

PART 409—ARIZONA-DESERT VALLEY CITRUS CROP INSURANCE

Subpart—Regulations for the 1965 and Succeeding Crop Years

APPENDIX: COUNTIES DESIGNATED FOR CITRUS CROP INSURANCE

Pursuant to authority contained in § 409.1 of the above-identified regulations, the following counties have been designated for citrus crop insurance for the 1966 crop year.

ARIZONA

Maricopa. Yuma.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL]

JOHN N. LUFT,

Manager,

Federal Crop Insurance Corporation.

[P.R. Doc. 65-11554; Filed, Oct. 27, 1965; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 65-EA-27]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone, Designation of Transition Areas

Correction

In F.R. Doc. 65-11189 appearing at page 13312 in the issue for Wednesday, October 20, 1965, the third line of the second paragraph describing the amended Parkersburg, W. Va. transition area reads as follows: "beginning at: 30°40'00" N., 81°47'00" W., to". The same line is corrected to read as follows: "beginning at: 39°40'00" N., 81°47'00" W., to".

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

Terms Implying Fibers Not Present

On August 5, 1965, a notice of proposed rule making was issued by the Commission. Such notice was published in the FEDERAL REGISTER on August 10, 1965, and provided that the Commission proposed to give consideration to an amendment of § 303.18 (Rule 18) of Part 303, rules and regulations under the Textile Fiber Products Identification Act, so as to designate conditions under which certain fiber implying terms may

or may not be used on labels affixed to textile fiber products.

The notice further provided that interested parties could participate by submitting their written views, arguments or other data to the Federal Trade Commission on or before September 10, 1965, and that written rebuttal could be submitted until September 30, 1965. A draft of the proposed amendment was made a part of the notice.

Pursuant to such notice, interested parties were afforded an opportunity to submit their views, arguments or other data in writing and written rebuttal thereto as provided in the notice.

After due consideration of the proposed amendment and all pertinent information and material relating thereto and after having afforded interested parties an opportunity to present their views, argument and other data, the Commission has determined to amend § 303.18 (Rule 18) of Part 303, rules and regulations under the Textile Fiber Products Identification Act, for the purposes above specified.

Section 303.18 (Rule 18) of the rules and regulations under the Textile Fiber Products Identification Act shall hereafter read:

§ 303.18 Terms implying fibers not present.

Words, coined words, symbols or depictions, (a) which constitute or imply the name or designation of a fiber which is not present in the product, (b) which are phonetically similar to the name or designation of such a fiber, or (c) which are only a slight variation of spelling from the name or designation of such a fiber shall not be used in such a manner as to represent or imply that such fiber is present in the product.

(Sec. 7, 72 Stat. 1717; 15 U.S.C. 70e)

Issued: October 25, 1965.

By direction of the Commission.

[SEAL]

JOSEPH W. SHEA,

Secretary.

[P.R. Doc. 65-11546; Filed, Oct. 27, 1965; 8:46 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-287; Order 307]

PART 3—ORGANIZATION

Organization of Commission Staff

OCTOBER 20, 1965.

Since the issuance of the Commission's revised Statement of Organization (Order No. 245, 27 FPC 887; 27 F.R. 4276, 18 CFR 3.4(e)), its staff has been reorganized in numerous respects. Consequently, and in accordance with section 3(a) (1) of the Administrative Procedure Act, we are amending those portions of the organization statement so as to ac-

curately describe our current organization.

The Commission finds: The amendment to its general rules adopted hereby involves matters of agency organization and procedure which do not require compliance with the notice and effective date provisions of section 4 of the Administrative Procedure Act.

The Commission, acting pursuant to authority granted by section 309 of the Federal Power Act and section 16 of the Natural Gas Act (16 U.S.C. 825h; 15 U.S.C. 717o) and in accordance with section 3 of the Administrative Procedure Act (5 U.S.C. 1002), orders:

(A) Part 3, Subchapter A, Chapter I of Title 18 of the Code of Federal Regulations, is amended by amending the opening sentence and subparagraphs (1), (2), (3), (8), (9), and (10) of § 3.4(e) and by adding a new subparagraph (12) to read as follows:

§ 3.4 Organization.

(e) *The staff.* The Commission's staff is comprised of the following bureaus and offices:

(1) The Bureau of Natural Gas, responsible for all staff functions pertaining to the natural gas industry, including work related to cost of service studies, cost allocations, rate design, engineering feasibility determinations, service discrimination studies, economic feasibility determinations, gas reserve and deliverability studies, and rate, contract, and tariff analyses and related statistical matters; except responsibility for the legal aspects of the foregoing, the Uniform System of Accounts, original cost and reclassification studies, financial and related statistical matters, rate-of-return studies, and other matters responsibility for which has been assigned to other elements of the staff. The Bureau consists of the Office of the Chief, the Pipeline Division, the Producer Division, the Area Rate Division, and the Analysis and Procedures Division.

