this issue. Therefore, the Ninth Circuit's opinion invalidating section 503A of the FD&C Act in its entirety remained intact. FDA stated its view at the time, which was that the underlying authority in section 503A of the FD&C Act to establish the Pharmacy Compounding Advisory Committee was invalidated and without a statutory basis for the Committee, the Agency terminated the Committee (67 FR 70227, November 21, 2002).

Subsequently, in 2008, the U.S. Court of Appeals for the Fifth Circuit decided *Medical Center Pharmacy* v. *Mukasey* (536 F.3d 383 (5th Cir. 2008)), in which that court disagreed with the Ninth Circuit's holding regarding the severability of section 503A of the FD&C Act as added by FDAMA. The Fifth Circuit found the unconstitutional provisions of section 503A of the FD&C Act to be severable and that the other provisions could remain in effect. Based on this decision, FDA reestablished the Pharmacy Compounding Advisory Committee in 2012.

On November 27, 2013, the President signed into law the Drug Quality and Security Act (Pub. L. 113–54). This law removed the unconstitutional provisions from section 503A and added a new section 503B to the FD&C Act (21 U.S.C. 353b) that also requires FDA to consult with a Pharmacy Compounding Advisory Committee before issuing certain regulations pertaining to outsourcing facilities. As a result, FDA has amended the charter of the Pharmacy Compounding Advisory Committee to reflect the relevant statutory changes.

Under the amended charter, the Committee provides advice on scientific, technical, and medical issues concerning drug compounding under sections 503A and 503B of the FD&C Act and, as required, any other product for which FDA has regulatory responsibility, and makes appropriate recommendations to the Commissioner of Food and Drugs (the Commissioner).

The Committee will be composed of a core of 12 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of pharmaceutical compounding, pharmaceutical manufacturing, pharmacy, medicine, and related specialties. Membership also includes representatives from the National Association of Boards of Pharmacy and the United States Pharmacopoeia, and representatives of patient and public health advocacy organizations. Members will be invited to serve for overlapping terms of up to 4 years. Almost all non-Federal members of this committee will serve as special Government employees. The core of voting members may include one qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one or more non-voting members who are identified with industry interests.

Under 5 U.S.C. 553(b)(3)(B) and (d) and 21 CFR 10.40(d) and (e), the Agency finds good cause to dispense with notice and public comment procedures and to proceed to an immediate effective date on this rule. Notice and public comment and a delayed effective date are unnecessary and are not in the public interest as this final rule merely updates information regarding the function of the Committee already set out in the charter, and updates information regarding the dates related to the Committee establishment in the list of standing advisory committees in § 14.100. Therefore, the Agency is amending § 14.100.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice requesting nominations for voting members of the Committee, a notice for industry organizations to participate in the nominations for and selection of industry representatives for the Committee, and a notice for consumer organizations to participate in the nominations for and selection of the consumer representative for the Committee.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

■ 1. The authority citation for 21 CFR part 14 is revised to read as follows:

Authority: 5 U.S.C. App. 2; 15 U.S.C. 1451–1461, 21 U.S.C. 41–50, 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b, 264; Pub. L. 107–109; Pub. L. 108–155; Pub. L. 113–54.

■ 2. Section 14.100 is amended by revising paragraph (c)(18) to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(c) * * *

(18) *Pharmacy Compounding Advisory Committee.*

(i) Date re-established: April 25, 2012.

(ii) Function: Provides advice on scientific, technical, and medical issues concerning drug compounding under sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act and, as required, any other product for which the Food and Drug Administration has regulatory responsibility, and makes appropriate recommendations to the Commissioner of Food and Drugs.

* * * * *

Dated: January 7, 2014.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–00322 Filed 1–10–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9652]

RIN 1545–BI57

Sales-Based Royalties and Vendor Allowances

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the capitalization and allocation of royalties that are incurred only upon the sale of property produced or property acquired for resale (sales-based royalties). This document also contains final regulations relating to adjusting inventory costs for a type of an allowance, discount, or price rebate earned on the sale of merchandise (sales-based vendor chargebacks). These regulations modify the simplified production method and the simplified resale method of allocating capitalized costs between ending inventory and cost of goods sold. These regulations affect taxpayers that incur capitalizable sales-based royalties or earn sales-based vendor chargebacks.

DATES:

Effective date: These regulations are effective on January 13, 2014.

