



fluorofentanyl, tetrahydrofuranyl fentanyl, or methoxyacetyl fentanyl. The Assistant Secretary also stated that the HHS has no objection to the temporary placement of *ortho*-fluorofentanyl, tetrahydrofuranyl fentanyl, or methoxyacetyl fentanyl into Schedule I of the CSA. The DEA has taken into consideration the Assistant Secretary's comments as required by 21 U.S.C. 811(h)(4). *ortho*-Fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl are not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for *ortho*-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl under section 505 of the FDCA, 21 U.S.C. 355. The DEA has found that the control of *ortho*-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl in Schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, and as required by 21 U.S.C. 811(h)(1)(A), a notice of intent to issue a temporary order to schedule *ortho*-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl was published in the **Federal Register** on September 12, 2017. 82 FR 42754.

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 section 201(c) of the CSA, 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 into 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).

Available data and information for *ortho*-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl, summarized below, indicate that these synthetic opioids 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. The DEA's three-factor analysis, and the Assistant

Secretary's June 9, 2017 and July 14, 2017 letters are available in their entirety under the tab "Supporting Documents" of the public docket of this action at [www.regulations.gov](http://www.regulations.gov) under FDMS Docket ID: DEA-2017-0005 (Docket Number DEA-473).

#### **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. *ortho*-Fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl have recently been encountered by law enforcement and public health officials. Adverse health effects and outcomes are demonstrated by fatal overdose cases involving these substances. The documented adverse health effects of *ortho*-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl 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 repositied in STARLiMS. Data from STRIDE and STARLiMS were queried on June 19, 2017. STARLiMS registered four reports containing *ortho*-fluorofentanyl from California and five reports containing tetrahydrofuranyl fentanyl from Florida and Missouri. According to STARLiMS, the first laboratory submissions of *ortho*-fluorofentanyl and tetrahydrofuranyl fentanyl occurred in April 2016, and March 2017, respectively.

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. Data from NFLIS was queried on June 20, 2017. NFLIS registered three reports containing *ortho*-fluorofentanyl from state or local forensic laboratories in Virginia.<sup>3</sup> According to NFLIS, the first report of *ortho*-fluorofentanyl was reported in September 2016. NFLIS registered two reports containing tetrahydrofuranyl fentanyl from state or local forensic laboratories in New Jersey and was first

reported in January 2017. The identification of methoxyacetyl fentanyl in drug evidence submitted in April 2017 was reported to DEA from a local laboratory in Ohio.<sup>4</sup> The DEA is not aware of any laboratory identifications of *ortho*-fluorofentanyl prior to 2016 or identifications of tetrahydrofuranyl fentanyl or methoxyacetyl fentanyl prior to 2017.

Evidence suggests that the pattern of abuse of fentanyl analogues, including *ortho*-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl, parallels that of heroin and prescription opioid analgesics. Seizures of *ortho*-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl have been encountered in powder form similar to fentanyl and heroin and have been connected to fatal overdoses.

#### **Factor 5. Scope, Duration and Significance of Abuse**

Reports collected by the DEA demonstrate *ortho*-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl are being abused for their opioid properties. Abuse of *ortho*-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl have resulted in mortality (*see* DEA 3-Factor Analysis for full discussion). The DEA collected post-mortem toxicology and medical examiner reports on 13 confirmed fatalities associated with *ortho*-fluorofentanyl which occurred in Georgia (1), North Carolina (11), and Texas (1), two confirmed fatalities associated with tetrahydrofuranyl fentanyl which occurred in New Jersey (1) and Wisconsin (1), and two confirmed fatalities associated with methoxyacetyl fentanyl which occurred in Pennsylvania. It is likely that the prevalence of these substances in opioid related emergency room admissions and deaths is underreported as standard immunoassays may not differentiate fentanyl analogues from fentanyl.

*ortho*-Fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl have been identified in drug evidence collected by law enforcement. NFLIS and STARLiMS have a total of seven drug reports in which *ortho*-fluorofentanyl was identified in drug exhibits submitted to forensic laboratories in 2016 from law enforcement encounters in California and Virginia and seven drug reports in which tetrahydrofuranyl fentanyl was identified in drug exhibits submitted to forensic laboratories in 2017 from law

<sup>3</sup>Data are still being collected for March 2017–June 2017 due to the normal lag period for labs reporting to NFLIS.