(2) The Bureau of Power, responsible for all staff activities pertaining to water resources, hydroelectric power, and the electric power industry; except legal aspects of the foregoing, accounting, financial and related statistical matters, and other matters responsibility for which has been assigned to other elements of the staff. The Chief of the Bureau is also the Chief Engineer of the Commission and is personally responsible for furnishing advice, assistance, and counsel on such engineering matters as the Commission may require, and in addition is responsible for the substantive and administrative aspects of the Commission's civil and defense mobilization activities. The Bureau is divided into a headquarters office at Washington, D.C. and five regional offices. The headquarters office consists of the Office of the Chief of the Bureau, a Division of Electric Resources and Requirements, a Division of Licensed Projects, a Division of Rates and Corporate Regulations, and a Division of River Basins. The regional offices at Atlanta, Chicago, Fort Worth, New York, and San Francisco are re-

sponsible within their respective geographic areas for Bureau functions which can be done most effectively and efficiently in the field, including field investigations and studies, consultations, and inspections.

(3) The Office of Accounting and Finance, responsible for all staff activities pertaining to accounting, financial and related statistical matters including rate-of-return studies and work related to licensed project initial costs, net investment and depreciation and amortization reserve determinations; audit and examination of accounting procedures of licensees, public utilities and natural gas companies for compliance with prescribed System of Accounts; development and interpretation of Uniform System of Accounts; financial analysis of applications for securities or acquisition of property; and collection, preparation and publication of accounting and financial statistics; except legal aspects of the foregoing, accounting investigations relative to rates and charges for electric power and natural gas, and other matters responsibility for which is assigned to other elements of the staff. The Office consists of the Office of the Chief, a Division of Audits, a Division of Systems, and a Division of Finance and Statistics. The Division of Audits includes a field unit with offices in San Francisco, California. The Chief Accountant, in addition to his duties as head of the Office, has personal responsibility for the overall correlation and adequacy of the accounting and related functions of all bureaus and offices of the staff.

(8) The Office of Economics, responsible for advisory and research activities pertaining to economic policy aspects of the Commission's administration of the Federal Power Act and the Natural Gas Act, and for coordinating the Commission's statistical programs. The Office consists of the Office of the Chief, a Division of Econometric Analysis, a Division of Economic Studies, and a Division of Reports and Statistical Analysis.

(9) The Office of Administrative Operations, responsible for providing contracting and procurement, travel and transportation, records, dockets, and files, all types of office services, and data processing machine services.

(10) The Office of Management and Manpower Utilization, responsible for the functions of management analysis, automatic data processing systems analysis and programming services, the conduct of management and manpower utilization surveys, and the suggestion awards aspect of the Commission's incentive awards program.

(12) The Office of Program, Budget, and Financial Services, responsible for development and implementation of the Commission's financial management system including program, budget, and administrative accounting, and provision

of payroll services. The Chief of the Office is also the Budget Officer and has the personal responsibility for the overall correlation and adequacy of the budgeting and related functions of the staff.

(Secs. 16, 52 Stat. 830, 15 U.S.C. 717o; sec. 309, 49 Stat. 858, 16 U.S.C. 825h; sec. 3, 60 Stat. 238, 5 U.S.C. 1002)

(B) The amendments prescribed herein will be effective upon the issuance of this order.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] JOSEPH H. GUTRIE,
Secretary.

[F.R. Doc. 65-11529; Filed, Oct. 27, 1965;
8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

DISODIUM INOSINATE

The Commissioner of Food and Drugs, having reviewed the data submitted in a petition (FAP 6A1825) filed by Ajinomoto Co., Inc., 7, 1-Chome, Takara-Cho, Chuo-Ku, Tokyo, Japan, and other relevant material, has concluded that, in the absence of a specific need for subsequent purification by passage through a cation-exchange resin in the petitioner's production of the compound disodium inosinate with seven and one-half molecules of water of crystallization, § 121.1090 of the food additive regulations should be amended to delete such specific purification requirement. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.90), § 121.1090 (a) is revised to read as follows:

§ 121.1090 Disodium inosinate.

(a) The food additive is the disodium salt of inosinic acid, manufactured and purified so as to contain no more than 150 parts per million of soluble barium in the compound disodium inosinate with seven and one-half molecules of water of crystallization.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room

5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 20, 1965.

WINTON B. RANKIN,
Assistant Commissioner
for Planning.

[F.R. Doc. 65-11583; Filed, Oct. 27, 1965;
8:50 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6858]

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

Election by Individuals To Be Subject to Tax at Corporate Rates

On April 13, 1965, notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 4718) regarding the amendment of the Income Tax Regulations (26 CFR Part 1) to conform to section 962 of the Internal Revenue Code of 1954, as added by section 12(a) of the Revenue Act of 1962 (76 Stat. 1006). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below. The amendment shall apply with respect to taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

PARAGRAPH 1. Paragraph (b) of § 1.962-2, as set forth in the notice of proposed rule making, is revised.

PAR. 2. Paragraph (b) of § 1.962-3, as set forth in the notice of proposed rule making, is amended by redesignating subparagraph (4) as subparagraph (5), by inserting a new subparagraph (4), and by revising the chart in paragraph (a) of the example in redesignated subparagraph (5).

PAR. 3. Section 1.962-4, as set forth in the notice of proposed rule making, is revised.

[SEAL] **SHELDON S. COHEN,**
Commissioner of Internal Revenue.

Approved: October 21, 1965.

STANLEY S. SURREY,
Assistant Secretary of the
Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 962 of the Internal Revenue Code of 1954, as added by section 12(a) of the Revenue Act of 1962 (76 Stat. 1006), such regulations are amended as follows effective with respect to taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end:

§ 1.962 Statutory provisions: election by individuals to be subject to tax at corporate rates.

