

based on recommendations of the Filbert Control Board and other available information and would be established pursuant to the provisions of amended Marketing Agreement No. 115 and Order No. 982 (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons opportunity to file written data, views, or arguments concerning the proposal with the Department for consideration prior to establishment of percentages. The prescribed time has elapsed and no such communications have been received.

Pursuant to § 982.41, and after consideration of all relevant matters presented, including those in the notice, it is hereby found that limiting the quantity of merchantable filberts which may be handled during the 1963-64 fiscal year as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, free and restricted percentages for merchantable filberts during the 1963-64 fiscal year are established as follows:

§ 982.213 Free and restricted percentages for merchantable filberts during the 1963-64 fiscal year.

The following percentages are established for merchantable filberts for the fiscal year which began August 1, 1963:

Free percentage..... -81 percent
Restricted percentage..... -19 percent

It is hereby further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that: (1) The relevant provisions of said amended marketing agreement and this part require that free and restricted percentages established for a particular fiscal year shall be applicable to all filberts handled during such year; and (2) the current fiscal year began on August 1, 1963, and the percentages herein established will automatically apply to all such filberts beginning with such date.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 18, 1963.

FLOYD F. HEDLUND,
Director,
Fruit and Vegetable Division.

[F.R. Doc. 63-11262; Filed, Oct. 23, 1963; 8:48 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 5B—Public Buildings Service,
General Services Administration

PART 5B-1—GENERAL

Subpart 5B-1.3—General Policies

New Subpart 5B-1.3 (General Policies) is added as follows:

Sec.
5B-1.315 Use of liquidated damages provisions in procurement contracts.
5B-1.315-2 Policy.

AUTHORITY: §§ 5B-1.315 and 5B-1.315-2 issued under sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); and 41 CFR 5-1.101(c), 28 F.R. 4559.

§ 5B-1.315 Use of liquidated damages provisions in procurement contracts.

§ 5B-1.315-2 Policy.

(a) The rate of liquidated damages to be stipulated in a construction contract shall bear a realistic relationship to the probable damages the Government may be expected to suffer, and shall take into consideration the added costs of contract administration and supervision, interest on the Government's investment, and the net rental the Government would be obligated to pay as a result of construction not being completed on the scheduled date.

(b) The following Central Office and Regional personnel are designated to approve, where justified, the omission of a liquidated damages provision from a construction contract: Assistant Commissioner, Office of Design and Construction; Regional Administrators.

(c) Omission of a liquidated damages provision from a construction contract may be justified when construction consists of repairs, alterations, or improvements, any delay in the completion of which would still permit the occupying agency to continue its normal function in an uninterrupted manner and which would not result in added expense to the Government.

Effective date. These regulations are effective November 18, 1963.

Dated: October 17, 1963.

R. T. DALY,
Commissioner,
Public Buildings Service.

[F.R. Doc. 63-11246; Filed, Oct. 23, 1963; 8:47 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter 1—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 78—BRUCELLOSIS IN DOMESTIC ANIMALS

Subpart D—Designation of Modified Certified Brucellosis Areas, Public Stockyards, Specifically Approved Stockyards, and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended; sections 1 and 2 of the Act of February 2, 1903, as amended; and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111-113, 114a-1, 120, 121, 125), § 78.13 of said regulations designating modified certified brucellosis

areas is hereby amended to read as follows:

§ 78.13 Modified certified brucellosis areas.

The following States, or specified portions thereof, are hereby designated as modified certified brucellosis areas:

Alabama. Baldwin, Barbour, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburn, Coffee, Colbert, Coosa, Covington, Cullman, Dale, De Kalb, Elmore, Escambia, Etowah, Franklin, Geneva, Henry, Houston, Jackson, Lauderdale, Lawrence, Lee, Limestone, Macon, Madison, Marion, Marshall, Mobile, Morgan, Pike, Randolph, Russell, St. Clair, Shelby, Talladega, Tallapoosa, and Winston Counties;

Arizona. The entire State;

Arkansas. The entire State;

California. The entire State;

Colorado. Alamosa, Archuleta, Baca, Chaffee, Clear Creek, Conejos, Costilla, Custer, Delta, Denver, Dolores, Eagle, Garfield, Gilpin, Gunnison, Hinsdale, Huerfano, Jefferson, Kit Carson, La Plata, Las Animas, Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Ouray, Phillips, Pitkin, Pueblo, Rio Grande, Saguache, San Juan, San Miguel, Sedgwick, Washington, and Yuma Counties; and Southern Ute Indian Reservation and Ute Mountain Ute Indian Reservation;

Connecticut. The entire State;

Delaware. The entire State;

Florida. Baker, Bay, Bradford, Calhoun, Columbia, Dixie, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, and Washington Counties;

Georgia. The entire State;

Idaho. The entire State;

Illinois. Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, McDonough, McHenry, McLean, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermillion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, and Woodford Counties;

Indiana. The entire State;

Iowa. Audubon, Boone, Carroll, Clinton, Delaware, Dickinson, Emmet, Fayette, Greene, Guthrie, Hamilton, Lyon, Mitchell, Monona, O'Brien, Osceola, Palo Alto, Pocahontas, Polk, Sac, Scott, Shelby, Wapello, Warren, Winnebago, Woodbury, and Wright Counties;

Kansas. The entire State;

Kentucky. The entire State;

Louisiana. Ascension, Assumption, Bienville, Claiborne, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Washington, and Webster Parishes;

Maine. The entire State;

Maryland. The entire State;

Massachusetts. The entire State;

Michigan. The entire State;