<sup>4</sup>Email from Cuyahoga County Medical Examiner's Office, to DEA (May 8, 2017 02:29 p.m. EST) (on file with DEA).

enforcement encounters in Florida, Missouri, and New Jersey. The identification of methoxyacetyl fentanyl in drug evidence submitted in April 2017 was reported to DEA from Ohio.

The population likely to abuse *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl 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 *ortho*-fluorofentanyl and tetrahydrofuranlyl fentanyl fatal overdose cases. Because abusers of *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl are likely to obtain these substances 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) *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, or methoxyacetyl 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**

*ortho*-Fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl exhibit pharmacological profiles similar to that of fentanyl and other  $\mu$ -opioid receptor agonists. The toxic effects of *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl in humans are demonstrated by overdose fatalities involving these substances. Abusers of *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl may not know the origin, identity, or purity of these substances, thus posing significant adverse health risks when compared to abuse of pharmaceutical preparations of opioid analgesics, such as morphine and oxycodone.

Based on information received by the DEA, the misuse and abuse of *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl lead 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.

*ortho*-Fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl have been associated with numerous fatalities. At least 13 confirmed overdose deaths involving *ortho*-fluorofentanyl abuse have been reported from Georgia (1), North Carolina (11), and Texas (1). At least two confirmed overdose deaths involving tetrahydrofuranlyl fentanyl have been reported from New Jersey (1) and Wisconsin (1). At least two confirmed overdose deaths involving methoxyacetyl fentanyl have been reported from Pennsylvania. As the data demonstrate, the potential for fatal and non-fatal overdoses exists for *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl and these substances pose 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 *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl poses an imminent hazard to the public safety. The DEA is not aware of any currently accepted medical uses for *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, or methoxyacetyl 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 *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl indicate that these substances 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. As required by section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), the Administrator, through letters dated May 19, 2017 (*ortho*-fluorofentanyl) and July 5, 2017 (tetrahydrofuranlyl fentanyl and methoxyacetyl fentanyl), notified the Assistant Secretary of the DEA's intention to temporarily place these substances in Schedule I. A notice of intent was subsequently published in

the **Federal Register** on September 12, 2017. 82 FR 42754.

**Conclusion**

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 sets forth the grounds for his determination that it is necessary to temporarily schedule *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl into Schedule I of the CSA, and finds that placement of these synthetic opioids into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety.

Because the Administrator hereby finds it necessary to temporarily place these synthetic opioids into Schedule I to avoid an imminent hazard to the public safety, this temporary order scheduling *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl is effective on the date of publication in the **Federal Register**, and is 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).

The CSA sets forth specific criteria for scheduling a drug or other substance. Permanent 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 permanent 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 permanent 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).

**Requirements for Handling**

Upon the effective date of this temporary order, *ortho*-fluorofentanyl, tetrahydrofuranlyl fentanyl, and methoxyacetyl fentanyl will become subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, engagement in research, and conduct of instructional activities or chemical analysis with, and possession of Schedule I controlled substances including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl must be registered with the 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, as of October 26, 2017. Any person who currently handles *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl, and is not registered with the DEA, must submit an application for registration and may not continue to handle *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl as of October 26, 2017, unless the DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, 958, and in accordance with 21 CFR parts 1301 and 1312. Retail sales of Schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of these substances in a manner not authorized by the CSA on or after October 26, 2017 is unlawful and those in possession of any quantity of these substances may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is not able to obtain a Schedule I registration to handle *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl, must surrender all quantities of currently held *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl.

3. *Security.* *ortho*-Fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl are subject to Schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b), and in accordance with 21 CFR 1301.71–1301.93, as of October 26, 2017.

4. *Labeling and packaging.* All labels, labeling, and packaging for commercial containers of *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl must be in compliance with 21 U.S.C. 825, 958(e), and be in accordance with 21 CFR part 1302. Current DEA registrants shall have 30 calendar days from October 26, 2017, to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl on the effective date of this order must take

an inventory of all stocks of these substances on hand, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl) on hand on a biennial basis, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR parts 1304, and 1312, 1317 and § 1307.11. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all recordkeeping requirements.

7. *Reports.* All DEA registrants who manufacture or distribute *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl must submit reports pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312 as of October 26, 2017.

8. *Order Forms.* All DEA registrants who distribute *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of October 26, 2017.

9. *Importation and Exportation.* All importation and exportation of *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl must be in compliance with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312 as of October 26, 2017.

10. *Quota.* Only DEA registered manufacturers may manufacture *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303 as of October 26, 2017.