Comment date: Comments will be accepted until April 14, 2014.

Applicability date: For dates of applicability, see §§ 1.263A–1(l),

1.263A–2(f), 1.263A–3(f), and 1.471–3(g).

ADDRESSES: Written (including electronic) comments should be submitted to Internal Revenue Service, CC:PA:LPD:PR (REG–149338–08), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044, or electronically to *www.regulations.gov* (IRS REG–149338–08). Alternatively, comments may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–149338–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. All comments will be available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: John Roman Faron, (202) 317–6950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations that amend the Income Tax Regulations (26 CFR part 1) relating to the allocation under section 263A of the Internal Revenue Code (Code) of certain sales-based royalties and relating to the determination of cost of merchandise in inventory under section 471 when a taxpayer earns a type of sales-based vendor allowance. On December 17, 2010, a notice of proposed rulemaking (REG–149335–08) was published in the **Federal Register** (75 FR 78940). Written comments responding to the notice of proposed rulemaking were received. The comments are available for public inspection at *www.regulations.gov* or on request. A public hearing was requested and held on April 13, 2011. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision. The comments are discussed in the preamble.

Summary of Comments and Explanation of Provisions

Sales-Based Royalties

The proposed regulations clarified that sales-based royalties, like other royalties, may be capitalizable to property a taxpayer produces or acquires for resale. Royalty costs are capitalizable when they are incurred in securing the contractual right to use a trademark, corporate plan, manufacturing procedure, special recipe, or other similar right associated with property produced or property acquired for resale. Sales-based royalty costs are royalties that are incurred only upon the sale of property produced or acquired for resale.

The proposed regulations provided that sales-based royalties required to be capitalized must be allocated only to property that has been sold or, for inventory property, deemed to be sold under the taxpayer's inventory cost flow assumption. In response to concerns that the requirement to allocate sales-based royalties only to cost of goods sold would unduly burden taxpayers using simplified allocation methods, the final regulations provide that the allocation of sales-based royalties to property sold is optional rather than mandatory. Therefore, the final regulations permit taxpayers to either allocate sales-based royalties entirely to property sold and include those costs in cost of goods sold or to allocate sales-based royalties between cost of goods sold and ending inventory using a facts-and-circumstances cost allocation method described in § 1.263A–1(f) or a simplified method provided in § 1.263A–2(b) (the simplified production method) or § 1.263A–3(d) (the simplified resale method). The final regulations also clarify that sales-based royalties that a taxpayer allocates entirely to inventory property sold are included in cost of goods sold and may not be included in determining the cost of goods on hand at the end of the taxable year regardless of the taxpayer's cost flow assumption.

A commentator suggested that the final regulations acknowledge that a sales-based royalty payable by a reseller of inventory to its supplier is a direct acquisition cost under section 471 and included in cost of goods sold when the inventory item is sold. The final regulations do not adopt this comment because whether a cost is a royalty described in § 1.263A–1(e)(3)(ii)(U) or is a contingent acquisition cost is beyond the scope of these regulations.

Sales-Based Vendor Allowances in General

The proposed regulations provided that the amount of an allowance, discount, or price rebate that a taxpayer earns by selling specific merchandise is a reduction in the cost of the merchandise sold or deemed sold under a taxpayer's cost flow assumption. The preamble to the proposed regulations referred to this type of allowance as a sales-based vendor allowance. The proposed regulations required that these allowances reduce cost of goods sold and not reduce ending inventory cost or value of goods on hand at the end of the taxable year.

A commentator disagreed with the requirement in the proposed regulations that the vendor allowances described in the proposed regulations always must reduce cost of goods sold. The commentator disputed that a vendor allowance should reduce cost of goods sold merely because the allowance is dependent on a sale of merchandise. Citing *Pittsburgh Milk Co.* v. *Commissioner,* 26 T.C. 707 (1956), the commentator suggested that sales-based vendor allowances that are the subject of an advance agreement between the vendor and the purchaser at the time the merchandise is purchased must be netted against the original cost of the merchandise and applied to ending inventory or cost of goods sold depending on the taxpayer's inventory cost flow assumption. Accordingly, the commentator suggested that the regulations be revised to provide that a sales-based vendor allowance may properly reduce the value of goods on hand at the end of the taxable year.