Sec. 962. Election by individuals to be subject to tax at corporate rates—(a) General rule. Under regulations prescribed by the Secretary or his delegate, in the case of a United States shareholder who is an individual and who elects to have the provisions of this section apply for the taxable year—

(1) The tax imposed under this chapter on amounts which are included in his gross income under section 951(a) shall (in lieu of the tax determined under section 1) be an amount equal to the tax which would be imposed under section 11 if such amounts were received by a domestic corporation, and

(2) For purposes of applying the provisions of section 960 (relating to foreign tax credit) such amounts shall be treated as if they were received by a domestic corporation.

(b) Election. An election to have the provisions of this section apply for any taxable year shall be made by a United States shareholder at such time and in such manner as the Secretary or his delegate shall prescribe by regulations. An election made for any taxable year may not be revoked except with the consent of the Secretary or his delegate.

(c) Surtax exemption. For purposes of applying subsection (a)(1), the surtax exemption provided by section 11(c) shall not exceed, in the case of any United States shareholder, an amount which bears the same ratio to \$25,000 as the amounts included in his gross income under section 951(a) for the taxable year bears to his pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such United States shareholder includes any amount in gross income under section 951(a).

(d) Special rule for actual distributions. The earnings and profits of a foreign corporation attributable to amounts which were included in the gross income of a United States shareholder under section 951(a) and with respect to which an election under this section applied shall, when such earnings and profits are distributed, notwithstanding the provisions of section 959(a)(1), be included in gross income to the extent that such earnings and profits so distributed exceed the amount of tax paid under this chapter on the amounts to which such election applied.

[Sec. 962 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006)]

§ 1.962-1 Limitation of tax for individuals on amounts included in gross income under section 951(a).

(a) In general. An individual United States shareholder may, in accordance with § 1.962-2, elect to have the provisions of section 962 apply for his taxable year. In such case—

(1) The tax imposed under chapter 1 of the Internal Revenue Code on all amounts which are included in his gross income for such taxable year under section 951(a) shall (in lieu of the tax determined under section 1) be an amount equal to the tax which would be imposed under section 11 if such amounts were received by a domestic corporation (determined in accordance with paragraph (b)(1) of this section), and

(2) For purposes of applying section 960(a)(1) (relating to foreign tax credit) such amounts shall be treated as if received by a domestic corporation (as provided in paragraph (b)(2) of this section).

Thus, an individual United States shareholder may elect to be subject to tax at corporate rates on amounts included in his gross income under section 951(a) and to have the benefit of a credit for certain foreign taxes paid with respect to the earnings and profits attributable to such amounts. Section 962 also provides rules for the treatment of an actual distribution of earnings and profits previously taxed in accordance with an election of the benefits of this section. See § 1.962-3. For transitional rules for certain taxable years, see § 1.962-4.

(b) Rules of application. For purposes of this section—

(1) Application of section 11. For purposes of applying section 11 for a taxable year as provided in paragraph (a)(1) of this section in the case of an electing United States shareholder—

(i) Determination of taxable income. The term "taxable income" as used in section 11 shall mean the sum of—

(a) All amounts required to be included in his gross income under section 951(a) for such taxable year; plus

(b) All amounts which would be required to be included in his gross income under section 78 for such taxable year with respect to the amounts referred to in (a) of this subdivision if such shareholder were a domestic corporation.

For purposes of this section, such sum shall not be reduced by any deduction of the United States shareholder even if such shareholder's deductions exceed his gross income.

(ii) Limitation on surtax exemption. The surtax exemption provided by section 11(c) shall not exceed an amount which bears the same ratio to \$25,000 as the amounts included in his gross income under section 951(a) for the taxable year bear to his pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such United

States shareholder includes any amount in his gross income under section 951(a) for the taxable year.

(2) Allowance of foreign tax credit—(i) In general. Subject to the applicable limitation of section 904 and to the provisions of this subparagraph, there shall be allowed as a credit against the United States tax on the amounts described in subparagraph (1)(i) of this paragraph the foreign income, war profits, and excess profits taxes deemed paid under section 960(a)(1) by the electing United States shareholder with respect to such amounts.

(ii) Application of section 960(a)(1). In applying section 960(a)(1) for purposes of this subparagraph in the case of an electing United States shareholder, the term "domestic corporation" as used in sections 960(a)(1) and 78, and the term "corporation" as used in section 901, shall be treated as referring to such shareholder with respect to the amounts described in subparagraph (1)(i) of this paragraph.

(iii) Carryback and carryover of excess tax deemed paid. For purposes of this subparagraph, any amount by which the foreign income, war profits, and excess profits taxes deemed paid by the electing United States shareholder for any taxable year under section 960(a)(1) exceed the limitation determined under subdivision (iv)(a) of this subparagraph shall be treated as a carryback and carryover of excess tax paid under section 904(d), except that in no case shall excess tax paid be deemed paid in a taxable year if an election under section 962 by such shareholder does not apply for such taxable year. Such carrybacks and carryovers shall be applied only against the United States tax on amounts described in subparagraph (1)(i) of this paragraph.