Minnesota. The entire State;

Mississippi. Alcorn, Amite, Attala, Benton, Chickasaw, Choctaw, Clay, Covington, De Soto, Forrest, Franklin, George, Greene, Hancock, Harrison, Itawamba, Jackson, Jas-

per, Jefferson Davis, Jones, Lamar, Lawrence, Leake, Lee, Lincoln, Lowndes, Marion, Monroe, Neshoba, Newton, Oktibbeha, Pearl River, Perry, Pike, Pontotoc, Prentiss, Simpson, Smith, Stone, Tallahatchie, Tippah, Tishomingo, Union, Walthall, Webster, Winston, and Yalobusha Counties;

Missouri. The entire State;

Montana. Beaverhead, Big Horn, Blaine, Broadwater, Carbon, Carter, Cascade, Chouteau, Daniels, Dawson, Deer Lodge, Fallon, Fergus, Flathead, Galletin, Garfield, Glacier, Golden Valley, Granite, Hill, Jefferson, Judith Basin, Lake, Lewis and Clark, Liberty, Lincoln, McCone, Madison, Meagher, Mineral, Missoula, Musselshell, Park, Petroleum, Phillips, Pondera, Powell, Prairie, Ravalli, Richland, Roosevelt, Rosebud, Sanders, Sheridan, Silver Bow, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, and Yellowstone Counties;

Nebraska. Adams, Antelope, Banner, Boone, Burt, Butler, Cass, Cedar, Chase, Cheyenne, Clay, Colfax, Cuming, Dakota, Deuel, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Gosper, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Howard, Jefferson, Johnson, Kearney, Kimball, Lancaster, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Richardson, Saline, Sarpy, Saunders, Seward, Stanton, Thayer, Thurston, Washington, Wayne, Webster, and York Counties;

Nevada. The entire State;

New Hampshire. The entire State;

New Jersey. The entire State;

New Mexico. The entire State;

New York. The entire State;

North Carolina. The entire State;

North Dakota. Adams, Barnes, Benson, Billings, Bottineau, Bowman, Burke, Cass, Cavalier, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grand Forks, Grant, Griggs, Hettinger, Kidder, LaMoure, Logan, McHenry, McKenzie, McLean, Mercer, Morton, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sheridan, Slope, Stark, Steele, Stutsman, Towner, Traill, Walsh, Ward, Wells, and Williams Counties;

Ohio. Allen, Athens, Auglaize, Belmont, Butler, Carroll, Champaign, Clark, Clinton, Columbiana, Coshocton, Crawford, Cuyahoga, Darke, Defiance, Delaware, Erie, Fayette, Franklin, Fulton, Gallia, Greene, Guernsey, Hamilton, Hancock, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Knox, Lake, Lawrence, Licking, Logan, Lorain, Lucas, Madison, Mahoning, Marion, Medina, Meigs, Mercer, Miami, Monroe, Montgomery, Morgan, Morrow, Muskingum, Noble, Ottawa, Paulding, Perry, Pickaway, Pike, Portage, Preble, Putnam, Ross, Sandusky, Scioto, Seneca, Shelby, Stark, Summit, Tuscarawas, Union, Van Wert, Vinton, Warren, Washington, Wayne, Williams, Wood, and Wyandot Counties;

Oklahoma. Adair, Canadian, Choctaw, Cimarron, Delaware, Grant, Haskell, Mayes, Noble, Nowata, Ottawa, Payne, and Pushmataha Counties;

Oregon. The entire State;

Pennsylvania. The entire State;

Rhode Island. The entire State;

South Carolina. The entire State;

South Dakota. Beadle, Brookings, Brown, Buffalo, Butte, Campbell, Clark, Clay, Codington, Custer, Day, Deuel, Edmunds, Faulk, Grant, Hamlin, Hand, Harding, Jerauld, Lake, Lawrence, Lincoln, McCook, McPherson, Marshall, Miner, Minnehaha, Moody, Perkins, Roberts, Sanborn, Spink, Turner, Union, Walworth, and Ziebach Counties; and Crow Creek Indian Reservation;

Tennessee. The entire State;

Texas. Andrews, Armstrong, Bailey, Bandera, Baylor, Blanco, Borden, Brewster, Briscoe, Brown, Burnet, Callahan, Cameron, Cas-

tro, Childress, Cochran, Coke, Coleman, Comal, Comanche, Concho, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Donley, Eastland, Ector, Edwards, El Paso, Fisher, Gaines, Garza, Gillespie, Glasscock, Hardeman, Hartley, Haskell, Hays, Hidalgo, Hockley, Howard, Hudspeth, Irion, Jeff Davis, Jones, Kendall, Kent, Kerr, Kimble, King, Kinney, Lamb, Lampasas, Lipscomb, Llano, Loving, McCulloch, Martin, Mason, Menard, Midland, Mills, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Farmer, Pecos, Presidio, Reagan, Real, Reeves, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Terry, Throckmorton, Tom Green, Travis, Upton, Val Verde, Ward, Winkler, Yoakum, and Young Counties;

Utah. The entire State;

Vermont. The entire State;

Virginia. The entire State;

Washington. The entire State;

West Virginia. The entire State;

Wisconsin. The entire State;

Wyoming. Albany, Big Horn, Campbell, Crook, Fremont, Goshen, Hot Springs, Laramie, Niobrara, Park, Platte, Sweetwater, Teton, Uinta, Washakie, and Weston Counties; and all of Lincoln County except that portion lying east of a line beginning at the southwest corner of Sublette County and running in a westerly direction to the Bear River Divide; thence running in a southerly direction along the Bear River Divide to U.S. Highway 30; thence running easterly along U.S. Highway 30 to its intersection with U.S. Highway 189; thence running in a southerly direction along U.S. Highway 189 to the Uinta County line;

Puerto Rico. The entire area; and
Virgin Islands of the United States. The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 13, 65 Stat. 693; 21 U.S.C. 111-113, 114a-1, 120, 121, 125; 19 F.R. 74, as amended; 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The amendment adds the following additional areas to the list of areas designated as modified certified brucellosis areas because it has been determined that such areas come within the definition of § 78.1(i): Mobile County in Alabama; Haskell County in Oklahoma; and Brown County in South Dakota.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and it should be made effective promptly in order to accomplish its purpose in the public interest. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of October 1963.

