years, must justify such requests, for example by proposing development, environmental, and recreation enhancements in a license amendment application accompanied by a request that the Commission extend their license term.\(^{21}\)

### III. Document Availability

21. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC’s Home Page (http://www.ferc.gov) and in FERC’s Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

22. From FERC’s Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the Commission’s Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

By the Commission.

Issued: October 19, 2017.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2017–23286 Filed 10–25–17; 8:45 am]
BILLING CODE 6717–01–P

### DEPARTMENT OF JUSTICE

**Drug Enforcement Administration**

**21 CFR Part 1308**

[Docket No. DEA–473]

**Schedules of Controlled Substances: Temporary Placement of ortho-Fluorofentanyl, Tetrahydrofuranyl Fentanyl, and Methoxyacetyl Fentanyl Into Schedule I**

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** Temporary amendment; temporary scheduling order.

**SUMMARY:** The Administrator of the Drug Enforcement Administration is issuing this temporary scheduling order to schedule the synthetic opioids, N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (ortho-fluorofentanyl or 2-fluorofentanyl), N-(1-phenethylpiperidin-4-yl)-N-(phenyltetrahydrofuran-2-carboxamide (tetrahydrofuranyl fentanyl), and 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (methoxyacetyl fentanyl), into Schedule I. This action is based on a finding by the Administrator that the placement of ortho-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl into Schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to Schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle, ortho-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl.

**DATES:** This temporary scheduling order is effective October 26, 2017, until October 28, 2019. If this order is extended or made permanent, the DEA will publish a document in the Federal Register.

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: 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 an 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 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). 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 ortho-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl into Schedule I on a temporary basis to the Assistant Secretary for Health of HHS by letter. Notice for these actions was transmitted on the following dates: May 19, 2017 (ortho-fluorofentanyl) and July 5, 2017 (tetrahydrofuranyl fentanyl and methoxyacetyl fentanyl). The Assistant Secretary responded by letters dated June 9, 2017 (ortho-fluorofentanyl) and July 14, 2017 (tetrahydrofuranyl fentanyl and methoxyacetyl fentanyl), and advised that based on review by the Food and Drug Administration (FDA), there are currently no investigational new drug applications or approved new drug applications for ortho-

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\(^{21}\) See, e.g., Idaho Power Co., 132 FERC ¶ 62,001 (2010) (10-year extension of the license term due to the costs of replacing the project’s existing powerhouse and increasing generating capacity); PPL, Holtwood, LLC, 129 FERC ¶ 62,092 (2009) (16-year extension of license term due to costs associated with the constructing a new powerhouse, installing two turbine generating units at the existing powerhouse, and various environmental measures).

\(^{2}\) 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.
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 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 repositioned 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 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.

Data are still being collected for March 2017–June 2017 due to the normal lag period for labs reporting to NFLIS.
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, tetrahydrofuran 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 tetrahydrofuran fentanyl fatal overdose cases. Because abusers of ortho-fluorofentanyl, tetrahydrofuran 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, tetrahydrofuran 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, tetrahydrofuran 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 tetrahydrofuran 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, tetrahydrofuran 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, tetrahydrofuran 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 uses for ortho-fluorofentanyl, tetrahydrofuran fentanyl, or methoxyacetyl fentanyl in the United States. The DEA is not aware of any currently accepted medical uses for ortho-fluorofentanyl, tetrahydrofuran fentanyl, or methoxyacetyl fentanyl in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for ortho-fluorofentanyl, tetrahydrofuran 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 (tetrahydrofuran 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, tetrahydrofuran 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, tetrahydrofuran 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(b)(6).

Requirements for Handling

Upon the effective date of this temporary order, ortho-fluorofentanyl, tetrahydrofuran 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 on the above-listed substances, 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, tetrahydrofuranyl fentanyl, 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, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl, and is not registered with the DEA, must submit an application for registration and may not continue to handle ortho-fluorofentanyl, tetrahydrofuranyl fentanyl, 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, and 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, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl, must surrender all quantities of currently held ortho-fluorofentanyl, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl.

3. Security. ortho-Fluorofentanyl, tetrahydrofuranyl fentanyl, 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. All labels, labeling, and packaging for commercial containers of ortho-fluorofentanyl, tetrahydrofuranyl fentanyl, 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, tetrahydrofuranyl fentanyl, 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, tetrahydrofuranyl fentanyl, 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, tetrahydrofuranyl fentanyl, 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, tetrahydrofuranyl fentanyl, 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, tetrahydrofuranyl fentanyl, and methoxyacetyl fentanyl must comply with order forms pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of October 26, 2017.


10. Quota. Only DEA registered manufacturers may manufacture ortho-fluorofentanyl, tetrahydrofuranyl fentanyl, 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, tetrahydrofuranyl fentanyl, 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
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.

As noted above, this action is an order, not a rule. Accordingly, 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.

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

(20) N-(1-phenethylpiperidin-4-yl)-N-phenylethyltetrahydrofuran-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)

Applicability Date: The corrections to §§ 1.871–15, 1.871–15T, 1.1441–1(4), 1.1441–1(5), and (f)(4), 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 21 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:

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<thead>
<tr>
<th>Section</th>
<th>Remove</th>
<th>Add</th>
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</thead>
<tbody>
<tr>
<td>§ 1.871–15(a)(14)(B)</td>
<td>ELI. More qualified intermediary agreement</td>
<td></td>
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<tr>
<td>§ 1.871–15(l)(1), second sentence</td>
<td>described in this paragraph (b)</td>
<td>ELI. More described in this paragraph (b)</td>
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<td>qualified intermediary withholding agreement</td>
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