dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Dixon Airport, Dixon, WY. Class E airspace would be established within a 7-mile radius of Dixon Airport with a segment 8 miles wide (4 miles each side of a 045° bearing from the airport) extending to 15.5 miles northeast of the airport. This airspace is necessary to support IFR operations in standard instrument approach and departure procedures at the airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, and is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANM WY E5 Dixon, WY [New]

Dixon Airport
(Lat. 41°02′15″ N., long. 107°29′33″ W.)

That airspace extending upward from 700 feet above the surface within a 7-miles radius of the Dixon Airport, and within 4 miles each side of a 045° bearing from the airport extending from the 7-mile radius to 15.5 miles northeast of the airport.

Issued in Seattle, Washington, on May 22, 2017.

Sam S.L. Shrimpton,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2017–11078 Filed 6–1–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–460]

Schedules of Controlled Substances: Temporary Placement of Acryl Fentanyl Into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of intent.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this notice of intent to issue a temporary order to schedule the synthetic opioid, *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacrylamide (acryl fentanyl *or* acryloylfentanyl), into Schedule I pursuant to the temporary scheduling provisions of the Controlled Substances Act. This action is based on a finding by the Administrator that the placement of this synthetic opioid into Schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. When it is issued, the temporary scheduling order will impose the administrative, civil, and criminal sanctions and regulatory controls applicable to Schedule I controlled substances under the Controlled Substances Act on the manufacture, distribution, reverse distribution, possession, importation, exportation, research, and conduct of instructional activities, and chemical analysis of this synthetic opioid.

DATES: The date of this notice of intent is June 2, 2017.

FOR FURTHER INFORMATION CONTACT: Michael J. Lewis, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION: This notice of intent is issued pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). The Drug Enforcement Administration (DEA) intends to issue a temporary order to add acryl fentanyl to Schedule I under the Controlled Substances Act.[1] The temporary scheduling order will be published in the **Federal Register**, but that order will not be issued before July 3, 2017.

Legal Authority

Section 201 of the Controlled Substances Act (CSA), 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance into Schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if he finds that such action is necessary to avoid imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary scheduling for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other

[1] Though DEA has used the term ''final order'' with respect to temporary scheduling orders in the past, this notice of intent adheres to the statutory language of 21 U.S.C. 811(h), which refers to a ''temporary scheduling order.'' No substantive change is intended.

schedule under section 202 of the CSA, 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1); 21 CFR part 1308. The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

Background

Section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of his intention to temporarily place a substance into Schedule I of the CSA.[2] The Administrator transmitted notice of his intent to place acryl fentanyl in Schedule I on a temporary basis to the Assistant Secretary for Health of HHS by letter dated April 17, 2017. The Assistant Secretary responded to this notice by letter dated May 2, 2017, and advised that based on a review by the Food and Drug Administration (FDA), there are currently no investigational new drug applications or approved new drug applications for acryl fentanyl. The Assistant Secretary also stated that the HHS has no objection to the temporary placement of acryl fentanyl into Schedule I of the CSA. Acryl fentanyl is not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for acryl fentanyl under section 505 of the FDCA, 21 U.S.C. 355. The DEA has found that the control of acryl fentanyl in Schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety.

To find that placing a substance temporarily into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. 21 U.S.C. 811(h)(3). Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling may only be placed in Schedule I. 21 U.S.C. 811(h)(1). Substances in Schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1).

Acryl Fentanyl

Acryl fentanyl was first described in 1981 in the scientific literature where its chemical structure and its *in vivo* antinociceptive effects were reported. No approved medical use has been identified for acryl fentanyl, nor has it been approved by the FDA for human consumption. The recent identification of acryl fentanyl in drug evidence and the identification of this substance in association with fatal overdose events indicate that this substance is being abused for its opioid properties.

Available data and information for acryl fentanyl, summarized below, indicate that this synthetic opioid has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. The DEA's three-factor analysis is available in its entirety under ''Supporting and Related Material'' of the public docket for this action at *www.regulations.gov* under Docket Number DEA–460.

Factor 4. History and Current Pattern of Abuse

The recreational abuse of fentanyl-like substances continues to be a significant concern. These substances are distributed to users, often with unpredictable outcomes. Acryl fentanyl has recently been encountered by law enforcement and public health officials and the adverse health effects and outcomes are demonstrated by fatal overdose cases. The documented negative effects of acryl fentanyl are consistent with those of other opioids.

On October 1, 2014, the DEA implemented STARLiMS (a web-based, commercial laboratory information management system) to replace the System to Retrieve Information from Drug Evidence (STRIDE) as its laboratory drug evidence data system of record. DEA laboratory data submitted after September 30, 2014, are reposited in STARLiMS. Data from STRIDE and STARLiMS were queried on May 5, 2017. STARLiMS registered 36 reports containing acryl fentanyl, from Alabama, Connecticut, Illinois, Indiana, Kentucky, Louisiana, Minnesota, Missouri, North Carolina, South Carolina, Tennessee, Texas, and West Virginia. According to STARLiMS, the first laboratory submission of acryl fentanyl occurred in July 2016 in Texas.