E. E. SAULMON,
Acting Director, Animal Disease Eradication Division,
Agricultural Research Service.

[F.R. Doc. 63-11263; Filed, Oct. 23, 1963; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission [Docket 8454 o.]

PART 13—PROHIBITED TRADE PRACTICES

Top Form Mills, Inc., Et Al.

Subpart—Advertising falsely or misleadingly: § 13.235 *Source or origin*; § 13.235-25 *Fashion designers*; § 13.235-60 *Place*; § 13.235-60(a) *Domestic products as imported*. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception*; § 13.1055-50 *Preticketing merchandise misleadingly*. Subpart—Misbranding or mislabeling: § 13.1325 *Source or origin*; § 13.1325-60 *Maker or seller*; § 13.1325-70 *Place*; § 13.1325-70(a) *Domestic product as imported*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Top Form Mills, Inc., et al., New York, N.Y., Docket 8454, Sept. 23, 1963]

In the Matter of Top Form Mills, Inc., a Corporation, Also Trading as Lady Russel Lingerie, and Manuel Kitrosser and Eleanor Topping, Individually and as Officers of Said Corporation

Order, with opinion, requiring New York City manufacturers of ladies' lingerie and sleepwear to cease representing falsely—through such practices as use of the words "Paris", "Cannes" and "Biarritz" and the name "Jacques Heim" on labels and in advertisements and advertising mats supplied to retailers, and by instructions for washing in French and English on attached tags—that their said products were made in France and designed by a great Paris Couturier.

The order to cease and desist is as follows:

It is ordered. That respondents Top Form Mills, Inc., a corporation, also trading as Lady Russel Lingerie, and its officers and Manuel Kitrosser, individually and as an officer of such corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of ladies' lingerie, sleepwear or any other clothing, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Paris", "Cannes", "Biarritz" on labels or otherwise, whether singularly or in connection with any other word or words, to describe or refer to products made in the United States, or representing by any other means that any products made in the United States were made in France or in any other foreign country;

2. Misrepresenting in any manner the country of origin of any of their products;

3. Representing, directly or indirectly, that any of their products were manufactured, or designed, styled or created by Jacques Heim, or by any other French couturier or designer, or by any other French person, firm or corporation; and

4. Using the words "designed", "styled", or "created", or any word or words of similar import, together with the name of any person, to describe or refer to any of their products unless such products are identical as to configuration, combination of lines and patterns executed by such person and are so similar in form, size, shape, ornamentation and other detail as to give the total appearance to the purchasing public of being a precise copy thereof.

It is further ordered, That the complaint be, and it hereby is, dismissed as to Elinore Topping.

It is further ordered, That the charge in the complaint relating to use of representations as to mill or factory ownership, operation or control, be, and it hereby is, dismissed.

By "Final Order", order requiring report of compliance is as follows:

It is further ordered, That since the Commission's "Proposed Final Order" was issued under the Commission's rules dated June 1962, which provided for Proposed Final Order respondents herein shall, pursuant to Rule 5.6 of the Commission's rules dated June, 1962, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist. (The topic dealt with in Rule 5.6 is now in Rule 3.26(a) of the Commission's new rules which are now in effect.)

Issued: September 23, 1963.

By the Commission.

[SEAL]

JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 63-11216; Filed, Oct. 23, 1963;
8:46 a.m.]

Title 18—CONSERVATION OF POWER

Chapter I—Federal Power Commission

[Docket No. R-227; Order No. 271]

PART 32—INTERCONNECTION OF FACILITIES; EMERGENCIES; TRANS- MISSION TO FOREIGN COUNTRY

PART 35—FILING OF RATE SCHEDULES

PART 131—FORMS

Filing of Rate Schedules by Public Utilities and Licensees

OCTOBER 17, 1963.

Two paragraphs were inadvertently omitted from Order No. 271, Amending Regulations to Govern the Filing of Rate Schedules by Public Utilities and Licensees, issued September 26, 1963 (28 F.R. 10572). They are corrections of

cross-references to Part 35 made in other parts of Chapter I of Title 18 of the Code of Federal Regulations. They are made necessary by the changes in the numbering of sections in Part 35.

The Commission, pursuant to the authority contained in Order No. 271, orders:

(A) Order No. 271 is hereby amended to add the following paragraphs:

(D) In § 32.38 of Part 32—Interconnection of facilities; emergencies; transmission to foreign country, Chapter I, Title 18, of the Code of Federal Regulations, change "§§ 35.1-35.12" to "§§ 35.1-35.16." As so amended, the section reads as follows:

§ 32.38 Filing rate schedules and annual reports.

Persons authorized to transmit electric energy from the United States shall file all rate schedules, supplements, notices of succession in ownership or operation, notices of cancellation, and certificates of concurrence with respect to such energy in the form and manner specified in the provisions of §§ 35.1 to 35.16, inclusive, of this chapter.