The final regulations reflect the commentator's suggestion that a vendor allowance does not reduce the cost of goods sold merely because the allowance is dependent on a sale of merchandise. The proposed regulations were overbroad because they required taxpayers to allocate to cost of goods sold all allowances that arise from selling merchandise. For example, if, after selling a certain number of units, a taxpayer earns a discount off each unit purchased during the taxable year, the allowance properly may be allocable to both the cost of units that remains in ending inventory and the cost of units included in cost of goods sold during the year. Similarly, a sales-volume allowance that provides only a reduction in the cost of any purchases made by a taxpayer in the next taxable year properly reduces the cost of the units of the product purchased in the next year. As the preceding two examples illustrate, the proposed regulations were overbroad in that they could be interpreted to require these allowances to reduce cost of goods sold solely because they arose as a result of selling merchandise. The extent to which a vendor allowance is properly allocable to the cost of goods in ending inventory or the cost of goods sold depends on all facts and circumstances, including the terms and conditions of the agreement between the vendor and the taxpayer. See *Pittsburgh Milk Co.* v. *Commissioner.* As described later in this preamble, the final regulations more clearly identify a type of sales-based vendor allowance that, to clearly reflect income, must reduce the cost of goods sold.

The commentator also asserted that Rev. Rul. 2001–8 (2001–1 CB 726), see

§ 601.601(d)(2), and earlier rulings support the proposition that sales-based vendor allowances are an adjustment to the cost of merchandise physically removed from inventory. Although allowances, discounts, and price rebates properly are treated as adjustments to the price of merchandise, the final regulations do not adopt the commentator's rationale for determining whether these adjustments properly reduce ending inventory or cost of goods sold. Rev. Rul. 2001–8 does not establish a general principle that sales-based vendor allowances reduce the invoice cost of merchandise physically sold. Rev. Rul. 2001–8 addresses a unique cost adjustment (floor stocks payments) that relates to goods physically on hand on a particular date and should not be applied beyond its specific facts.

Sales-Based Vendor Chargebacks

In response to comments that the proposed regulations were overbroad, the Treasury and IRS are considering alternatives to a broad definition of sales-based vendor allowances. The final regulations, however, specifically identify one type of sales-based vendor allowance (sales-based vendor chargebacks) that, to clearly reflect income, reduces cost of goods sold and does not reduce the cost of goods on hand at the end of the taxable year. Therefore, the final regulations apply the rule articulated in the notice of proposed rulemaking to sales-based vendor chargebacks. A sales-based vendor chargeback is defined as an allowance, discount, or price rebate that a taxpayer becomes unconditionally entitled to by selling a vendor's merchandise to specific customers identified by the vendor at a price determined by the vendor. Sales-based vendor chargebacks protect a taxpayer from realizing a loss or a reduced profit on the sale of specific merchandise when the taxpayer is obligated by contract with the vendor of the merchandise to resell the merchandise at a specific price (in some cases below the taxpayer's cost). Under the terms and conditions of the agreement between the vendor and the taxpayer and the economics of the transaction, it is inappropriate to treat the allowance as an adjustment to the cost of goods in ending inventory. A sales-based vendor chargeback properly reduces only cost of goods sold because it arises from and relates only to merchandise sold. Thus, it reduces the invoice cost of the merchandise sold and clearly reflects income only if it reduces cost of goods sold.

Sales-Based Vendor Allowances Other Than Chargebacks

The final regulations reserve rules for the treatment of other sales-based vendor allowances. Given the factual nature of particular vendor allowance arrangements between sellers and purchasers of merchandise, the IRS and Treasury Department request comments regarding additional guidance defining or describing particular sales-based vendor allowances and on objective rules for allocating such allowances to the purchase price of goods acquired in the future, ending inventory, or cost of goods sold.

Effective/Applicability Date

These regulations apply for taxable years ending on or after January 13, 2014.

Special Analyses

This Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. Section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received from the Small Business Administration.

Drafting Information

The principal author of these regulations is John Roman Faron of the Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

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 * * *

Section 1.263A–1 also issued under 26 U.S.C. 263A.

Section 1.263A–2 also issued under 26 U.S.C. 263A.