The National Forensic Laboratory Information System (NFLIS) is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by other federal, state and local forensic laboratories across the country. NFLIS registered 74 reports containing acryl fentanyl from state or local forensic laboratories in Arkansas, California, Connecticut, Iowa, Kentucky, Ohio, Pennsylvania, South Carolina, Texas, and Wisconsin (query date: May 5, 2017).[3] The first report of acryl fentanyl was reported in Wisconsin in May 2016. The DEA is not aware of any laboratory identifications of acryl fentanyl prior to 2016.

Evidence suggests that the pattern of abuse of fentanyl analogues, including acryl fentanyl, parallels that of heroin and prescription opioid analgesics. Seizures of acryl fentanyl have been encountered in powder form, in solution, and packaged similar to that of heroin. Acryl fentanyl has been encountered as a single substance as well as in combination with other substances of abuse, including heroin, fentanyl, 4-fluoroisobutyryl fentanyl, and furanyl fentanyl. Acryl fentanyl has been connected to fatal overdoses, in which insufflation and intravenous routes of administration are documented.

Factor 5. Scope, Duration and Significance of Abuse

Reports collected by the DEA demonstrate acryl fentanyl is being abused for its opioid properties. This abuse of acryl fentanyl has resulted in morbidity and mortality (*see* DEA 3-Factor Analysis for full discussion). The DEA has received reports for at least 83 confirmed fatalities associated with acryl fentanyl. Information on these deaths, occurring as early as September 2016, was collected by the DEA from post-mortem toxicology and medical examiner reports. These deaths were reported from, and occurred in, Illinois (27), Maryland (22), New Jersey (1), Ohio (31), and Pennsylvania (2). NFLIS and STARLiMS have a total of 110 drug reports in which acryl fentanyl was identified in drug exhibits submitted to forensic laboratories in 2016 and 2017 from law enforcement encounters in

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

[3] Data are still being collected for February 2017–April 2017 due to the normal lag period for labs reporting to NFLIS.

Alabama, Arkansas, California, Connecticut, Illinois, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin. It is likely that the prevalence of acryl fentanyl in opioid analgesic-related emergency room admissions and deaths is underreported as standard immunoassays may not differentiate this substance from fentanyl.

The population likely to abuse acryl fentanyl overlaps with the population abusing prescription opioid analgesics, heroin, fentanyl, and other fentanyl-related substances. This is evidenced by the routes of drug administration and drug use history documented in acryl fentanyl fatal overdose cases and encounters of the substance by law enforcement officials. Because abusers of acryl fentanyl are likely to obtain this substance through unregulated sources, the identity, purity, and quantity are uncertain and inconsistent, thus posing significant adverse health risks to the end user. Individuals who initiate (*i.e.* use a drug for the first time) acryl fentanyl abuse are likely to be at risk of developing substance use disorder, overdose, and death similar to that of other opioid analgesics (*e.g.,* fentanyl, morphine, etc.).

Factor 6. What, if Any, Risk There Is to the Public Health

Acryl fentanyl exhibits pharmacological profiles similar to that of fentanyl and other μ-opioid receptor agonists. The toxic effects of acryl fentanyl in humans are demonstrated by overdose fatalities involving this substance. Abusers of acryl fentanyl may not know the origin, identity, or purity of this substance, thus posing significant adverse health risks when compared to abuse of pharmaceutical preparations of opioid analgesics, such as morphine and oxycodone.

Based on information reviewed by the DEA, the misuse and abuse of acryl fentanyl leads to the same qualitative public health risks as heroin, fentanyl, and other opioid analgesic substances. As with any non-medically approved opioid, the health and safety risks for users are high. The public health risks attendant to the abuse of heroin and opioid analgesics are well established and have resulted in large numbers of drug treatment admissions, emergency department visits, and fatal overdoses.

Acryl fentanyl has been associated with numerous fatalities. At least 83 confirmed overdose deaths involving acryl fentanyl abuse have been reported from Illinois, Maryland, New Jersey, Ohio, and Pennsylvania in 2016 and 2017. As the data demonstrates, the potential for fatal and non-fatal overdoses exists for acryl fentanyl and acryl fentanyl poses an imminent hazard to the public safety.

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information, summarized above, the continued uncontrolled manufacture, distribution, reverse distribution, importation, exportation, conduct of research and chemical analysis, possession, and abuse of acryl fentanyl poses an imminent hazard to the public safety. The DEA is not aware of any currently accepted medical uses for acryl fentanyl in the United States. A substance meeting the statutory requirements for temporary scheduling, 21 U.S.C. 811(h)(1), may only be placed in Schedule I. Substances in Schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for acryl fentanyl indicate that this substance has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. As required by section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), the Administrator, through a letter dated April 17, 2017, notified the Assistant Secretary of the DEA's intention to temporarily place this substance in Schedule I.