(iv) Limitation on credit. For purposes of determining the limitation under section 904 on the amount of the credit for foreign income, war profits, and excess profits taxes—

(a) Deemed paid with respect to amounts described in subparagraph (1)(i) of this paragraph, the electing United States shareholder's taxable income shall be considered to consist only of the amounts described in such subparagraph (1)(i), and

(b) Paid with respect to amounts other than amounts described in subparagraph (1)(i) of this paragraph, the electing United States shareholder's taxable income shall be considered to consist only of amounts other than the amounts described in such subparagraph (1)(i).

(v) Effect of choosing benefits of sections 901 to 905. The provisions of this subparagraph shall apply for a taxable year whether or not the electing United States shareholder chooses the benefits of subpart A of part III of subchapter N of Chapter 1 (sections 901 to 905) of the Internal Revenue Code for such year.

(c) *Illustration.* The application of this section may be illustrated by the following example:

Example. Throughout his taxable year ending December 31, 1964, A, an unmarried individual who is not the head of a household, owns 60 of the 100 shares of the one class of stock in foreign corporation M and 80 of the 100 shares of the one class of stock in foreign corporation N. A and corporations M and N use the calendar year as a taxable year, corporations M and N are controlled foreign corporations throughout the period here involved, and neither corporation is a less developed country corporation. The earnings and profits and subpart F income of, and the foreign income taxes paid by, such corporations for 1964 are as follows:

	M	N
Pretax earnings and profits.....	\$500,000	\$1,200,000
Foreign income taxes.....	200,000	400,000
Earnings and profits.....	300,000	800,000
Subpart F income.....	150,000	750,000

Apart from his section 951(a) income, A has gross income of \$200,000 and \$100,000 of deductions attributable to such income. He is required to include \$90,000 ($0.60 \times \$150,000$) in gross income under section 951(a) with respect to M Corporation and \$600,000 ($0.80 \times \$750,000$) with respect to N Corporation. A elects to have the provisions of section 962 apply for 1964 and computes his tax as follows:

Tax on amounts included under sec. 951(a):

Income under sec. 951(a) from M Corporation.....	\$90,000	
Gross-up under secs. 960(a)(1) and 78 ($\$90,000 / \$300,000 \times \$200,000$).....	60,000	
Income under sec. 951(a) from N Corporation.....	600,000	
Gross-up under secs. 960(a)(1) and 78 ($\$600,000 / \$800,000 \times \$400,000$).....	300,000	
Taxable income under sec. 11.....	1,050,000	
Normal tax ($0.22 \times \$1,050,000$).....		\$231,000
Surtax exemption ($[(\$90,000 + \$600,000) / (0.60 \times \$300,000 + (0.80 \times \$800,000))] \times \$25,000$).....		\$21,036
Subject to surtax under sec. 11 ($\$1,050,000 - \$21,036$).....	1,028,964	
Surtax ($0.28 \times \$1,028,964$).....		288,110
Tentative U.S. tax.....		519,110
Foreign tax credit ($\$60,000 + \$300,000$).....		360,000
Total U.S. tax payable on amounts included under sec. 951(a).....		\$159,110

Tax with respect to other income:

Gross income.....	\$200,000	
Less:		
Personal exemption.....	\$600	
Deductions.....	100,000	
		100,600
Taxable income.....	100,000	
Tax with respect to such other taxable income.....		59,340
Total tax ($\$159,110 + \$59,340$).....		218,450

§ 1.962-2 Election of limitation of tax for individuals.

(a) *Who may elect.* The election under section 962 may be made only by a United States shareholder who is an individual (including a trust or estate).

(b) *Time and manner of making election.* Except as provided in § 1.962-4, a United States shareholder shall make an election under this section by filing a statement to such effect with his return for the taxable year with respect to which the election is made. The statement shall include the following information:

(1) The name, address, and taxable year of each controlled foreign corporation with respect to which the electing shareholder is a United States shareholder and of all other corporations, partnerships, trusts, or estates in any applicable chain of ownership described in section 958(a);

(2) The amounts, on a corporation-by-corporation basis, which are included in such shareholder's gross income for his taxable year under section 951(a);

(3) Such shareholder's pro rata share of the earnings and profits (determined under § 1.964-1) of each such controlled foreign corporation with respect to which

such shareholder includes any amount in gross income for his taxable year under section 951(a) and the foreign income, war profits, excess profits, and similar taxes paid on or with respect to such earnings and profits;

(4) The amount of distributions received by such shareholder during his taxable year from each controlled foreign corporation referred to in subparagraph (1) of this paragraph from excludable section 962 earnings and profits (as defined in paragraph (b)(1) of § 1.962-3), from taxable section 962 earnings and profits (as defined in paragraph (b)(1)(ii) of § 1.962-3), and from earnings and profits other than section 962 earnings and profits, showing the source of such amounts by taxable year; and

(5) Such further information as the Commissioner may prescribe by forms and accompanying instructions relating to such election.

(c) *Effect of election.*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph and § 1.962-4, an election under this section by a United States shareholder for a taxable year shall be applicable to all controlled foreign corporations with respect to which such

shareholder includes any amount in gross income for his taxable year under section 951(a) and shall be binding for the taxable year for which such election is made.

(2) *Revocation.* Upon application by the United States shareholder, an election made under this section may, subject to the approval of the Commissioner, be revoked. Approval will not be granted unless a material and substantial change in circumstances occurs which could not have been anticipated when the election was made. The application for consent to revocation shall be made by the United States shareholder's mailing a letter for such purpose to Commissioner of Internal Revenue, Attention: T:R, Washington, D.C., 20224, containing a statement of the facts upon which such shareholder relies in requesting such consent.