Section 1.263A–3 also issued under 26 U.S.C. 263A. * * *

Section 1.471–3 also issued under 26 U.S.C. 471. * * *

■ **Par. 2.** Section 1.263A–0 Table of Contents is amended by adding new entries for §§ 1.263A–1(c)(5), (k), and (l); 1.263A–2(b)(3)(ii)(C), (e), and (f); 1.263A–3(d)(3)(i)(C)(*3*) and (f); and revising the entry for § 1.263A–1(e)(3)(ii) to read as follows:

§ 1.263A–0 Outline of regulations under section 263A.

* * * * *

§ 1.263A–1 Uniform Capitalization of Costs.

* * * * *

(c) * * *

(5) Costs allocable only to property sold.

* * * * *

(e) * * *

(3) * * *

(ii) Examples of indirect costs required to be capitalized.

* * * * *

(k) Change in method of accounting.

(1) In general.

(2) Scope limitations.

(3) Audit protection.

(4) Section 481(a) adjustment.

(5) Time for requesting change.

(l) Effective/applicability date.

§ 1.263A–2 Rules Relating to Property Produced by the Taxpayer.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(C) Costs allocable only to property sold.

* * * * *

(e) Change in method of accounting.

(1) In general.

(2) Scope limitations.

(3) Audit protection.

(4) Section 481(a) adjustment.

(5) Time for requesting change.

(f) Effective/applicability date.

§ 1.263A–3 Rules Relating to Property Acquired for Resale.

* * * * *

(d) * * *

(3) * * *

(i) * * *

(C) * * *

(*3*) Costs allocable only to property sold.

* * * * *

(f) Effective/applicability date.

* * * * *

■ **Par. 3.** Section 1.263A–1 is amended by:
■ 1. Adding a paragraph (c)(5).
■ 2. Revising paragraph (e)(3)(i) and paragraph (e)(3)(ii) introductory text.
■ 3. Redesignating paragraph (e)(3)(ii)(U) as paragraph (e)(3)(ii)(U)(*1*), revising the second sentence of newly-designated paragraph (e)(3)(ii)(U)(*1*), and adding a sentence to the end of newly-designated paragraph (e)(3)(ii)(U)(*1*).
■ 4. Adding paragraph (e)(3)(ii)(U)(*2*).
■ 5. Revising paragraph (l).

The additions and revisions read as follows:

§ 1.263A–1 Uniform capitalization of costs.

* * * * *

(c) * * *

(5) *Costs allocable to property sold.* A cost that is allocated under this section, § 1.263A–2, or § 1.263A–3 entirely to property sold must be included in cost of goods sold and may not be included in determining the cost of goods on hand at the end of the taxable year.

* * * * *

(e) * * *

(3) * * *

(i) *In general.* (A) Indirect costs are defined as all costs other than direct material costs and direct labor costs (in the case of property produced) or acquisition costs (in the case of property acquired for resale). Taxpayers subject to section 263A must capitalize all indirect costs properly allocable to property produced or property acquired for resale. Indirect costs are properly allocable to property produced or property acquired for resale when the costs directly benefit or are incurred by reason of the performance of production or resale activities. Indirect costs may directly benefit or be incurred by reason of the performance of production or resale activities even if the costs are calculated as a percentage of revenue or gross profit from the sale of inventory, are determined by reference to the number of units of property sold, or are incurred only upon the sale of inventory. Indirect costs may be allocable to both production and resale activities, as well as to other activities that are not subject to section 263A. Taxpayers must make a reasonable allocation of indirect costs between production, resale, and other activities.

(B) *Example.* The following example illustrates the provisions of this paragraph (e)(3)(i):

Example. (i) Taxpayer A manufactures tablecloths and other linens. A enters into a licensing agreement with Company L under which A may label its tablecloths with L's trademark if the tablecloths meet certain specified quality standards. In exchange for its right to use L's trademark, the licensing agreement requires A to pay L a royalty of $X for each tablecloth carrying L's trademark that A sells. The licensing agreement does not require A to pay L any minimum or lump-sum royalties.

(ii) The licensing agreement provides A with the right to use L's intellectual property, a trademark. The licensing agreement also requires A to conduct its production activities according to certain standards as a condition of exercising that right. Thus, A's right to use L's trademark under the licensing agreement is directly related to A's production of tablecloths. The royalties the licensing agreement requires A to pay for using L's trademark are the costs A incurs in exchange for these rights. Therefore, although A incurs royalty costs only when A sells a tablecloth carrying L's trademark, the royalty costs directly benefit production activities and are incurred by reason of production activities within the meaning of paragraph (e)(3)(i)(A) of this section.

