

**STATE OF WISCONSIN  
CONTROLLED SUBSTANCES BOARD**

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**IN THE MATTER OF RULEMAKING :**  
**PROCEEDINGS BEFORE THE :** **REPORT TO THE LEGISLATURE**  
**CONTROLLED SUBSTANCES BOARD :** **CR 24-048**

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- I. THE PROPOSED RULE:** The proposed rule, including the analysis and text, is attached.
- II. REFERENCE TO APPLICABLE FORMS:** N/A
- III. FISCAL ESTIMATE AND EIA:** The Fiscal Estimate and EIA is attached.
- IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:**  
The objective of the proposed rule is to transfer Flualprazolam from schedule IV to schedule I and add Etizolam, Clonazolam, Flubromazolam, and Diclazepam to schedule I of Wis. Stat. ch. 961.

The Controlled Substances Board did not receive an objection to similarly listing the above 5 synthetic benzodiazepine substances as schedule I controlled substances under ch. 961, Stats. within 30 days of the date of publication in the federal register of the final order listing the above 5 synthetic benzodiazepine substances as schedule I controlled substances.

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treated the above 5 synthetic benzodiazepine substances under chapter 961, Stats. by creating the following:

**CSB 2.003 Transfer of Flualprazolam and Addition of 4 Other Synthetic Benzodiazepine Substances to Schedule I.** (1) Section 961.20 (2) (ef), Stats. is repealed.

(2) Section 961.14 (5) (aa), (ab), (ac), (ad), and (ae) Stats., are created to read:

**961.14 (5) (aa)** Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

**(ab)** Diclazepam (7-chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2*H*-benzo[*e*][1,4]diazepin-2-one).

**(ac)** Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6*H*-thieno[3,2-*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

**(ad)** Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

(ae) Flubromazolam.(8-bromo-6-(2-fluorophenyl)-1-methly-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

The Affirmative Action order, dated September 19, 2023, took effect on September 25, 2023, upon publication in the Administrative Register and expires upon promulgation of this final rule.

**V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:**

Per s. 961.11(4), Stats., if no objection is made, the board shall promulgate a final rule for which notice of proposed rulemaking is omitted. Therefore, the Board did not hold a public hearing.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

Comment: The supplementary information for the federal rule lists an “alternate chemical name” for flubromazolam in addition to the name listed in the proposed rule. Should the alternate chemical name also be identified in the summary or text of the proposed rule?

Response: In reviewing the federal rule and creating the Affirmative Action Order, the Controlled Substances Board determined that it was not necessary to include the alternate chemical name for Flubromazolam. This decision was carried over to the permanent rule.

**VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A**

STATE OF WISCONSIN  
CONTROLLED SUBSTANCES BOARD

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : CONTROLLED SUBSTANCES BOARD  
CONTROLLED SUBSTANCES BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 24-048)

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PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.003 relating to transferring Flualprazolam and scheduling four (4) synthetic benzodiazepine substances.

Analysis prepared by the Department of Safety and Professional Services.

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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 July 26, 2023, the Department of Justice, Drug Enforcement Administration published its temporary amendment and scheduling order in the Federal Register adding the following 5 synthetic benzodiazepine substances to schedule I of the federal Controlled Substances Act:

- Etizolam
- Flualprazolam
- Clonazolam
- Flubromazolam
- Diclazepam

The scheduling action was effective July 26, 2023.

**Plain language analysis:**

The objective of the proposed rule is to transfer Flualprazolam from schedule IV to schedule I and add Etizolam, Clonazolam, Flubromazolam, and Diclazepam to schedule I of Wis. Stat. ch. 961.

The Controlled Substances Board did not receive an objection to similarly listing the above 5 synthetic benzodiazepine substances as schedule I controlled substances under ch. 961, Stats. within 30 days of the date of publication in the federal register of the final order listing the above 5 synthetic benzodiazepine substances as schedule I controlled substances.

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treated the above 5 synthetic benzodiazepine substances under chapter 961, Stats. by creating the following:

**CSB 2.003 Transfer of Flualprazolam and Addition of 4 Other Synthetic Benzodiazepine Substances to Schedule I. (1)** Section 961.20 (2) (ef), Stats. is repealed.

**(2)** Section 961.14 (5) (aa), (ab), (ac), (ad), and (ae) Stats., are created to read:

**961.14 (5) (aa)** Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

**(ab)** Diclazepam (7-chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2*H*-benzo[*e*][1,4]diazepin-2-one).

**(ac)** Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6*H*-thieno[3,2-*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

**(ad)** Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

**(ae)** Flubromazolam.(8-bromo-6-(2-fluorophenyl)-1-methly-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

The Affirmative Action order, dated September 19, 2023, took effect on September 25, 2023, upon publication in the Administrative Register and expires upon promulgation of this 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 specifically included Clonazepam, Flualprazolam, and Etizolam as schedule I controlled substances [720 Illinois Compiled Statutes 570/204].