(E) In §§ 131.51, 131.52 and 131.53 of Part 131—Forms, of Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18, of the Code of Federal Regulations, change the material in parentheses at the head of the sections from "(See §§ 35.1-35.12 of this chapter.)" to "(See §§ 35.1-35.21 of this chapter.)".

(B) Order No. 271 is further amended to make the following corrections:

In the footnote to § 35.2(b), insert after "Part 154 of" the words "this chapter, i.e.,". As corrected the footnote reads as follows:

¹ The term "tariff" means a compilation, in book form, of rate schedules of a particular public utility, effective under the Federal Power Act, and a copy of each form of service agreement. In connection herewith, attention is invited to Part 154 of this chapter, i.e., the Commission's regulations under the Natural Gas Act, as a guide to the form and composition of a tariff.

In § 35.12(b)(2)(ii), insert the words "filing and each" in the last sentence after "part of the". As corrected, the subdivision reads as follows:

(ii) A summary statement of all cost (whether fully distributed, incremental or other) computations involved in arriving at the derivation of the level of the rate, in sufficient detail to justify the rate, shall be submitted with the filing, except that if the filing includes nothing more than service to one or more added customers under an established rate of the utility for a particular class of service, such summary statement of cost computations is not required. In all cases, the Secretary is authorized to require the submission of the complete cost studies as part of the filing and each filing public utility shall submit the same upon request by the Secretary in such form as he shall direct.

In § 35.13(b)(4)(i), change "N" to "O". As corrected, the subdivision reads as follows:

(4)(i) Except as provided in subdivision (ii) of this subparagraph, if the rate

schedule provides for an increased rate, then 60 days prior to the date that such changed rate is proposed to become effective the filing public utility shall submit a statement showing its cost of the service to be supplied under the new rate schedule according to supporting statements A through O as described below. Simultaneously, the public utility shall submit the material on sales and revenues described in paragraph (a) of this section and, unless the rate schedule containing the proposed increased rate is likewise simultaneously filed, a summary statement of such proposed increased rate: *Provided, however*, That the submittal of such summary statement of the rate schedule shall not be in lieu of the rate schedule as required to be filed with the Commission pursuant to the regulations in this part.

In § 35.13(b)(4)(ii), change "increase" to "increases", and insert after "incidental to" ". As corrected, the subdivision reads as follows:

(ii) No cost of service data shall be required in cases where the application of the proposed change in rate schedule effects rate increases of less than \$50,000 annually resulting from, but incidental to, changes such as a rate design, delivery points and delivery voltage. Specifically designed rate increases of less than \$50,000 annually (as opposed to incidental increases), increases resulting from changes made in fuel clauses, and increases of rates comprising an integral part of coordination and interchange arrangements in the nature of power pooling transactions, shall be supported by cost data as identified in § 35.12(b)(2).

In § 35.13(b)(4)(iv), change "N" to "O". As corrected, the subdivision reads as follows:

(iv) The statement of cost of service shall include an attestation by the chief accounting officer or other authorized accounting representative of the filing public utility that the cost statements and supporting data submitted as a part of the filing which purport to reflect the books of the public utility do, in fact, set forth the results shown by such books. Following is a description of statements A through O required to be filed pursuant to this subparagraph.

By the Commission.

[SEAL]

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 63-11213; Filed, Oct. 23, 1963;
8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6885]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Miscellaneous Amendments

On May 28, 1963, notice of proposed rule making with respect to the amend-

ments of the Income Tax Regulations (26 CFR Part 1) under sections 615 and 381(c) (10) of the Internal Revenue Code of 1954 to conform the regulations to changes made by the Act of July 6, 1960 (Pub. Law 86-594, 74 Stat. 333) was published in the FEDERAL REGISTER (28 F.R. 5265). No objection to the rules proposed having been received during the 30-day period prescribed in the notice, the amendments of the regulations as proposed are hereby adopted.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: October 18, 1963.

STANLEY S. SURREY,
Assistant Secretary of the
Treasury.

PARAGRAPH 1. Paragraph (c) of § 1.615 is amended and a historical note is added. These amended provisions read as follows:

§ 1.615 Statutory provisions; exploration expenditures.

SEC. 615. *Exploration expenditures.* * * *

(c) *Limitation*—(1) *In general.* This section shall not apply to any amount paid or incurred to the extent that it would, when added to the amounts which have been deducted under subsection (a) and the amounts which have been treated as deferred expenses under subsection (b), or the corresponding provisions of prior law, exceed \$400,000.

(2) *Amounts taken into account.* For purposes of paragraph (1), there shall be taken into account amounts deducted and amounts treated as deferred expenses by—

(A) The taxpayer, and

(B) Any individual or corporation who has transferred to the taxpayer any mineral property.

(3) *Application of paragraph (2)(B).* Paragraph (2)(B) shall apply with respect to all amounts deducted and all amounts treated as deferred expenses which were paid or incurred before the latest such transfer from the individual or corporation to the taxpayer. Paragraph (2)(B) shall apply only if—

(A) The taxpayer acquired any mineral property from the individual or corporation under circumstances which make paragraph (7), (8), (11), (15), (17), (20), or (22) of section 113(a) of the Internal Revenue Code of 1939 apply to such transfer;

(B) The taxpayer would be entitled under section 381(c) (10) to deduct expenses deferred under this section had the distributor or transferor corporation elected to defer such expenses; or

(C) The taxpayer acquired any mineral property from the individual or corporation under circumstances which make section 334(b), 362 (a) and (b), 372(a), 373(b) (1), 384(b), 1051, or 1082 apply to such transfer.