Conclusion

This notice of intent initiates a temporary scheduling process and provides the 30-day notice pursuant to section 201(h) of the CSA, 21 U.S.C. 811(h), of DEA's intent to issue a temporary scheduling order. In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Administrator considered available data and information, herein set forth the grounds for his determination that it is necessary to temporarily schedule acryl fentanyl in Schedule I of the CSA, and finds that placement of this synthetic opioid substance into Schedule I of the CSA is necessary in order to avoid an imminent hazard to the public safety.

The temporary placement of acryl fentanyl into Schedule I of the CSA will take effect pursuant to a temporary scheduling order, which will not be issued before July 3, 2017. Because the Administrator hereby finds that it is necessary to temporarily place acryl fentanyl into Schedule I to avoid an imminent hazard to the public safety, the temporary order scheduling this substance will be effective on the date that order is published in the **Federal Register**, and will be in effect for a period of two years, with a possible extension of one additional year, pending completion of the regular (permanent) scheduling process. 21 U.S.C. 811(h)(1) and (2). It is the intention of the Administrator to issue a temporary scheduling order as soon as possible after the expiration of 30 days from the date of publication of this notice. Upon publication of the temporary order, acryl fentanyl will then be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, research, conduct of instructional activities and chemical analysis, and possession of a Schedule I controlled substance.

The CSA sets forth specific criteria for scheduling a drug or other substance. Regular scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done ''on the record after opportunity for a hearing'' conducted pursuant to the provisions of 5 U.S.C. 556 and 557. 21 U.S.C. 811. The regular scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a determination. Final decisions that conclude the regular scheduling process of formal rulemaking are subject to judicial review. 21 U.S.C. 877. Temporary scheduling orders are not subject to judicial review. 21 U.S.C. 811(h)(6).

Regulatory Matters

Section 201(h) of the CSA, 21 U.S.C. 811(h), provides for a temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. As provided in this subsection, the Attorney General may, by order, schedule a substance in Schedule I on a temporary basis. Such an order may not be issued before the expiration of 30 days from (1) the publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary of HHS. 21 U.S.C. 811(h)(1).

Inasmuch as section 201(h) of the CSA directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued, the DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this notice of intent. In the alternative, even assuming that this notice of intent might be subject to section 553 of the APA, the Administrator finds that there is good cause to forgo the notice and comment requirements of section 553, as any further delays in the process for issuance of temporary scheduling orders would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety.

Although the DEA believes this notice of intent to issue a temporary scheduling order is not subject to the notice and comment requirements of section 553 of the APA, the DEA notes that in accordance with 21 U.S.C. 811(h)(4), the Administrator will take into consideration any comments submitted by the Assistant Secretary with regard to the proposed temporary scheduling order.

Further, the DEA believes that this temporary scheduling action is not a ''rule'' as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism) it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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, the DEA proposes to amend 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

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

■ 2. In § 1308.11, add paragraph (h)(17) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(h) * * *

(17) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacrylamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other names: acryl fentanyl, acryloylfentanyl)	(9811)

* * * * *

Dated: May 24, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–11215 Filed 6–1–17; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 158

[EPA–HQ–OPP–2015–0683; FRL–9962–67]

RIN 2070–AK00

Notification of Submission to the Secretaries of Agriculture and Health and Human Services; Pesticides; Technical Amendment to Data Requirements for Antimicrobial Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of submission to the Secretaries of Agriculture and Health and Human Services.

SUMMARY: This document notifies the public as required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that the EPA Administrator has forwarded to the Secretary of the United States Department of Agriculture (USDA) and the Secretary of the United States Department of Health and Human Services (HHS) a draft regulatory document concerning Pesticides; Technical Amendment to Data Requirements for Antimicrobial Pesticides. The draft regulatory document is not available to the public until after it has been signed and made available by EPA.

DATES: See Unit I. under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0683, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Cameo Smoot, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington DC 20460–0001; telephone number: (703) 305–5454; email address: *smoot.cameo@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?

Section 25(a)(2)(A) of FIFRA requires the EPA Administrator to provide the Secretary of USDA with a copy of any draft proposed rule at least 60 days before signing it in proposed form for publication in the **Federal Register**. Similarly, FIFRA section 21(b) requires the EPA Administrator to provide the Secretary of HHS with a copy of any draft proposed rule pertaining to a public health pesticide at least 60 days before publishing it in the **Federal Register**. The draft proposed rule is not available to the public until after it has been signed by EPA. If either Secretary comments in writing regarding the draft proposed rule within 30 days after receiving it, the EPA Administrator shall include the comments of the Secretary and the EPA Administrator's response to those comments with the proposed rule that publishes in the **Federal Register**. If either Secretary