§ 1.962-3 Treatment of actual distributions.

(a) *In general.* Section 962(d) provides that the earnings and profits of a foreign corporation attributable to amounts which are, or have been, included in the gross income of an individual United States shareholder under section 951(a) by reason of such shareholder's ownership (within the meaning of section 958(a)) of stock in such corporation and with respect to which amounts an election under § 1.962-2 applies or applied shall, when such earnings and profits are distributed to such shareholder with respect to such stock, notwithstanding the provisions of section 959(a)(1), be included in his gross income to the extent that such earnings and profits exceed the amount of income tax paid by such shareholder under this chapter on the amounts to which such election applies or applied. Thus, when such shareholder receives an actual distribution of section 962 earnings and profits (as defined in paragraph (b)(1) of this section) from a foreign corporation, only the excludable section 962 earnings and profits (as defined in paragraph (b)(1)(i) of this section) may be excluded from his gross income.

(b) *Rules of application.* For purposes of this section—

(1) *Section 962 earnings and profits defined.* With respect to an individual United States shareholder, the term "section 962 earnings and profits" means the earnings and profits of a foreign corporation referred to in paragraph (a) of this section. Such earnings and profits include—

(i) *Excludable section 962 earnings and profits.* Excludable section 962 earnings and profits which are the amount of the section 962 earnings and profits equal to the amount of income tax paid under this chapter by such shareholder on the amounts included in his gross income under section 951(a); and

(ii) *Taxable section 962 earnings and profits.* Taxable section 962 earnings and profits which are the excess of section 962 earnings and profits over the amount described in subdivision (i) of this subparagraph.

(2) *Determinations made separately for each taxable year.* If section 962

earnings and profits attributable to more than one taxable year are distributed by a foreign corporation, the determinations under this section shall be made separately with respect to each such taxable year.

(3) *Source of distributions*—(i) *In general.* Except as otherwise provided in this subparagraph, the provisions of paragraphs (a) through (d) of § 1.959-3 shall apply in determining the source of distributions of earnings and profits by a foreign corporation.

(ii) *Treatment of section 962 earnings and profits under § 1.959-3.* For purposes of a section 959(c) amount and year classification under paragraph (b) of § 1.959-3, a distribution of earnings and profits by a foreign corporation shall be first allocated to earnings and profits other than section 962 earnings and profits (as defined in subparagraph (1) of this paragraph) and then to section 962 earnings and profits. Thus distributions shall be considered first attributable to amounts described in paragraph (b) (1) of § 1.959-3 which are not section 962 earnings and profits and then to amounts described in such paragraph (b) (1) which are section 962 earnings and profits (first for the current taxable year and then for prior taxable years beginning with the most recent prior taxable year), secondly to amounts described in paragraph (b) (2) of § 1.959-3 which are not section 962 earnings and profits and then to amounts described in such paragraph (b) (2) which are section 962 earnings and profits (first for the current taxable year and then for prior taxable years beginning with the most recent prior taxable year), and finally to the amounts described in paragraph (b) (3) of § 1.959-3 (first for the current taxable year and then for prior taxable years beginning with the most recent prior taxable year).

(iii) *Allocation to excludable section 962 earnings and profits.* A distribution of section 962 earnings and profits by a foreign corporation for any taxable year shall be considered first attributable to the excludable section 962 earnings and profits (as defined in subparagraph (1) of this paragraph) and then to taxable section 962 earnings and profits.

(iv) *Allocation of deficits in earnings and profits.* A United States shareholder's pro rata share (determined in accordance with the principles of paragraph (e) of § 1.951-1) of a foreign corporation's deficit in earnings and profits (determined under § 1.964-1) for any taxable year shall be applied in accordance with the provisions of paragraph (c) of § 1.959-3 except that such deficit shall also be applied to taxable section 962 earnings and profits (as defined in subparagraph (1) (ii) of this paragraph).

(4) *Distribution in exchange for stock.* The provisions of this section shall not apply to a distribution of section 962 earnings and profits which is treated as in part or full payment in exchange for stock under subchapter C of chapter 1 of the Internal Revenue Code. The application of this subparagraph may be illustrated by the following example:

Example. Individual United States shareholder A owns 60 percent of the only class of

stock in foreign corporation M, the basis of which is \$10,000. Both A and M Corporation use the calendar year as a taxable year. In each of the taxable years 1964, 1965, and 1966, M Corporation has \$1,000 of earnings and profits and \$1,000 of subpart F income. With respect to each such amount, A includes \$600 in gross income under section 951(a), makes the election under section 962, and pays a United States tax of \$132 (22 percent of \$600). Accordingly, A increases the basis of his stock in M corporation under section 961(a) by \$132 in each of the years 1964, 1965, and 1966, and thus on December 31, 1966, the adjusted basis for A's stock in M Corporation is \$10,396. In 1967, M Corporation is completely liquidated (in a transaction described in section 331) and A receives \$13,800, consisting of \$1,800 of earnings and profits attributable to the amounts which A included in gross income under section 951(a) in 1964, 1965, and 1966, and \$12,000 attributable to the other assets of M Corporation. No amount of the \$3,404 gain realized by A on such distribution (\$13,800 minus \$10,396) may be excluded from gross income under section 959(a) (1). However, section 962(d) will not prevent any part of such \$3,404 from being treated as a capital gain under section 331.