[Sec. 615 as amended by sec. 1, Act of July 6, 1960 (Pub. Law 86-594, 74 Stat. 333)]

PAR. 2. Paragraph (a) of § 1.615-1 is amended to read as follows:

§ 1.615-1 Exploration expenditures.

(a) *General rule.* Section 615 prescribes rules for the treatment of expenditures for ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (other than

oil or gas) paid or incurred by the taxpayer before the beginning of the development stage of the mine or other natural deposit. The development stage of the mine or other natural deposit will be deemed to begin at the time when, in consideration of all the facts and circumstances (including the actions of the taxpayer), deposits of ore or other mineral are shown to exist in sufficient quantity and quality to reasonably justify commercial exploitation by the taxpayer. Such expenditures hereinafter in the regulations under section 615 will be referred to as exploration expenditures. Under section 615(a), a taxpayer may, at his option, deduct exploration expenditures paid or incurred in an amount not to exceed \$100,000 for any taxable year. Under section 615(b) and § 1.615-2 he may elect to defer any part of such amount and deduct such part on a ratable basis as the units of produced minerals benefited by such expenditures are sold. In any taxable year in which the taxpayer does not treat exploration expenditures under either of these methods, they will be charged to depletable capital account. The option to deduct under section 615(a), and the election to defer under section 615(b), however, are subject to the limitations provided in section 615(c) and § 1.615-4.

PAR. 3. Paragraph (a) of § 1.615-3 is amended to read as follows:

§ 1.615-3 Election to defer exploration expenditures.

(a) *General rule.* A taxpayer may defer any portion of the exploration expenditures made with respect to each mine or other natural deposit, subject to the limitations described in section 615(c) and § 1.615-4. The amounts so deferred shall be deducted ratably as the units of produced ores or minerals discovered or explored by reason of such expenditures are sold.

PAR. 4. Section 1.615-4 is amended to read as follows:

§ 1.615-4 Limitation of amount deductible.

(a) *Taxable years beginning before July 7, 1960.* For any taxable year beginning before July 7, 1960 (including taxable years of less than 12 months), a taxpayer may deduct or defer exploration expenditures paid or incurred in the taxable year in an amount not in excess of \$100,000. However, for such taxable years, the taxpayer may not avail himself of the provisions of section 615 for more than four taxable years (including taxable years of less than 12 months and taxable years subject to the Internal Revenue Code of 1939). Such four taxable years need not be consecutive. In determining the number of years in which a taxpayer has availed himself of section 615, a year for which he makes an election to defer exploration expenditures shall count as one year. Any subsequent taxable year in which such deferred expenditures are deducted shall not be taken into account as one of the four years. For purposes of the 4-year limitation, a year in which both a deduction and an election to defer are availed of

by the taxpayer shall be taken into account as only one year.

(b) *Taxable years beginning after July 6, 1960.* For any taxable year beginning after July 6, 1960 (including taxable years of less than 12 months), a taxpayer may deduct or defer exploration expenditures, to which section 615 is applicable, in the lesser of the following amounts:

(1) The amount paid or incurred in the taxable year,

(2) \$100,000, or

(3) \$400,000 minus all amounts deducted or deferred for taxable years ending after December 31, 1950.

For purposes of this paragraph, the number of taxable years for which the taxpayer availed himself of the provisions of section 615 or the corresponding provisions of prior law is immaterial.

(c) *Special rules for previously deferred expenditures.* In determining whether an election to defer was availed of in applying the limitations of paragraphs (a) and (b) of this section, there shall be taken into account any year with respect to which amounts were deferred but not fully deducted because of a sale or other disposition of the mineral property, even though the balance of the deferred amounts was treated as part of the basis of the mineral property in determining gain or loss from the sale.

(d) *Example of application of provisions.* The application of the provisions of subparagraphs (a) and (b) of this section may be illustrated by the following example:

Example. A taxpayer on the calendar year basis, who has never claimed the benefits of section 615, or section 23(f) of the 1939 Code, expended \$200,000 for exploration expenditures during the year 1956. For each of the years 1957, 1958, 1959, and 1960 the taxpayer had exploration costs of \$80,000. The taxpayer deducted or deferred the maximum amounts allowed for each of the years 1956, 1957, 1958, and 1959. None of the \$80,000 expenditures for 1960 could be deducted or deferred by the taxpayer because he had already deducted or deferred exploration expenditures for 4 prior years. In 1961 the taxpayer expended \$200,000 for exploration expenditures. The maximum amount the taxpayer may deduct or defer for the taxable year 1961 is \$60,000 computed as follows:

(1) Add all yearly amounts deducted or deferred for exploration expenditures by the taxpayer for prior years.

Year:	Expenditures	Deducted or deferred
1956-----	\$200,000	\$100,000
1957-----	80,000	80,000
1958-----	80,000	80,000
1959-----	80,000	80,000
1960-----	80,000	0
Total-----		340,000

(2) Subtract the sum of the amounts obtained in (1), \$340,000, from \$400,000, the maximum amount allowable to the taxpayer for deductions or deferrals of exploration expenditures.

Maximum amount allowable to taxpayer ----- \$400,000
Sum of amounts obtained in (1) -- 340,000
60,000

(e) *Transferee of mineral property.*

(1) Where an individual or corporation

transfers any property to the taxpayer and the transfer is one to which any of the subdivisions of this subparagraph apply, the taxpayer shall take into account for purposes of the 4-year limitation described in paragraph (a) of this section, all years that the transferor deducted or deferred exploration expenditures, and for purposes of the \$400,000 limitation described in paragraph (b) of this section, all amounts that the transferor deducted or deferred.

