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

■ 2. In § 1308.14:
■ a. Redesignate paragraphs (c)(16) through (58) as (c)(17) through (59); and
■ b. Add new paragraph (c)(16).
■ The addition reads as follows:

§ 1308.14 Schedule IV.

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(c) * * *

(16) Daridorexant	2410

* * * * *

Anne Milgram,

Administrator.

[FR Doc. 2022–07322 Filed 4–6–22; 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: Placement of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: By this rule, the Drug Enforcement Administration permanently places five synthetic cannabinoids, as identified in this final rule, in schedule I of the Controlled Substances Act. These five substances are currently listed in schedule I pursuant to a temporary scheduling order. As a result of this rule, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle these five specified controlled substances will continue to apply.

DATES: Effective April 7, 2022.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Drug & Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION:

In this final rule, the Drug Enforcement Administration (DEA) is permanently scheduling the following five controlled substances in schedule I of the Controlled Substances Act (CSA), including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- Ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (other name: 5F-EDMB-PINACA),
- Methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (other names: 5F-MDMB-PICA; 5F-MDMB-2201),
- *N*-(Adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (other names: FUB-AKB48; FUB-APINACA; AKB48 *N*-(4-fluorobenzyl)),
- 1-(5-Fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (other names: 5F-CUMYL-PINACA; SGT-25), and
- (1-(4-Fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (other name: FUB-144).

Legal Authority

The CSA provides that issuing, amending, or repealing of the scheduling of any drug or other substance may be initiated by the Attorney General (1) on his own motion; (2) at the request of the Secretary of the Department of Health and Human Services (HHS); [1] or (3) on the petition of any interested party. 21 U.S.C. 811(a). The then-Acting Administrator of DEA (as delegated by the Attorney General to the Administrator of DEA) initiated this action on his own motion, and is supported by, *inter alia,* a recommendation from the then-Acting Assistant Secretary for Health of HHS and an evaluation of all relevant data by DEA. The regulatory controls and administrative, civil, and criminal sanctions of schedule I controlled substances on any person who handles (manufactures, distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses) or proposes to handle 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 will continue to apply as a result of this action.

[1] As set forth in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), FDA acts as the lead agency within 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 HHS has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

Background

On April 16, 2019, DEA published an order in the **Federal Register** amending 21 CFR 1308.11(h) to temporarily place 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 pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). 84 FR 15505. That temporary scheduling order took effect on the date of publication, and was based on findings by the then-Acting Administrator of DEA that the temporary scheduling of these five synthetic cannabinoids (SCs) was necessary to avoid an imminent hazard to the public safety pursuant to 21 U.S.C. 811(h)(1).

On March 30, 2021, DEA published a notice of proposed rulemaking (NPRM) in the **Federal Register** to permanently control the five SCs in schedule I of the CSA. 86 FR 16553. On March 31, 2021, DEA published an order to extend the temporary scheduling of the five SCs by one year, until April 16, 2022. 86 FR 16669.

DEA and HHS Eight Factor Analyses

On February 26, 2021, HHS provided DEA with a scientific and medical evaluation and scheduling recommendation, prepared by the Food and Drug Administration (FDA), entitled ''Basis for the Recommendation to Place Ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate [5F-EDMB-PINACA]; methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate [5F-MDMB-PICA]; *N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide [FUB-AKB48;FUB-APINACA; AKB48 *N*-(4-fluorobenzyl)]; 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide [5F-CUMYL-PINACA; SGT-25]; and (1-(4-fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone [FUB-144; FUB-UR-144] and Their Salts, Isomers, and Salts of Isomers in Schedule I of the Controlled Substances Act.''

After considering the eight factors in 21 U.S.C. 811(c), each substance's abuse potential, lack of legitimate medical use in the United States, and lack of accepted safety for use under medical supervision pursuant to 21 U.S.C. 812(b), the then-Acting Assistant Secretary for Health of HHS recommended that 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 be placed in schedule I of the CSA. In response, DEA conducted its own eightfactor analysis of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144.

