

Airway segment		Changeover points	
From	To	Distance	From
<b>§ 95.8003 VOR Federal Airway Changeover Points V47 Is Amended to Add Changeover Point</b>			
POCKET CITY, IN VORTAC .....	NABB, IN VORTAC .....	53	POCKET CITY
<b>V163 Is Amended to Delete Changeover Point</b>			
BROWNSVILLE, TX VORTAC .....	CORPUS CHRISTI, TX VORTAC .....	71	BROWNSVILLE
<b>V203 Is Amended to Delete Changeover Point</b>			
SARANAC LAKE, NY VOR/DME .....	MASSENA, NY VORTAC .....	11	SARANAC LAKE

[FR Doc. 2011-24718 Filed 9-27-11; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### 20 CFR Part 655

RIN 1205-AB61

#### Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program; Postponement of Effective Date

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** The Department of Labor (Department) is postponing the effective date of the Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program; Final Rule, 76 FR 3452, Jan. 19, 2011, (the Wage Rule). The Wage Rule revised the methodology by which we calculate the prevailing wages to be paid to H-2B workers and United States (U.S.) workers recruited in connection with a temporary labor certification for use in petitioning the Department of Homeland Security to employ a nonimmigrant worker in H-2B status. The effective date of the Wage Rule was set at January 1, 2012. However, the Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program; Amendment of Effective Date; Final Rule, 76 FR 45667, August 1, 2011 revised the effective date to September 30, 2011. Due to pending legal challenges, we are postponing the effective date of the Wage Rule to November 30, 2011, pursuant to the Administrative Procedure Act, 5 U.S.C. 705.

**DATES:** The effective date of the rule amending 20 CFR part 655 published at 76 FR 45667, August 1, 2011 is delayed until November 30, 2011.

**FOR FURTHER INFORMATION CONTACT:** William L. Carlson, PhD, Administrator, Office of Foreign Labor Certification, ETA, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C-4312, Washington, DC 20210; Telephone (202) 693-3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:** The Department published the Wage Rule on January 19, 2011, 76 FR 3452. The Wage Rule revised the methodology by which we calculate the prevailing wages to be paid to H-2B workers and United States (U.S.) workers recruited in connection with a temporary labor certification for use in petitioning the Department of Homeland Security to employ a nonimmigrant worker in the H-2B status.

The Department originally set the effective date of the Wage Rule for January 1, 2012. On January 24, 2011, the plaintiffs in *CATA v. Solis*, Civil No. 2:09-cv-240-LP (E.D. Pa.) filed a motion in which they argued that the January 1, 2012 effective date did not comply with the court's August 30, 2010 order to promulgate new rules concerning the calculation of the prevailing wage rate in the H-2B program. *CATA v. Solis*, Dkt. No. 103-1, Plaintiff's Motion for an Order Enforcing the Judgment at 2 (Jan. 24, 2011). On June 16, 2011, the court issued a ruling that invalidated the January 1, 2012 effective date of the Wage Rule and ordered us to announce a new effective date for the rule within

45 days from June 16. *CATA*, 2011 WL 2414555 at \*4.

In response to the court's order, we issued a Notice of Proposed Rulemaking (NPRM) on June 28, 2011, which proposed that the Wage Rule take effect 60 days from the date of publication of a final rule resulting from the NPRM. 76 FR 37686, June 28, 2011. After a period of public comment, we published the Final Rule on August 1, 2011, which set the new effective date for the Wage Rule at September 30, 2011, without altering the substance of the Wage Rule. 76 FR 45667.

On September 7, 2011, the Louisiana Forestry Association, Inc., and others filed suit against the Department in the United States District Court for the Western District of Louisiana, Alexandria Division. *Louisiana Forestry Association, Inc., et al (LFA) v. Solis, et al*, Civil Docket No. 11-1623. LFA claims that the Wage Rule, and the subsequent rule amending the Wage Rule's original effective date, violate the Takings Clause of the Fifth Amendment to the United States Constitution, the Administrative Procedure Act, the Regulatory Flexibility Act, and the Immigration and Nationality Act of 1952, as amended. Accordingly, LFA seeks temporary injunctive relief before September 30, 2011, and permanent injunctive relief, barring the Department from implementing the Wage Rule.

On September 19, 2011, the plaintiffs in the *CATA* litigation moved to intervene in the *LFA* litigation, and also moved to transfer venue over the litigation to the Eastern District of Pennsylvania, the court in which the *CATA* case remains pending. Both motions in the *LFA* litigation are currently pending.