(ii) *Examples of indirect costs required to be capitalized.* The following are examples of indirect costs that must be capitalized to the extent they are properly allocable to property produced or property acquired for resale:

* * * * *

(U) *Licensing and franchise costs.* (*1*) * * * These costs include the otherwise deductible portion (such as amortization) of the initial fees incurred to obtain the license or franchise and any minimum annual payments and any royalties that are incurred by a licensee or a franchisee. These costs also include fees, payments, and royalties otherwise described in this paragraph (e)(3)(ii)(U) that a taxpayer incurs (within the meaning of section 461) only upon the sale of property produced or acquired for resale.

(*2*) If a taxpayer incurs (within the meaning of section 461) a fee, payment, or royalty described in this paragraph (e)(3)(ii)(U) only upon the sale of property produced or acquired for resale and the cost is required to be capitalized under this paragraph (e)(3), the taxpayer may properly allocate the cost entirely to property produced or acquired for resale by the taxpayer that has been sold.

* * * * *

(l) *Effective/applicability date.* (1) Paragraphs (h)(2)(i)(D), (k), and (l) of this section apply for taxable years ending on or after August 2, 2005.

(2) Paragraphs (c)(5), (e)(3)(i), and (e)(3)(ii)(U) of this section apply for taxable years ending on or after January 13, 2014.

■ **Par. 4.** Section 1.263A–2 is amended by adding paragraphs (b)(3)(ii)(C) and (b)(4)(ii)(A)(*4*) and revising paragraph (f) to read as follows:

§ 1.263A–2 Rules relating to property produced by the taxpayer.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(C) *Costs allocated to property sold.* Additional section 263A costs incurred during the taxable year, as defined in paragraph (b)(3)(ii)(A)(*1*) of this section, section 471 costs incurred during the taxable year, as defined in paragraph (b)(3)(ii)(A)(*2*) of this section, and section 471 costs remaining on hand at year end, as defined in paragraph (b)(3)(ii)(B) of this section, do not include costs described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) that a taxpayer properly allocates entirely to property that has been sold.

* * * * *

(4) * * *

(ii) * * *

(A) * * *

(*4*) Additional section 263A costs incurred during the test period, as defined in paragraph (b)(4)(ii)(A)(*2*) of this section, and section 471 costs incurred during the test period, as defined in paragraph (b)(4)(ii)(A)(*3*) of this section, do not include costs specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) that a taxpayer properly allocates entirely to property that has been sold.

* * * * *

(f) *Effective/applicability date.* (1) Paragraphs (b)(2)(i)(D), (e), and (f) of this section apply for taxable years ending on or after August 2, 2005.

(2) Paragraphs (b)(3)(ii)(C) and (b)(4)(ii)(A)(*4*) of this section apply for taxable years ending on or after January 13, 2014.

■ **Par. 5.** In § 1.263A–3, paragraphs (d)(3)(i)(C)(*3*), (d)(3)(i)(D)(*3*), (d)(3)(i)(E)(*3*), and (f) are added to read as follows:

§ 1.263A–3 Rules relating to property acquired for resale.

* * * * *

(d) * * *

(3) * * *

(i) * * *

(C) * * *

(*3*) *Costs allocable to property sold.* Section 471 costs remaining on hand at year end, as defined in paragraph (d)(3)(i)(C)(*2*) of this section, do not include costs that are specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) that a taxpayer properly allocates entirely to property that has been sold.

(D) * * *

(*3*) Current year's storage and handling costs, beginning inventory, and current year's purchases, as defined in paragraph (d)(3)(i)(D)(*2*) of this section, do not include costs that are specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) that a taxpayer properly allocates entirely to property that has been sold.

(E) * * *

(*3*) Current year's purchasing costs and current year's purchases, as defined in paragraph (d)(3)(i)(E)(*2*) of this section, do not include costs that are specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) that a taxpayer properly allocates entirely to property that has been sold.

* * * * *

(f) *Effective/applicability date.* Paragraphs (d)(3)(i)(C)(*3*), (d)(3)(i)(D)(*3*), and (d)(3)(i)(E)(*3*) of this section apply for taxable years ending on or after January 13, 2014.

■ **Par. 6.** Section 1.471–3 is amended by:

■ 1. Adding paragraphs (e) and (g).

■ 2. Designating the undesignated text following paragraph (d) as paragraph (f).