(i) The taxpayer acquired any mineral property in a transaction described in section 23 (f) (3) of the Internal Revenue Code of 1939, excluding the reference therein to section 113(a) (13).

(ii) The taxpayer would be entitled under section 381(c) (10) to deduct exploration expenditures if the transferor (or distributor) corporation had elected to defer such expenditures. For example, if the taxpayer acquired any mineral property in a transaction described in section 381(a) (relating to the acquisition of assets through certain corporate liquidations and reorganizations), there shall be taken into account in applying the limitations of paragraph (a) of this section the years in which the transferor exercised the election to defer or deduct exploration expenditures, and there shall be taken into account in applying the limitations of paragraph (b) of this section any amount so deducted or deferred. See also section 381(c) (10) and the regulations thereunder.

(iii) The taxpayer acquired any mineral property under circumstances which make applicable the following sections of the Internal Revenue Code:

(a) Section 334(b) (1), relating to the liquidation of a subsidiary where the basis of the property in the hands of the distributee is the same as it would be in the hands of the transferor.

(b) Section 362 (a) and (b), relating to property acquired by a corporation as paid-in surplus or as a contribution to capital, or in connection with a transaction to which section 351 applies.

(c) Section 372(a), relating to reorganization in certain receiverships and bankruptcy proceedings.

(d) Section 373(b) (1), relating to property of a railroad corporation acquired in certain bankruptcy or receiver-ship proceedings.

(e) Section 1051, relating to property acquired by a corporation that is a member of an affiliated group.

(f) Section 1082, relating to property acquired pursuant to a Securities Exchange Commission order.

(2) For purposes of subparagraph (1) of this paragraph, it is immaterial whether a deduction has been allowed or an election has been made by the transferor with respect to the specific mineral property transferred.

(3) Where a mineral property is acquired under any circumstance except those described in subparagraph (1) of this paragraph, the taxpayer is not required to take into account the election exercised by or deduction allowed to his transferor.

(4) For purposes of applying the limitations imposed by section 615(c):

(i) the partner, and not the partnership,

shall be considered as the taxpayer (see paragraph (a) (8) (iii) of § 1.702-1), and (ii) an electing small business corporation, as defined in section 1371(b), and not its shareholders, shall be considered as the taxpayer.

(5) For purposes of subparagraph (1) (iii) (b) of this paragraph: (i) if mineral property is acquired from a partnership, the transfer shall be considered as having been made by the individual partners, so that the number of years for which section 615 has been availed of by each partner and the amounts which each partner has deducted or deferred under section 615 shall be taken into account, or (ii) if an interest in a partnership having mineral property is transferred, the transfer shall be considered as a transfer of mineral property by the partner or partners relinquishing an interest, so that the number of years for which section 615 has been availed of by each such partner and the amounts which each such partner has deducted or deferred under section 615 shall be taken into account.

(f) *Examples.* The application of the provisions of this section may be illustrated by the following examples:

Example (1). A calendar year taxpayer who has never claimed the benefits of section 615 received in 1956 a mineral deposit from X Corporation upon a distribution in complete liquidation of the latter under conditions which would make the provisions of section 334(b) (1) applicable in determining the basis of the property in the hands of the taxpayer. During the year 1955 X Corporation expended \$60,000 for exploration expenditures which it elected to treat as deferred expenses. Assume further that the taxpayer made similar expenditures of \$150,000, \$125,000, \$100,000, \$60,000, and \$180,000 for the years 1956, 1957, 1958, 1959, and 1961, respectively, which the taxpayer elected to deduct for each of those years to the extent allowable. No such expenditures were made for 1960. On the basis of these facts, the taxpayer may deduct or defer \$100,000 for each of the years 1956, 1957, and 1958. No deduction or deferral is allowable for 1959 since the 4-year limitation of paragraph (a) of this section applies. The taxpayer may deduct or defer a maximum of \$40,000 for 1961 since the \$400,000 limitation of paragraph (b) of this section applies, but the 4-year limitation of paragraph (a) does not apply.

Example (2). Assume the same facts stated in example (1) except that, prior to acquisition by the taxpayer of the deposit from X Corporation in 1956, X Corporation had acquired the deposit in 1954 in a similar distribution from Y Corporation which, in the years 1952 and 1953, deducted exploration costs paid in respect of an entirely different deposit in the amounts of \$30,000 and \$50,000, respectively. Under these circumstances, the taxpayer may deduct or defer exploration expenditures paid or incurred in the amount of \$100,000 for 1956. No deduction or deferral is allowable to the taxpayer for expenditures made in 1957, 1958, and 1959 since the 4-year limitation of paragraph (a) applies. The taxpayer may deduct or defer a maximum of \$100,000 for 1961 since the 4-year limitation of paragraph (a) of this section no longer applies. If the taxpayer deducted or deferred \$100,000 for each of the years 1956 and 1961 and also made exploration expenditures in 1962, the taxpayer may deduct or defer a maximum of \$60,000 for that year under the \$400,000 limitation of paragraph (b) of this section.

Example (3). In 1957, A and B transfer assets to a corporation under circumstances making section 351 applicable to such a

transfer. Among the assets transferred by A is a mineral lease with respect to certain coal lands. A has deducted exploration expenditures under section 615 for the years 1954 and 1956 in the amounts of \$50,000 and \$100,000, respectively, made with respect to other deposits not included in the transfer to the corporation. The corporation shall be required to take into account the deductions previously made by A for purposes of applying the limitations of paragraphs (a) and (b) of this section.