Both DEA and HHS eight-factor analyses are available in their entirety in the public docket for this rule (Docket Number DEA–491) at *http://www.regulations.gov* under ''Supporting Documents.''

NPRM To Schedule 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144

On March 30, 2021, DEA published an NPRM entitled ''Schedules of Controlled Substances: Placement of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 in Schedule I.'' 86 FR 16553. Specifically, the NPRM proposed to add the five SCs to the hallucinogenic substances list under 21 CFR 1308.11(d), and assign them paragraph numbers 87 through 91 under paragraph (d). In addition, the NPRM listed these five SCs by their chemical and trivial names as follows:

- (87) Ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (trivial name: 5F-EDMB-PINACA);
- (88) methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (trivial name: 5F-MDMB-PICA);
- (89) *N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (trivial names: FUB-AKB48; FUB-APINACA; AKB48 *N*-(4-fluorobenzyl));
- (90) 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (trivial names: 5F-CUMYL-PINACA; SGT-25); and
- (91) (1-(4-fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (trivial name: FUB-144).

The NPRM provided an opportunity for interested persons to file a request for hearing in accordance with DEA regulations, as well as to submit comments on the proposed rule, on or before April 29, 2021. DEA did not receive any requests for such a hearing or any public comments on the proposed rule.

Scheduling Conclusion

After considering the scientific and medical evaluations and accompanying recommendation of HHS, and conducting an independent eight-factor analysis, DEA finds substantial evidence of abuse potential for 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144. DEA is therefore permanently scheduling 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 as controlled substances under the CSA.

Determination of Appropriate Schedule

The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The CSA also outlines the findings required to place a drug or other substance in any particular schedule. 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the then-Acting Assistant Secretary for Health of HHS and review of all other available data, the Administrator of DEA, pursuant to 21 U.S.C. 811(a) and 812(b)(1), finds that:

(1) 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 have a high potential for abuse that is comparable to other schedule I substances such as delta-9-tetrahydrocannabinol (Δ^9-THC) and JWH-018;

(2) 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 currently have no accepted medical use in treatment in the United States; [2] and

(3) There is a lack of accepted safety for use of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 under medical supervision.

Based on these findings, the Administrator concludes that ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (other name: 5F-EDMB-PINACA); methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (other names: 5F-MDMB-PICA; 5F-MDMB-2201); *N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (other names: FUB-AKB48; FUB-APINACA; AKB48 *N*-(4-fluorobenzyl)); 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (other names: 5F-CUMYL-PINACA; SGT-25); and (1-(4-fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (other name: FUB-144), including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, warrant control in schedule I of the CSA. 21 U.S.C. 812(b)(1).

Summary of Minor Changes in the Final Rule

As discussed in the above NPRM section, DEA proposed to place 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 in 21 CFR 1308.11(d) as paragraphs 87 through 91, respectively. The NPRM listed chemical, as well as trivial, names for the five substances. Regarding the substance methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate, the NPRM listed only one trivial name (5F-MDMB-PICA). Since the publication of the NPRM, DEA has found another trivial name (5F-MDMB-2201) for this substance. In addition, DEA has issued several final rules which updated the numbering of listed hallucinogenic substances in paragraph (d). As a result, this final rule assigns paragraphs 89 through 93 to 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144, respectively. This final rule now refers to ''trivial'' names as ''other'' names, and lists both 5F-MDMB-PICA and 5F-MDMB-2201 as other names for methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate.