On September 21, 2011, another group of employers filed a legal challenge to the Wage Rule in the United States District Court for the

Northern District of Florida, Pensacola Division. *Bayou Lawn & Landscape Services, et al. (Bayou) v. Solis, et al.*, Civil Docket No. 11-445. The *Bayou* plaintiffs' claims are similar to the *LFA* plaintiffs' claims, and they also seek to preliminarily and permanently enjoin the Department's implementation of the Wage Rule.

The Administrative Procedure Act, at 5 U.S.C. 705, provides that "[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review." In consideration of the two pending challenges to the Wage Rule and its new effective date, and the possibility that, in response to the *CATA* plaintiffs' motion, the litigation will be transferred to another court, the Department is postponing the effective date of the rule from September 30, 2011, until November 30, 2011. This delay will allow the Department to mount an appropriate defense of the rule, and will allow for the orderly resolution of the various claims pending in two Federal courts. The delay will permit the various courts involved in the litigation to determine the appropriate venue for the resolution of all claims, and allow the Department to avoid the possibility of administering the H-2B program under potentially conflicting court orders. In the interest of administering a nationwide program in a uniform fashion during the pending litigation, the Department has determined that, in the interest of justice, a delay in the effective date is necessary.

Signed at Washington, DC, this 22nd day of September, 2011.

**Jane Oates,**

*Assistant Secretary for Employment and Training.*

[FR Doc. 2011-24969 Filed 9-26-11; 4:15 pm]

BILLING CODE 4510-FP-P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 51**

[TD 9544]

RIN 1545-BK34

**Branded Prescription Drug Fee; Correction**

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

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to temporary regulations (TD 9544) that were published in the

**Federal Register** on Thursday, August 18, 2011. The temporary regulations provide guidance on the annual fee imposed on covered entities engaged in the business of manufacturing or importing branded prescription drugs. This fee was enacted by section 9008 of the Patient Protection and Affordable Care Act, as amended by section 1404 of the Health Care and Education Reconciliation Act of 2010.

**DATES:** This correction is effective on September 28, 2011 and applies to any fee on branded prescription drug sales that is due on or after September 30, 2011.

**FOR FURTHER INFORMATION CONTACT:** Celia Gabrysh, (202) 622-3130 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

*Need for Correction*

As published August 18, 2011 (76 FR 51245), the temporary regulations (TD 9544) contains errors that may prove to be misleading and are in need of clarification.

**List of Subjects in 26 CFR Part 51**

Drugs, Reporting and recordkeeping requirements.

**Correction of Publication**

Accordingly, 26 CFR part 51 is corrected by making the following correcting amendments:

**PART 51—BRANDED PRESCRIPTION DRUG FEE**

■ **Paragraph 1.** The authority citation for part 51 continues to read in part as follows:

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

■ **Par. 2.** Section 51.2T is amended by revising paragraph (k)(1) to read as follows:

**§ 51.2T Explanation of terms (temporary).**

\* \* \* \* \*

(k) *Orphan drugs*—(1) *In general.* Except as provided in paragraph (k)(2) of this section, the term *orphan drug* means any branded prescription drug for which any person claimed a section 45C credit and that credit was allowed for any taxable year.

\* \* \* \* \*

■ **Par. 3.** Section 51.7T is amended by revising the last sentence of paragraph (c)(2) to read as follows.

**§ 51.7T Dispute resolution process (temporary).**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \* A form 2848 must be filed with the error report;

\* \* \* \* \*

■ **Par. 4.** Section 51.8T is amended by revising paragraph (a)(2) to read as follows.

**§ 51.8T Notification and payment of fee (temporary).**

(a) \* \* \*

(2) After the 2011 fee year, the covered entity's adjustment amount calculated as described in § 51.5T(e);

\* \* \* \* \*

**LaNita VanDyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 2011-24903 Filed 9-27-11; 8:45 am]

BILLING CODE 4830-01-P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 51**

[TD 9544]

RIN 1545-BK34

**Branded Prescription Drug Fee; Correction**

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

**ACTION:** Correction to temporary regulations.

**SUMMARY:** This document contains corrections to temporary regulations that were published in the **Federal Register** on Thursday, August 18, 2011. The temporary regulations provide guidance on the annual fee imposed on covered entities engaged in the business of manufacturing or importing branded prescription drugs. This fee was enacted by section 9008 of the Patient Protection and Affordable Care Act, as amended by section 1404 of the Health Care and Education Reconciliation Act of 2010.

**DATES:** This correction is effective on September 28, 2011 and applies to any fee on branded prescription drug sales that is due on or after September 30, 2011.

**FOR FURTHER INFORMATION CONTACT:** Celia Gabrysh, (202) 435-3130 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

*Need for Correction*

As published August 18, 2011 (76 FR 51245), the temporary regulations (TD 9544) contains errors that may prove to