**Iowa:** Iowa has not included the five (5) synthetic benzodiazepine substances listed in this rule as schedule I controlled substances [Iowa Code 124.204].

**Michigan:** Michigan has not included the five (5) synthetic benzodiazepine substances listed in this rule as schedule I controlled substances [Michigan Compiled Laws s. 333.7212].

**Minnesota:** Minnesota has specifically included Clonazepam, Etizolam, and Flubromazepam as schedule I controlled substances [Minnesota Statutes 152.02 (2)].

**Summary of factual data and analytical methodologies:**

The methodology was to transfer Flualprazolam and add four other synthetic benzodiazepine substances to Schedule I 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 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.

**Fiscal Estimate and Economic Impact Analysis:**

The fiscal estimate and economic impact analysis is attached.

**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; 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](mailto:DSPSAdminRules@wisconsin.gov). Comments must be received by July 12, 2024 to be included in the record of rulemaking proceedings.

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TEXT OF RULE

SECTION 1. CSB 2.003 is created to read:

**CSB 2.003 Transfer of Flualprazolam and Addition of 4 Other Synthetic Benzodiazepine Substances to Schedule I. (1)** Section 961.20 (2) (ef), Stats. is repealed.

(2) Section 961.14 (5) (aa), (ab), (ac), (ad), and (ae) Stats., are created to read:

**961.14 (5) (aa)** Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

**(ab)** Diclazepam (7-chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2*H*-benzo[*e*][1,4]diazepin-2-one).

**(ac)** Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6*H*-thieno[3,2-*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

**(ad)** Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

**(ae)** Flubromazolam. (8-bromo-6-(2-fluorophenyl)-1-methyl-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*a*][1,4]diazepine).

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.

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(END OF TEXT OF RULE)

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This Proposed Order of the Controlled Substances Board is approved for submission to the Governor and Legislature.

Dated 07/17/2024

Agency *Douglas Englebort*  
Chairperson  
Controlled Substances Board

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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|--|--|
| 1. Type of Estimate and Analysis<br><input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected   | 2. Date<br>05/31/24  |
| 3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)<br>CSB 2.003   |  |
| 4. Subject<br>Transferring Flualprazolam and Scheduling 4 Other Synthetic Benzodiazepine Substances  |  |
| 5. Fund Sources Affected<br><input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S   | 6. Chapter 20, Stats. Appropriations Affected<br>s. 20.165 (1) (g) |
| 7. Fiscal Effect of Implementing the Rule<br><input type="checkbox"/> No Fiscal Effect <input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs<br><input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget  |  |
| 8. The Rule Will Impact the Following (Check All That Apply)<br><input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors<br><input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers<br><input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>   |  |
| 9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).<br>\$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)?<br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No   |  |
| 11. Policy Problem Addressed by the Rule<br>On July 26, 2023, the Department of Justice, Drug Enforcement Administration published its temporary amendment and scheduling order in the Federal Register adding the following 5 synthetic benzodiazepine substances to schedule I of the federal Controlled Substances Act: <ul style="list-style-type: none"><li>• Etizolam</li><li>• Flualprazolam</li><li>• Clonazolam</li><li>• Flubromazolam</li><li>• Diclazepam</li></ul> The scheduling action is effective July 26, 2023.<br>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 the above 5 synthetic benzodiazepine substances as schedule I controlled substances. |  |
| 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.<br>The rule was 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. No comments were received.  |  |
| 13. Identify the Local Governmental Units that Participated in the Development of this EIA.<br>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)<br>DSPS estimates a total of \$2,900 in one-time costs for implemetning this rule. The estimated one-time funds support the equivalent of a 0.1 limited term employee and associated overhead for rulemaking activites. The one-time costs cannot be absorbed in the currently appropriated agency budget.  |  |

## ADMINISTRATIVE RULES

### Fiscal Estimate & Economic Impact Analysis

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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.

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16. Long Range Implications of Implementing the Rule

The long range implications of implementing the rule are that Flualprazolam, Etizolam, Clonazolam, Diclazepam, and Flualbromazolam will be Schedule I controlled substance in Wisconsin.

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17. Compare With Approaches Being Used by Federal Government

The federal government has added Flualprazolam, Etizolam, Clonazolam, Diclazepam, and Flualbromazolam as Schedule I controlled substances.

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

Illinois: Illinois has specifically included Clonazolam, Flualprazolam, and Etizolam as schedule I controlled substances [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not included the five (5) synthetic benzodiazepine substances listed in this rule as schedule I controlled substances [Iowa Code 124.204].

Michigan: Michigan has not included the five (5) synthetic benzodiazepine substances listed in this rule as schedule I controlled substances [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has specifically included Clonazolam, Etizolam, and Flubromazolam as schedule I controlled substances [Minnesota Statutes 152.02 (2)].

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

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This document can be made available in alternate formats to individuals with disabilities upon request.



**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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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)

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

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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

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
-