(5) *Illustration.* The application of this paragraph may be illustrated by the following example:

Example. (a) M, a controlled foreign corporation is organized on January 1, 1963; A and B, individual United States shareholders, own 50 percent and 25 percent, respectively, of the only class of stock in M Corporation. Corporation M, A, and B use the calendar year as a taxable year, and M Corporation is a controlled foreign corporation throughout the period here involved. For the taxable years 1963, 1964, 1965, and 1966, A and B must include amounts in gross income under section 951(a) with respect to M Corporation. For the years 1963, 1965, and 1966, A makes the election under section 962. On January 1, 1967, B sells his 25-percent interest in M Corporation to A; A satisfies the requirements of paragraph (d) of § 1.959-1 so as to qualify as B's successor in interest. As of December 31, 1967, M Corporation's accumulated earnings and profits of \$675 (before taking into account distributions made in 1967) applicable to A's interest (including his interest as B's successor in interest) in such corporation are classified under § 1.959-3 and this section for purposes of section 962(d) as follows:

CLASSIFICATION OF EARNINGS AND PROFITS FOR PURPOSES OF SEC. 1.962-3

Year	Sec. 959(c)(1)			Sec. 959(c)(2)			Sec. 959(c)(3)
	Non-sec. 962 earnings and profits	Excludable sec. 962 earnings and profits	Taxable sec. 962 earnings and profits	Non-sec. 962 earnings and profits	Excludable sec. 962 earnings and profits	Taxable sec. 962 earnings and profits	
1963	\$25	\$11	\$39				
1964	75			\$60			\$15
1965				75	\$33	\$117	
1966				50	22	78	
1967							75

(b) During 1967, M Corporation makes three separate distributions to A of \$200, \$208, and \$267. The source of such distributions under § 1.959-3 and this section is as follows:

Distribution	Amount	Year	Classification of distributions under sec. 959 and 962(d)
No. 1	\$75	1964	(c) (1) non-sec. 962.
	25	1963	Do.
	11	1963	(c) (1) excludable sec. 962.
	39	1963	(c) (1) taxable sec. 962.
	50	1966	(c) (2) non-sec. 962.
Total	200		
No. 2	22	1966	(c) (2) excludable sec. 962.
	78	1966	(c) (2) taxable sec. 962.
	75	1965	(c) (2) non-sec. 962.
	33	1965	(c) (2) excludable sec. 962.
Total	208		
No. 3	117	1965	(c) (2) taxable sec. 962.
	60	1964	(c) (2) non-sec. 962.
	75	1967	(c) (3).
	15	1964	Do.
Total	267		

(c) A must include \$324 in his gross income for 1967. The source of these amounts is as follows:

Distribution	Amount	Year	Classification
No. 1	\$39	1963	(c) (1) taxable sec. 962.
No. 2	78	1966	(c) (2) taxable sec. 962.
No. 3	117	1965	Do.
	75	1967	(c) (3).
	15	1964	Do.
Total	324		

(c) *Treatment of shareholder's successor in interest*—(1) *In general.* If a United States person (as defined in § 1.957-4) acquires from any person any portion of the interest in the foreign corporation of a United States shareholder referred to in this section, the rules of paragraphs (a) and (b) of this section shall apply to such acquiring person. However, no exclusion of section 962 earnings and profits under paragraph (a) of this section shall be allowed unless such acquiring person establishes to the satisfaction of the district director his right to such exclusion. The information to be furnished by the acquiring person to the district director with his return for the taxable year to support such exclusion shall include:

(i) The name, address, and taxable year of the foreign corporation from which a distribution of section 962 earnings and profits is received and of all other corporations, partnerships, trusts, or estates in any applicable chain of ownership described in section 958(a);

(ii) The name and address of the person from whom the stock interest was acquired;

(iii) A description of the stock interest acquired and its relation, if any, to a chain of ownership described in section 958(a);

(iv) The amount for which an exclusion under paragraph (a) of this section is claimed; and

(v) Evidence showing that the section 962 earnings and profits for which an

[T.D. 6859]

exclusion is claimed are attributable to amounts which were included in the gross income of a United States shareholder under section 951(a) subject to an election under § 1.962-2, that such amounts were not previously excluded from the gross income of a United States person, and the identity of the United States shareholder including such amount.

The acquiring person shall also furnish to the district director such other information as may be required by the district director in support of the exclusion.

(2) *Taxes previously deemed paid by an individual United States shareholder.* If a corporate successor in interest of an individual United States shareholder receives a distribution of section 962 earnings and profits, the income, war profits, and excess profits taxes paid to any foreign country or to any possession of the United States in connection with such earnings and profits shall not be taken into account for purposes of section 902, to the extent such taxes were deemed paid by such individual United States shareholder under paragraph (b) (2) of § 1.962-1 and section 960(a) (1) for any prior taxable year.

§ 1.962-4 Transitional rules for certain taxable years.

(a) *Extension of time for making or revoking election.* Paragraphs (b) and (c) of this section provide additional rules with respect to making or revoking an election under section 962 which apply only to a taxable year of a United States shareholder for which the last day prescribed by law for filing his return (including any extensions of time under section 6081) occurs or occurred on or before January 31, 1966.

