DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–623]

Schedules of Controlled Substances: Placement of 4-hydroxy-N,N-diisopropyltryptamine (4–OH–DiPT), 5-methoxy-alpha-methyltryptamine (5–MeO–AMT), 5-methoxy-N-methyl-N-isopropyltryptamine (5–MeO–MiPT), 5-methoxy-N,N-diethyltryptamine (5–MeO–DET), and N,N-diisopropyltryptamine (DiPT) in Schedule I; Withdrawal of Proposed Rule and Notice of Hearing

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Withdrawal of proposed rule and withdrawal of notice of hearing.

SUMMARY: The Drug Enforcement Administration (DEA) is withdrawing a proposed rule that was published in the Federal Register on January 14, 2022, which proposed to place five tryptamine hallucinogens in schedule I of the Controlled Substances Act. Upon further consideration, DEA has determined that it is appropriate to submit a new request to the Department of Health and Human Services (HHS) for an updated scientific and medical evaluation and scheduling recommendation for these substances. Accordingly, DEA is withdrawing the proposed rule and notice of hearing that was published in the Federal Register on July 6, 2022, and is canceling the public hearing and terminating the pending hearing proceedings. DEA may issue a new proposed rule in the future regarding these substances if warranted.

DATES: The proposed rule that was published in the Federal Register on January 14, 2022 (87 FR 2376) is withdrawn as of July 27, 2022. The notice of hearing on the proposed rule that was published in the Federal Register on July 6, 2022 (87 FR 40167) is withdrawn as of July 27, 2022. The public hearing, originally scheduled to commence on August 22, 2022, is cancelled, and all proceedings related thereto are terminated.

FOR FURTHER INFORMATION CONTACT:
Terrence L. Boos, Ph.D., Chief, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: On January 14, 2022, DEA published a Notice of Proposed Rulemaking (NPRM) in the Federal Register (87 FR 2376) to place five tryptamine hallucinogens—specifically, 4-hydroxy-N,N-diisopropyltryptamine (4–OH–DiPT), 5-methoxy-alpha-methyltryptamine (5–MeO–AMT), 5-methoxy-N-methyl-N-isopropyltryptamine (5–MeO–MiPT), 5-methoxy-N,N-diethyltryptamine (5–MeO–DET), and N,N-diisopropyltryptamine (DiPT)—in schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801, et seq.). The proposed placement of these substances in schedule I was based on the scientific and medical evaluations and recommendations that the HHS provided to DEA.

In response to the NPRM, DEA received numerous comments and four requests for a hearing on the proposed rule, as provided in 21 U.S.C. 811(a). DEA scheduled a hearing on the proposed rule and published a notice to that effect in the Federal Register on July 6, 2022 (87 FR 40167). The public hearing was scheduled to commence on August 22, 2022.

Upon further consideration, DEA has determined that it is appropriate to submit a new request to HHS for an updated scientific and medical evaluation and scheduling recommendation for these substances in accordance with 21 U.S.C. 811(b) and 21 CFR 1308.43(d).

Accordingly, DEA’s proposed rule published in the Federal Register on January 14, 2022 (87 FR 2376), and the notice of hearing on the proposed rule published in the Federal Register on July 6, 2022 (87 FR 40167), are withdrawn. The public hearing scheduled to commence on August 22, 2022 is canceled, and all proceedings related thereto are hereby terminated. DEA may issue a new proposed rule in the future regarding the five tryptamine hallucinogens if warranted.

Signing Authority

This document of the Drug Enforcement Administration was signed on July 22, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the Federal Register.
approved conservation banks have protected approximately 260,000 acres of habitat for 57 species listed under the ESA.

As the conservation banking program continues to grow, it is important to ensure consistency, transparency, and predictability for project proponents and mitigation providers. The development and application of equivalent standards and criteria for conservation banks and all habitat-based compensatory mitigation mechanisms is in the interest of industry, mitigation providers, and species conservation. This proposed rule will focus on conservation banking programs for ESA-listed, proposed, and candidate species, including maximizing available credits. Conservation banks typically adhere to basic standards for providing real estate protection, ecological management, and funding. The Service intends to apply equivalent standards to all habitat-based compensatory mitigation mechanisms (including conservation banks, in-lieu fee programs, and permittee-responsible mitigation) for covered species.

Species conservation banks sometimes overlap with wetland mitigation banks established under the joint regulation Compensatory Mitigation for Losses of Aquatic Resources (33 CFR parts 325 and 332, and 40 CFR part 230) (73 FR 19594, April 10, 2008; hereafter the “2008 Rule”) administered by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency, so the Service intends this proposed rule to maintain compatibility with the 2008 Rule. The 2008 Rule applies equivalent standards to each covered mitigation mechanism (in-lieu fee programs, permittee-responsible mitigation, and mitigation banks) to help ensure compensatory mitigation results in successful, durable, and sustainable resource functions regardless of mechanism.

The proposed rule will not modify any of the Service’s existing authorities for either recommending or requiring mitigation. Instead, it will address regulatory standards and criteria for compensatory mitigation mechanisms, consistent with the ESA and its implementing regulations.

The Service will analyze the proposed regulation in accordance with the criteria of the National Environmental Policy Act (NEPA), the Department of the Interior regulations on Implementation of the National Environmental Policy Act (43 CFR 46.10–46.450), and the Department of the Interior Manual (516 DM Chapters 1–15).

Information Requested

The Service requests your comments regarding the content of the proposed regulation, including appropriate objectives, measurable performance standards (including metrics for ecological benefit and additionality) for habitat and species, and criteria for use of credits offered by bank operators to satisfy a mitigation requirement consistent with the ESA. We also request your comments regarding how to ensure the regulatory standards and criteria maximize the accrual of functions measured as available credits and opportunities for mitigation to the maximum extent practicable, provide flexibility for characteristics of various species, and apply equivalent standards and criteria such as real estate protections, ecological management, and funding to all species conservation banks.

We also request comment on how best to account for risk and uncertainty when conservation banks are used to achieve a given conservation objective.

The Service is particularly interested in comments on the following:

(1) What level of detail should be in the proposed rule to ensure equivalent standards are consistently applied to all forms of compensatory mitigation, including equivalence in covering the costs of mitigation whether they are on public or private lands?

(2) What level of detail should be in the proposed rule regarding durability and additionality standards to both achieve equivalent standards across mitigation mechanisms and provide species conservation?

(3) How should the proposed rule incorporate monitoring, financial assurances, and publicly accessible mitigation data tracking systems to ensure a compensatory mitigation mechanism is meeting its performance standards?

(4) What are the hurdles to species bank establishment that are within the Service’s authority to address through regulation?

(5) How should the proposed rule align with 2008 Rule provisions to maintain compatibility between mitigation banks and species banks where appropriate?

(6) How should the Service address potential bank projects on Federal and Tribal lands or on other lands with unique ownership considerations and/or some degree of existing protection?

Public Participation

We seek information from knowledgeable members of the public, including mitigation providers, small
businesses, Tribes, developers, and others. All submissions received must include the Service docket number for this document. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal information—may be made publicly available. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Shannon A. Estenoz,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2022–15708 Filed 7–26–22; 8:45 am]
BILLING CODE 4333–15–P