The additions read as follows:

§ 1.471–3 Inventories at cost.

* * * * *

(e) *Sales-based vendor allowances*—(1) *Treatment of sales-based vendor chargebacks*—(i) *In general.* A sales-based vendor chargeback is an allowance, discount, or price rebate that a taxpayer becomes unconditionally entitled to by selling a vendor's merchandise to specific customers identified by the vendor at a price determined by the vendor. A sales-based vendor chargeback decreases cost of goods sold and does not reduce the cost of goods on hand at the end of the taxable year.

(ii) *Example.* The following example illustrates the provisions of this paragraph (e)(1).

Example. (i) W is a wholesaler of pharmaceuticals. W purchases Drug X from the manufacturer, M, for $10x per unit. M has agreements with specific customers that allow those customers to acquire Drug X from M's wholesalers for $6x per unit. Under an agreement between W and M, W is required to sell Drug X to specific customers at the prices M has negotiated with such customers ($6x per unit) and, in exchange, M agrees to provide a price rebate to W equal to the difference between W's cost for Drug X and the price W is required to charge specific customers under the agreement (a difference of $4x per unit). W sells Drug X to specific customer Y for $6x. Under the agreement between W and M, the price rebate can be paid to W, credited against M's invoice to W for W's purchase of Drug X, or it can be credited to W's future purchases of drugs from M.

(ii) Under the terms of the agreement, W is unconditionally entitled to the price rebate of Drug X when it sells Drug X to specific customer Y, a specifically identified customer of M. The price rebate received by W for the sale of Drug X to Y is a sales-based vendor chargeback. Therefore, the amount of the sales-based vendor charge back, $4x per unit for Drug X, whether paid to W, credited against M's invoice to W for W's purchase of Drug X or credited against a future purchase, decreases cost of goods sold and does not reduce the cost of Drug X on hand at the end of the taxable year.

(2) *Treatment of other sales-based vendor allowances.* [Reserved]

* * * * *

(g) *Effective/applicability date.* Paragraph (f) of this section applies to taxable years ending on or after January 13, 2014.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: December 13, 2013.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–00327 Filed 1–10–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–1041]

Drawbridge Operation Regulation; Vermillion River, Abbeville, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation that governs the State Road (SR) 14 Bridge across the Vermilion River, mile 25.4, at Abbeville, Vermilion Parish, Louisiana. The deviation is necessary to affect replacement of the wire rope cables. This is part of the normal maintenance that is required for safe operation of the bridge. This deviation allows the bridge to remain closed to navigation for 14 consecutive days.

DATES: This deviation is effective from 6 a.m. on January 20, 2014 to 7 p.m. on February 2, 2014.

ADDRESSES: The docket for this deviation, [USCG–2013–1041] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email James Wetherington, Bridge Administration Branch, Coast Guard, telephone 504–671–2128, email *james.r.wetherington@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Louisiana Department of Transportation and Development requested a temporary deviation from the normal operation of the SR 14 Vermilion River, mile 25.4, at Abbeville, Vermilion Parish, Louisiana in order to remove and replace the wire rope cables required to operate the bridge. This maintenance is essential for the continued safe operation of the vertical lift bridge. This temporary deviation allows the bridge to remain closed from 6 a.m. on January 20, 2014 through 7 p.m. on February 2, 2014.

The bridge has a vertical clearance of 6 feet above mean gulf (MGL), elevation 0.0 feet (NGVD 29), in the closed-to-navigation position and 61 feet in the open-to-navigation position.

In accordance with to 33 CFR 117.509(b)(1), the draw of the SR 14 Bridge, mile 25.4, shall open on signal; except that, from 6 p.m. to 10 a.m. the draw shall open on signal if at least four hour notice is given. The draw will be unable to open for a vessel in distress.

Navigation on the waterway consists mainly of commercial tug and barge traffic. The bridge logs for all of January and February show 26 and 50 openings respectively. The time period for the deviation is the slow time for the commercial entities that would be most affected. As a result of coordination between the State, Coast Guard and the waterway users, it has been determined that this closure will not have a significant effect on these vessels.

Vessels able to pass through the bridge in the closed positions may do so at anytime. The bridge will not be able to open for emergencies. There are no alternate routes for vessels that cannot pass through the bridge in the closed-to-navigation position. The Coast Guard will also inform the users of the waterways through our Local and