(b) *Manner of making election not previously made.* If a United States shareholder who has not previously made an election under section 962 for any taxable year referred to in paragraph (a) of this section desires to make such an election, he may do so by filing his return or an amended return for such taxable year together with a statement setting forth the information required under paragraph (b) of § 1.962-2. Such return or amended return and statement shall be filed on or before January 31, 1966.

(c) *Revocation of election previously made.* If a United States shareholder who has made an election under section 962 on or before November 1, 1965, for any taxable year referred to in paragraph (a) of this section desires to revoke such election, he may do so by filing an amended return to which is attached a statement that the election previously made is revoked. Such amended return and statement shall be filed on or before January 31, 1966.

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[F.R. Doc. 65-11471; Filed, Oct. 27, 1965; 8:45 a.m.]

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

Elections To Treat Operating Mineral Interests in Same Tract or Parcel of Land as Separate or in Combination for Taxable Years Beginning After December 31, 1963, in Cases of Oil and Gas Wells

On March 2, 1965, notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 2663) with respect to elections to treat operating mineral interests in the same tract or parcel of land as separate or in combination for taxable years beginning after December 31, 1963, in cases of oil and gas wells. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as proposed are hereby adopted subject to the following changes:

PARAGRAPH 1. Section 1.614, as set forth in the notice of proposed rule making, is amended by revising section 614 (b) (3) (C) (i).

PAR. 2. Paragraph (e) (1) of § 1.614-2, as set forth in the notice of proposed rule making, is revised.

PAR. 3. Paragraph (a) (2) of § 1.614-4, as set forth in the notice of proposed rule making, is revised.

PAR. 4. Subparagraphs (2) (ii) (b) (ii) and (5) (iii) of § 1.614-6(a), as set forth in the notice of proposed rule making, are revised.

PAR. 5. Section 1.614-8, as set forth in the notice of proposed rule making, is amended by revising subdivision (ii) and examples (2) and (3) of subdivision (iii) (c) of paragraph (a) (3), by revising subparagraphs (1), (4), and (5) of paragraph (b), and by adding a new subparagraph (6) at the end of paragraph (b).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: October 25, 1965.

STANLEY S. SURREY,
Assistant Secretary
of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 614 of the Internal Revenue Code of 1954 to section 226 of the Revenue Act of 1964 (78 Stat. 94), such regulations are amended as follows:

PARAGRAPH 1. Section 1.614 is amended by revising section 614(b), by revising the heading and striking out paragraph (5) of section 614(c), by revising section 614(d), by revising paragraph (2) of section 614(e), by revising the historical note for section 614, and by adding section 226(c) of the Revenue Act of 1964 and a historical note for section 226(c). These revised and added provisions read as follows:

§ 1.614 Statutory provisions; definition of property.

Sec. 614. *Definition of property.* * * *
(b) *Special rules as to operating mineral interests in oil and gas wells.* In the case of oil and gas wells—

(1) *In general.* Except as otherwise provided in this subsection—

(A) All of the taxpayer's operating mineral interests in a separate tract or parcel of land shall be combined and treated as one property, and

(B) The taxpayer may not combine an operating mineral interest in one tract or parcel of land with an operating mineral interest in another tract or parcel of land.

(2) *Election to treat operating mineral interests as separate properties.* If the taxpayer has more than one operating mineral interest in a single tract or parcel of land, he may elect to treat one or more of such operating mineral interests as separate properties. The taxpayer may not have more than one combination of operating mineral interests in a single tract or parcel of land. If the taxpayer makes the election provided in this paragraph with respect to any interest in a tract or parcel of land, each operating mineral interest which is discovered or acquired by the taxpayer in such tract or parcel of land after the taxable year for which the election is made shall be treated—

(A) If there is no combination of interests in such tract or parcel, as a separate property unless the taxpayer elects to combine it with another interest, or

(B) If there is a combination of interests in such tract or parcel, as part of such combination unless the taxpayer elects to treat it as a separate property.

(3) *Certain unitization or pooling arrangements.*

(A) *In general.* Under regulations prescribed by the Secretary or his delegate, if one or more of the taxpayer's operating mineral interests participate, under a voluntary or compulsory unitization or pooling agreement, in a single cooperative or unit plan of operation, then for the period of such participation—

(i) They shall be treated for all purposes of this subtitle as one property, and

(ii) The application of paragraphs (1), (2), and (4) in respect of such interests shall be suspended.

(B) *Limitation.* Subparagraph (A) shall apply to a voluntary agreement only if all the operating mineral interests covered by such agreement—

(i) Are in the same deposit, or are in 2 or more deposits the joint development or production of which is logical from the standpoint of geology, convenience, economy, or conservation, and

(ii) are in tracts or parcels of land which are contiguous or in close proximity.

(C) *Special rule in the case of arrangements entered into in taxable years beginning before January 1, 1964.* If—

(i) Two or more of the taxpayer's operating mineral interests participate under a voluntary or compulsory unitization or pooling agreement entered into in any taxable year beginning before January 1, 1964, in a single cooperative or unit plan of operation.

(ii) The taxpayer, for the last taxable year beginning before January 1, 1964, treated such interests as two or more separate properties, and

(iii) It is determined that such treatment was proper under the law applicable to such taxable year,

such taxpayer may continue to treat such interests in a consistent manner for the period of such participation.

