Addressed by the Rule
On December 9, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register adding Methiopropamine to schedule I of the federal Controlled Substances Act. The scheduling action was effective January 9, 2023.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.
The rule will be posted on the Department's website for 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.
None.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This rule aligns Wisconsin statute with federal scheduling and classifies Methiopropamine as a schedule I controlled substance. DSPS estimates a total of $3,500 in one-time staffing costs to implement the rule. The estimated need for 0.1 limited term employee (LTE) is for rule drafting and communications necessary for implementation. The estimated costs may not be absorbed in the currently appropriated budget.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit is that the federal and state controlled substances acts will be uniform to avoid confusion.

16. Long Range Implications of Implementing the Rule
The long range implications of implementing the rule are that Mesthiopropamine will be added to Wis. Stat. ch. 961 as a schedule I controlled substance.

17. Compare With Approaches Being Used by Federal Government
The federal government has scheduled Methiopropamine as schedule I controlled substance.

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ADMINISTRATIVE RULES
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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois has not listed Methiopropamine as a schedule I controlled substance [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not listed Methiopropamine as a schedule I controlled substance [Iowa Code 124.204].

Michigan: Michigan has not listed Methiopropamine as a schedule I controlled substance [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not listed Methiopropamine as a schedule I controlled substance [Minnesota Statutes 152.02 (2)].

19. Contact Name	20. Contact Phone Number
Nilajah Hardin, Administrative Rules Coordinator	608-267-7139

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?
☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)
☐ Yes ☐ No