11. *Liability.* Any activity involving *ortho*-fluorofentanyl, tetrahydrofuranfentanyl, and methoxyacetyl fentanyl not authorized by, or in violation of the CSA, occurring as of October 26, 2017, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

## 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. 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 the Administrative Procedure Act (APA) at 5 U.S.C. 553, do not apply to this temporary scheduling action. In the alternative, even assuming that this action might be subject to 5 U.S.C. 553, the Administrator finds that there is good cause to forgo the notice and comment requirements of 5 U.S.C. 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.

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. 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 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.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. However, if this were a rule, pursuant to the Congressional Review Act, “any rule for which an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the federal agency promulgating the rule determines.” 5 U.S.C. 808(2). It is in the public interest to schedule these substances immediately to avoid an imminent hazard to the public safety. This temporary scheduling action is taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable the DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h) exempts

the temporary scheduling order from standard notice and comment rulemaking procedures to ensure that the process moves swiftly. For the same reasons that underlie 21 U.S.C. 811(h), that is, the DEA’s need to move quickly to place these substances into Schedule I because it poses an imminent hazard to the public safety, it would be contrary to the public interest to delay implementation of the temporary scheduling order. Therefore, this order shall take effect immediately upon its publication. The DEA has submitted a copy of this temporary order to both Houses of Congress and to the Comptroller General, although such filing is not required under the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act), 5 U.S.C. 801–808 because, as noted above, this action is an order, not a rule.

**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 amends 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), 956(b), unless otherwise noted.

- 2. In § 1308.11, add reserved paragraphs (h)(15) through (18) and paragraphs (h)(19), (20), and (21) to read as follows:

**§ 1308.11 Schedule I.**

\* \* \* \* \*  
(h) \* \* \*

(19) *N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)propionamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other names: *ortho*-fluorofentanyl, 2-fluorofentanyl) ..... (9816)

(20) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenyltetrahydrofuran-2-carboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: tetrahydrofuranyl fentanyl) ..... (9843)

(21) 2-methoxy-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: methoxyacetyl fentanyl) ..... (9825)

Dated: October 17, 2017.

**Robert W. Patterson,**  
*Acting Administrator.*

[FR Doc. 2017–23206 Filed 10–25–17; 8:45 am]

BILLING CODE 4410–09–P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9815]

RIN 1545–BM33

**Dividend Equivalents From Sources Within the United States; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and temporary regulations; Correcting amendments.

**SUMMARY:** This document contains corrections to final and temporary regulations (TD TD 9815), which were published in the **Federal Register** on Tuesday, January 24, 2017.

**DATES:** *Effective Date:* These corrections are effective October 26, 2017.

*Applicability Date:* The corrections to §§ 1.1.871–15, 1.871–15T, 1.1441–1(e)(5)(v)(B)(4), (e)(6), and (f)(5), 1.1441–2, 1.1441–7, and 1.1461–1 are applicable on January 19, 2017.

**FOR FURTHER INFORMATION CONTACT:** D. Peter Merkel or Karen Walny at 202–317–6938 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final and temporary regulations that are the subject of these corrections are §§ 1.871–15, 1.871–15T, 1.1441–1, 1.1441–2, 1.1441–7, and 1.1461–1, promulgated under sections 871(m) and 7805 of the Internal Revenue Code. These regulations affect foreign persons that hold certain financial products providing for payments that are contingent upon or determined by reference to U.S. source dividends, as well withholding agents with respect to dividend equivalents and certain other parties to section 871(m) transactions and their agents.

**Need for Correction**

As published, TD 9815 contains errors that may prove to be misleading and are in need of clarification.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Correction of Publication**

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

**PART 1—INCOME TAXES**

- **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**§ 1.871–15 [Amended]**

- **Par. 2.** Section 1.871–15 is amended by:

- 1. Removing paragraph (r)(2).
- 2. Redesignating paragraphs (r)(3), (4), and (5), as (r)(2), (3), and (4), respectively.

**§ 1.871–15 [Amended]**

- **Par. 3.** For each section listed in the table, remove the language in the “Remove” column and add in its place the language in the “Add” column as set forth below:

Section	Remove	Add
§ 1.871–15(a)(14)(ii)(B) .....	ELI.More .....	ELI. More
§ 1.871–15(l)(1), second sentence .....	described in this paragraph (l) .....	described in this paragraph (l)(1)
§ 1.871–15(q)(1)	qualified intermediary agreement .....	qualified intermediary withholding agreement