Example (4). In 1956, A, B, and C form a partnership for the purpose of exploring for, developing, and producing uranium. A contributes a uranium lease to the partnership. A had individually made exploration expenditures in the amount of \$50,000 and \$100,000 with respect to other mineral properties not contributed to the partnership and which he has deducted under section 615(a) for the years 1954 and 1955, respectively. B contributes a uranium lease to the partnership on which he made exploration expenditures in the amount of \$100,000 in 1955 which he elected to defer under section 615(b). This is the only year in which B has used section 615. C contributes only cash to the partnership and has not previously used section 615. Subject to the limitations of section 615, for taxable years beginning before July 7, 1960, A may deduct or defer exploration expenses for two more taxable years (either as to expenditures incurred by him individually or with respect to his distributive share of partnership exploration expenses). B may deduct or defer exploration expenditures for three more years, and C may deduct or defer exploration expenditures for four years. For taxable years beginning after July 6, 1960, subject in each case to the \$100,000 limitation per year, A may deduct or defer exploration expenditures in an amount not in excess of \$250,000 (\$400,000 - \$150,000), either as to expenditures incurred by him individually or with respect to his distributive share of partnership exploration expenditures. B may similarly deduct or defer exploration expenditures in an amount not in excess of \$300,000 (\$400,000 - \$100,000), and C may deduct or defer exploration expenditures in an amount not in excess of \$400,000.

PAR. 5. Section 1.381(c)(10)-1 is amended by revising paragraph (d) and deleting paragraph (e). The revised provisions read as follows:

§ 1.381(c)(10)-1 Deferred exploration and development expenditures.

(d) *Carryover of limitation requirements.* (1) If a distributor or transferor corporation transfers any mineral property to the acquiring corporation in a transaction described in section 381(a) and the acquiring corporation pays or incurs exploration expenditures in a taxable year ending after the date of the distribution or transfer, then in applying the 4-year or \$400,000 limitations described in section 615(c) and paragraphs (a) and (b) of § 1.615-4, whichever is applicable, the acquiring corporation shall be deemed to have been allowed any deduction which, for any taxable year ending on or before the date of distribution or transfer, was allowed to the distributor or transferor corporation under section 615(a), or under section 23(f) (1) of the Internal Revenue Code of 1939, or to have made any election which, for any such preceding year, was made by the distributor or transferor corporation under section 615(b), or under section 23(f) (2) of the Internal Revenue Code of 1939. Thus, in such instance, the acquiring corpo-

ration shall taken into account the years in which the distributor or transferor corporation exercised the election to deduct or defer exploration expenditures and any amounts so deducted or deferred. For this purpose, it is immaterial whether the deduction has been allowed to, or the election has been made by, the distributor or transferor corporation with respect to the specific mineral property transferred by that corporation to the acquiring corporation.

(2) Generally, for purposes of applying the 4-year limitation described in paragraph (a) of § 1.615-4, if there are two or more distributor or transferor corporations that transfer any mineral property to the acquiring corporation, each taxable year of any such corporation ending on or before the date of distribution or transfer in which exploration expenditures were deducted or deferred shall be treated as a separate taxable year regardless of the fact that the taxable years of two or more such corporations normally end on the same date. However, if the date of distribution or transfer is the same with respect to more than one distributor or transferor corporation, then the taxable years of such corporations ending on the same date of distribution or transfer shall be considered as one taxable year for purposes of applying the 4-year limitation even though more than one such corporation deducted or deferred exploration expenditures for such taxable years.

(3) For purposes of applying the \$400,000 limitation described in paragraph (b) of § 1.615-4, if there are two or more distributor or transferor corporations that transfer any mineral property to the acquiring corporation, any exploration expenditures which were deducted or treated as deferred expenses by such corporations for taxable years ending after December 31, 1950, shall be taken into account by the acquiring corporation.

(4) If a distributor or transferor corporation that transfers any mineral property to the acquiring corporation was required to take into account any taxable years or amounts of its transferor, as provided by paragraph (e) of § 1.615-4, for purposes of either the 4-year limitation described in paragraph (a) of § 1.615-4 or the \$400,000 limitation described in paragraph (b) of § 1.615-4, then the acquiring corporation shall also take these taxable years and amounts into account in applying the same limitations.

(5) The provisions of this paragraph may be illustrated by the following examples:

Example (1). M and N Corporations were organized on January 1, 1956, and each corporation computes its taxable income on the basis of the calendar year. For each of its taxable years 1956 and 1957, M Corporation expended \$60,000 for exploration expenditures and exercised the option to deduct such amounts under section 615(a). N Corporation made no exploration expenditures during its taxable years 1956 and 1957. On December 31, 1957, M Corporation transferred all of its assets to N Corporation in a transaction to which section 381(a) applies, no gain being recognized to the transferor corporation on the transfer. N Corporation made exploration expenditures of \$100,000,

\$120,000, \$110,000, and \$100,000 for the years 1958, 1959, 1960, and 1961, respectively, which expenditures it desired to deduct under section 615(a) to the extent allowable. On the basis of these facts, N Corporation may deduct up to \$100,000 for each of the years 1958 and 1959. No deduction or deferral is allowable for 1960 since the benefits of section 615(c) were previously availed of for 4 taxable years. However, N Corporation may deduct \$80,000 for 1961 (the 4-year limitation not applying to such year) but, if such deduction is made, N Corporation will not be allowed any further deductions or deferrals since the \$400,000 limitation of paragraph (b) of § 1.615-4 will have been reached.

