



# Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <https://rules.wyo.gov>

Revised June 2020

<b>1. General Information</b>			
a. Agency/Board Name* Attorney General (in her capacity as Commissioner of Drugs and Substances Control)			
b. Agency/Board Address 109 State Capitol		c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Jenny L. Craig		f. Agency Liaison Telephone Number (307) 777-7977	
g. Agency Liaison Email Address jenny.craig1@wyo.gov			
h. Date of Public Notice April 18, 2023		i. Comment Period End Date June 1, 2023	
j. Public Comment URL or Email Address: melissa.rexius@wyo.gov			
k. Program Schedule IV - Controlled Substances			
Amended Program Name (if applicable):			
* <input type="checkbox"/> By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.			
<b>2. Legislative Enactment</b> For purposes of this Section 2, "new" only applies to regular non-emergency rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.			
a. Are these non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?			
<input checked="" type="checkbox"/> No. <input type="checkbox"/> Yes. If the rules are new, please provide the Legislative Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):			
<b>3. Rule Type and Information</b> For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.			
a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.			
Chapter Number: 1	Chapter Name: Additional Controlled Substances	<input type="checkbox"/> New	<input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):			

**4. Public Comments and Hearing Information**

a. A public hearing on the proposed rules has been scheduled.  No.  Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?  
 By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.  
 At the following URL: \_\_\_\_\_

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:  
 To the Agency at the physical and/or email address listed in Section 1 above.  
 At the following URL: \_\_\_\_\_

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

**5. Federal Law Requirements**

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements.  No.  Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:

Indicate one (1):  
 The proposed rules meet, but do not exceed, minimum federal requirements.  
 The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:  
 To the Agency at the physical and/or email address listed in Section 1 above.  
 At the following URL: \_\_\_\_\_

**6. State Statutory Requirements**

a. Indicate one (1):  
 The proposed rule change *MEETS* minimum substantive statutory requirements.  
 The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b.  The Agency has completed a takings assessment as required by W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:  
 By contacting the Agency at the physical and/or email address listed in Section 1 above.  
 At the following URL: \_\_\_\_\_

**7. Additional APA Provisions**

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

\_\_\_\_\_

(Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

\_\_\_\_\_

(Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

**8. Authorization**

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	Bridget Hill
<i>Title of Authorized Individual</i>	Attorney General
<i>Date of Authorization</i>	April 18, 2023

## **STATEMENT OF PRINCIPAL REASONS**

### **Schedule IV – Controlled Substances Chapter 1: Additional Controlled Substances**

Under Wyo. Stat. Ann. § 35-7-1011(a), the Wyoming Attorney General, as the designated Commissioner of Drugs and Substances Control, may add substances to or delete or reschedule all substances enumerated in the schedules in Wyo. Stat. Ann. §§ 35-7-1014, 35-7-1016, 35-7-1018, 35-7-1020 and 35-7-1022. Further, under Wyo. Stat. Ann. § 35-7-1011(d), if any substance is designated under federal law, the Wyoming Attorney General is required to similarly control such substance through the promulgation of a rule.

The United States Drug Enforcement Administration (DEA) recently removed Fenfluramine from the Schedule IV controlled substances. *See* Schedules of Controlled Substances: Removal of Fenfluramine From Control, 87 Fed. Reg. 78857 (December 23, 2022) (codified at 21 C.F.R. pt. 1308).

In response to this order, the Wyoming Attorney General removed Fenfluramine from Schedule IV (Wyo. Stat. Ann. § 35-7-1020) of the Wyoming Controlled Substances Act of 1971 through an emergency rule. The Wyoming Attorney General is now amending the permanent rule to remove this substance from Schedule IV of the Wyoming Controlled Substances Act of 1971. The adopted rule does not exceed the requirements of the federal regulation.

## Chapter 1

### Additional Controlled Substances

**Section 1. Purpose.** The purpose of these rules is to add, delete, and reschedule controlled substances in the Wyoming Controlled Substances Act of 1971. Some changes will be made to similarly control a substance in response to the publication of a final order in the Federal Register designating that substance as a controlled substance under federal law. Other changes will be made at the discretion of the Wyoming Attorney General, in his or her capacity as the Commissioner of Drugs and Substances Control, with the advice of the Advisory Board on Drugs and Substances Control.

**Section 2. Authority.** The Commissioner of Drugs and Substances Control's rulemaking authority is found at Wyoming Statute § 35-7-1011(a) and (d), which allow the Commissioner to add, delete, and reschedule substances to the control schedules pursuant to the procedures of the Wyoming Administrative Procedure Act.

**Section 3. Additional Controlled Substances.** The Commissioner of Drugs and Substances Control adds the following substances to Schedule IV:

- (a) Depressants:
  - (i) Brexanolone, including its salts, isomers, and salts of isomers;
  - (ii) Lemborexant, including its salts, isomers, and salts of isomers;
  - (iii) Remimazolam, including its salts, isomers, and salts of isomers; and
  - (iv) Daridorexant, including its salts, isomers, and salts of isomers.
- (b) Stimulants:
  - (i) Solriamfetol, including its salts, isomers, and salts of isomers; and
  - (ii) Serdexmethylphenidate, including its salts, isomers, and salts of isomers.

**Section 4. Substances Excluded From Control.** The Commissioner of Drugs and Substances Control excludes the following substances from Schedule IV:

- (a) Fenfluramine (chemical name: *N*-ethyl- $\alpha$ -methyl-3-(trifluoromethyl)phenethylamine), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible.

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