Requirements for Handling 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144

5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 will continue [3] to be subject to the CSA's schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture,

[2] Although there is no evidence suggesting that 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 have currently accepted medical uses in treatment in the United States, it bears noting that a drug cannot be found to have such medical use unless DEA concludes that it satisfies a five-part test. Specifically, with respect to a drug that has not been approved by FDA, to have a currently accepted medical use in treatment in the United States, all of the following must be demonstrated: i. The drug's chemistry must be known and reproducible; ii. there must be adequate safety studies; iii. there must be adequate and well-controlled studies proving efficacy; iv. the drug must be accepted by qualified experts; and v. the scientific evidence must be widely available. 57 FR 10499 (1992), *pet. for rev. denied, Alliance for Cannabis Therapeutics* v. *DEA,* 15 F.3d 1131, 1135 (D.C. Cir. 1994).

[3] 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 have been subject to schedule I controls on a temporary basis, pursuant to 21 U.S.C. 811(h), by virtue of the April 16, 2019 temporary scheduling order (84 FR 15505) and the subsequent one year extension of that order (March 31, 2021, 86 FR 16669).

distribution, dispensing, importing, exporting, research, and conduct of instructional activities, including the following:

1. *Registration.* Any person who handles, or desires to handle, 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, or FUB-144 must be registered with 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.

2. *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 in accordance with 21 CFR 1301.71–1301.76. Non-practitioners handling these five substances must also comply with the employee screening requirements of 21 CFR 1301.90–1301.93.

3. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 must be in compliance with 21 U.S.C. 825 and 958(e), and be in accordance with 21 CFR part 1302.

4. *Quota.* Only registered manufacturers are permitted to 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.

5. *Inventory.* Every DEA registrant who possesses any quantity of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 was required to keep an inventory of all stocks of these substances on hand as of April 16, 2019, pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11(a) and (d).

6. *Records and Reports.* Every DEA registrant must maintain records and submit reports with respect to 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and/or FUB-144, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR 1301.74(b) and (c) and parts 1304, 1312, and 1317. Manufacturers and distributors must submit reports regarding 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and/or FUB-144 to the Automation of Reports and Consolidated Order System pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312.

7. *Order Forms.* Every DEA registrant who distributes 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, or FUB-144 must continue to comply with the order form requirements, pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305.

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

9. *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 or its implementing regulations is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

In accordance with 21 U.S.C. 811(a), this final scheduling action is subject to formal rulemaking procedures performed ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order (E.O.) 12866 and the principles reaffirmed in E.O. 13563.

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of E.O. 13132. The rule does not have substantial direct effects on the States, on the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601–612, has reviewed this final rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. On April 16, 2019, DEA published an order to temporarily place these five substances in schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h).

DEA estimates that all entities handling or planning to handle these substances have already established and implemented the systems and processes required to handle 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 as schedule I controlled substances. There are currently 28 registrations authorized to handle 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and/or FUB-144 specifically, as well as a number of registered analytical labs that are authorized to handle schedule I controlled substances generally. DEA estimates these 28 registrations encompass 22 entities. Some of these entities are likely to be large entities. However, DEA does not have information of registrant size and the majority of DEA registrants are small entities or are employed by small entities. Therefore, DEA conservatively estimates as many as 22 small entities are affected by this rule.

A review of the 28 registrations indicates that all entities that currently handle 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, or FUB-144 also handle other schedule I controlled substances, and have established and implemented (or maintain) the systems and processes required to handle 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, or FUB-144. Therefore, DEA anticipates that this rule will impose minimal or no economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.,* DEA has determined and certifies that this action would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the

private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year * * *.'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. However, pursuant to the CRA, DEA is submitting a copy of this final rule to the Government Accountability Office, the House, and the Senate under the CRA.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on state or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Determination To Make Rule Effective Immediately

As indicated above, this rule finalizes the schedule I control status of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 that has already been in effect for over two years by virtue of the April 16, 2019, temporary scheduling order (84 FR 15505) and the subsequent one-year extension of that order (March 31, 2021, 86 FR 16669). The April 2019 order was effective on the date of publication, and was based on findings by the then-Acting Administrator that the temporary scheduling of these substances was necessary to avoid an imminent hazard to the public safety pursuant to 21 U.S.C. 811(h)(1).