Example (2). R and S Corporations were organized on January 1, 1955, and each corporation computes its income on the basis of the calendar year. For the 1955 taxable year neither corporation made any exploration expenditures under section 615(a). On June 30, 1956, R Corporation transferred all its assets to S Corporation in a transaction to which section 381(a) applies, no gain being recognized to the transferor corporation on the transfer. During its short taxable year ending June 30, 1956, R Corporation made exploration expenditures of \$60,000 which it elected to deduct under section 615. For its taxable year ending December 31, 1956, S Corporation may deduct or defer exploration expenditures up to \$100,000 since this is a separate election for purposes of utilizing section 615 and is not affected by the \$60,000 previously deducted by R Corporation. Assuming S Corporation exercises an election under section 615 for its taxable year ending December 31, 1956, S Corporation may elect to apply the benefits of section 615 to exploration expenditures for two more taxable years. However, for taxable years beginning after July 6, 1960 (the 4-year limitation not applying), S Corporation is entitled under section 615 to deduct or defer exploration expenditures made in such years to the extent that the combined deductions and deferrals by R and S Corporations in prior years did not exceed \$400,000.

Example (3). O and P Corporations were organized on January 1, 1955, and each corporation computes its taxable income on the basis of the calendar year. For their taxable years 1955, 1956, and 1957, each corporation deducted exploration expenditures made in such years under section 615(a). On June 30, 1958, O Corporation transferred all its assets to P Corporation in a transaction to which section 381(a) applies, no gain being recognized to the transferor corporation on the transfer. If, during its short taxable year ending June 30, 1958, O Corporation made additional exploration expenditures, it may deduct or defer such expenditures (up to \$100,000) under section 615 since O Corporation has utilized section 615 in only three previous taxable years. For its taxable years ending after June 30, 1958, and beginning before July 7, 1960, P Corporation may not deduct or defer exploration expenditures under section 615, since the benefits of that section were utilized by O and P Corporations for 4 taxable years. However, for taxable years beginning after July 6, 1960 (the 4-year limitation not applying), P is entitled under section 615 to deduct or defer exploration expenditures made in such years to the extent that the combined deductions and deferrals by O and P Corporations in prior years do not exceed \$400,000. See paragraph (b) of § 1.615-4.

Example (4). X, Y, and Z Corporations were organized on January 1, 1955, and each corporation computes its taxable income on the basis of the calendar year. For their taxable years ending December 31, 1955, X and Y Corporations each deferred \$100,000 for exploration expenditures made in such taxable years under section 615(b). Z Corporation made no exploration expenditures during its taxable year ending December 31, 1955. On March 31, 1956, X and Y Corporations

transferred all their assets to Z Corporation in a transaction to which section 381(a) applies, no gain being recognized to the transferor corporations on the transfer. X and Y Corporations each made exploration expenditures of \$75,000 during their short taxable years ending March 31, 1956, which they deducted under section 615(a). For purposes of taxable years beginning before July 7, 1960, Z Corporation must take into account the taxable years in which X and Y Corporations deducted or deferred exploration expenditures. In so doing, each taxable year in which exploration expenditures were deducted or deferred must be taken into account except that the taxable years of X and Y Corporations ending on March 31, 1956, shall be considered as one taxable year. Therefore, Z Corporation may deduct or defer exploration expenditures in accordance with section 615 for any one taxable year ending after March 31, 1956, and beginning before July 7, 1960. However, for taxable years beginning after July 6, 1960 (the 4-year limitation not applying), Z Corporation must take into account for purposes of the \$400,000 limitation all of the \$350,000 of exploration expenditures deducted or deferred by X, Y, and Z Corporations during taxable years ending after December 31, 1950. Therefore, Z Corporation, assuming it has not deducted or deferred any exploration expenditures, is entitled under section 615 to deduct or defer in taxable years beginning after July 6, 1960, up to \$50,000 for exploration expenditures made in such years.

Example (5). For purposes of this example, assume that each taxpayer computes taxable income on the basis of the calendar year. Taxpayer A, an individual who has deducted exploration expenditures of \$75,000 under section 23(f) of the Internal Revenue Code of 1939 for each of his taxable years 1952 and 1953, transferred a mineral property to K Corporation on January 1, 1954, in a transaction in which the basis of the mineral property in the hands of K Corporation is determined under section 362(a). For its taxable year 1954 and pursuant to section 615(a), K Corporation deducted exploration expenditures of \$100,000 which it made in such year. K Corporation had made no exploration expenditures in any preceding taxable year. On December 31, 1954, K Corporation transferred all its assets to L Corporation in a reorganization to which section 381(a) applies, no gain being recognized to the transferor corporation on the transfer. Assuming that L Corporation has not deducted or deferred exploration expenditures in any preceding taxable year, L Corporation may deduct or defer exploration expenditures (up to \$100,000) in accordance with section 615 for any one taxable year ending after December 31, 1954, and beginning before July 7, 1960, in view of the 4-year limitation. However, if L Corporation does not deduct or defer exploration expenditures in that period, then for taxable years beginning after July 6, 1960 (the 4-year limitation not applying), L Corporation is entitled to deduct or defer up to \$150,000 (but not to exceed \$100,000 per year) for exploration expenditures made in such years. See paragraph (b) of § 1.615-4.

[F.R. Doc. 63-11253; Filed, Oct. 23, 1963; 8:48 a.m.]

SUBCHAPTER B—ESTATE TAX

[T.D. 6684]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Miscellaneous Amendments

On June 18, 1963, a notice of proposed rule making was published in the Fed-