Because this rule finalizes the control status of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 that has already been in effect for over two years, it does not alter the legal obligations of any person who handles these substances. Rather, it merely makes permanent the current scheduling status and corresponding legal obligations. Therefore, DEA is making the rule effective on the date of publication in the **Federal Register**, as any delay in the effective date is unnecessary and would be contrary to the public interest. *See* 5 U.S.C. 553(d).

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, 21 CFR part 1308 is amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR 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:
■ a. Add paragraphs (d)(89) through (d)(93); and
■ b. Remove and reserve paragraphs (h)(37) through (41);

The additions read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(89) ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (other name: 5F-EDMB-PINACA)	7036
(90) methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (other names: 5F-MDMB-PICA; 5F-MDMB-2201)	7041
(91) *N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (other names: FUB-AKB48; FUB-APINACA; AKB48 N-(4-FLUOROBENZYL))	7047
(92) 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (other names: 5F-CUMYL-PINACA; SGT-25)	7083
(93) (1-(4-fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (other name: FUB-144)	7014

* * * * *

Anne Milgram,

Administrator.

[FR Doc. 2022–07320 Filed 4–6–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 38

Notification of Interpretation of Section 188 of the Workforce Innovation and Opportunity Act

AGENCY: Office of the Secretary, Labor.

ACTION: Notification of interpretation.

SUMMARY: This Notification is to inform the public that, consistent with the Supreme Court's 2020 decision in *Bostock* v. *Clayton County* and Title IX of the Education Amendments of 1972, the U.S. Department of Labor (DOL), beginning April 7, 2022, will interpret the prohibition on discrimination on the basis of sex that is codified in Section 188 of the Workforce Innovation and Opportunity Act to include discrimination on the basis of sexual orientation. DOL will continue to interpret and enforce Section 188's prohibition on discrimination on the basis of sex to include discrimination on the basis of gender identity and transgender status. This interpretation will guide DOL's Civil Rights Center in processing complaints and conducting investigations and compliance reviews, but does not determine the outcome in any particular case or set of facts.

DATES: This notification is effective April 7, 2022.

FOR FURTHER INFORMATION CONTACT: Naomi Barry-Perez, Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Ave. NW, Room N–4123, Washington, DC 20210.

SUPPLEMENTARY INFORMATION: DOL is informing the public that, consistent with the Supreme Court's decision in *Bostock* v. *Clayton County,* 140 S. Ct. 1731 (2020), and Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.,* DOL, beginning April 7, 2022, will interpret the prohibition on discrimination on the basis of sex in Section 188 of the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 3248, to include discrimination on the basis of sexual orientation.[1] DOL will continue to interpret and enforce Section 188's prohibition on discrimination on the basis of sex to include discrimination on the basis of gender identity and transgender status, as set forth in the regulations issued under Section 188.29 CFR 38.7.

The Civil Rights Center (CRC) at DOL is responsible for enforcing Section 188 of WIOA and regulations issued under Section 188, which prohibit exclusion of an individual from participation in, denial of the benefits of, discrimination in, or denial of employment in the administration of or in connection with, any programs and activities funded or otherwise financially assisted in whole or in part under Title I of WIOA on various bases, including sex. 29 U.S.C. 3248(a).

On June 15, 2020, the U.S. Supreme Court held that the prohibition on employment discrimination based on sex in Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.,* encompasses discrimination based on sexual orientation, gender identity, and transgender status. The Court concluded that the plain meaning of ''because of

[1] The regulations implementing WIOA Section 188 (29 CFR part 38) use the phrases ''on the basis of . . . sex'' and ''based on sex.'' The relevant statutory language (at 29 U.S.C. 3248(a)(2)) uses the phrase ''because of . . . sex.'' These phrases are used interchangeably in this notification.