(4) *Manner, time, and scope of election.*

(A) *Manner and time.* Any election provided in paragraph (2) shall be made for each operating mineral interest, in the manner prescribed by the Secretary or his delegate by regulations, not later than the time prescribed by law for filing the return (including extensions thereof) for whichever of the following taxable years is the later: The first taxable year beginning after December 31, 1963, or the first taxable year in which any expenditure for development or operation in respect of such operating mineral interest is made by the taxpayer after the acquisition of such interest.

(B) *Scope.* Any election under paragraph (2) shall be for all purposes of this subtitle and shall be binding on the taxpayer for all subsequent taxable years.

(5) *Treatment of certain properties.* If, on the day preceding the first day of the first taxable year beginning after December 31, 1963, the taxpayer has any operating mineral interests which he treats under subsection (d) of this section (as in effect before the amendments made by the Revenue Act of 1964), such treatment shall be continued and shall be deemed to have been adopted pursuant to paragraphs (1) and (2) of this subsection (as amended by such Act).

(c) *Special rules as to operating mineral interests in mines.* * * *

(5) [Deleted]

(d) *Operating mineral interests defined.* For purposes of this section, the term "operating mineral interest" includes only an interest in respect of which the costs of production of the mineral are required to be taken into account by the taxpayer for purposes of computing the 50 percent limitation provided for in section 613, or would be so required if the mine, well, or other natural deposit were in the production stage.

(e) *Special rule as to nonoperating mineral interests.* * * *

(2) *Nonoperating mineral interest defined.* For purposes of this subsection, the term "nonoperating mineral interests" includes only interests which are not operating mineral interests.

[Sec. 614 as amended by sec. 37, Technical Amendments Act 1958 (72 Stat. 1633); sec. 226 (a), (b), Revenue Act 1964 (78 Stat. 94)]

Sec. 226 [Revenue Act of 1964]. * * *

(c) *Allocation of basis in certain cases.* For purposes of the Internal Revenue Code of 1954—

(1) *Fair market value rule.* Except as provided in paragraph (2), if a taxpayer has a section 614(b) aggregation, then the adjusted basis (as of the first day of the first taxable year beginning after December 31, 1963) of each property included in such aggregation shall be determined by multiplying the adjusted basis of the aggregation by a fraction—

(A) The numerator of which is the fair market value of such property, and

(B) The denominator of which is the fair market value of such aggregation.

For purposes of this paragraph, the adjusted basis and the fair market value of the aggregation, and the fair market value of each property included therein, shall be determined as of the day preceding the first day of the first taxable year which begins after December 31, 1963.

(2) *Allocation of adjustments, etc.* If the taxpayer makes an election under this paragraph with respect to any section 614(b) aggregation, then the adjusted basis (as of the first day of the first taxable year beginning after December 31, 1963) of each property included in such aggregation shall be the adjusted basis of such property at the time it was first included in the aggregation by the taxpayer, adjusted for that portion of those adjustments to the basis of the aggregation

which are reasonably attributable to such property. If, under the preceding sentence, the total of the adjusted bases of the interests included in the aggregation exceeds the adjusted basis of the aggregation (as of the day preceding the first day of the first taxable year which begins after December 31, 1963), the adjusted bases of the properties which include such interests shall be adjusted, under regulations prescribed by the Secretary of the Treasury or his delegate, so that the total of the adjusted bases of such interests equals the adjusted basis of the aggregation. An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe.

(3) *Definitions.* For purposes of this subsection—

(A) *Section 614(b) aggregation.* The term "section 614(b) aggregation" means any aggregation to which section 614(b)(1)(A) of the Internal Revenue Code of 1954 (as in effect before the amendments made by subsection (a) of this section) applied for the day preceding the first day of the first taxable year beginning after December 31, 1963.

(B) *Property.* The term "property" has the same meaning as is applicable, under section 614 of the Internal Revenue Code of 1954, to the taxpayer for the first taxable year beginning after December 31, 1963.

[Sec. 226(c), Revenue Act 1964]

PAR. 2. Section 1.614-0 is amended to read as follows:

§ 1.614-0 Introduction.

Section 614 relates to the definition of property and to the various special rules by means of which taxpayers are permitted to aggregate or combine separate properties or to treat such properties as separate. These rules are set forth in detail in §§ 1.614-1 through 1.614-8. Section 1.614-1 sets forth rules under section 614(a) relating to the definition of the term "property." Section 1.614-2 contains the rules relating to the election under section 614(b), as it existed prior to its amendment by section 226(a) of the Revenue Act of 1964, to aggregate operating mineral interests. In the case of mines, the rules contained in § 1.614-2 are applicable only to taxable years beginning before January 1, 1958, to which the Internal Revenue Code of 1954 applies. In the case of oil and gas wells, the rules contained in § 1.614-2 are applicable only to taxable years beginning before January 1, 1964, to which the Internal Revenue Code of 1954 applies. In the case of oil and gas wells, the taxpayer may, however, for taxable years beginning before January 1, 1964, treat any operating mineral interests as if section 614 (a) and (b) (as it existed prior to its amendment by section 226(a) of the Revenue Act of 1964) had not been enacted. If any operating mineral interests are so treated, the rules contained in § 1.614-2 are not applicable to such interests and such interests are, in respect of taxable years beginning before January 1, 1964, subject to the rules set forth in § 1.614-4 relating to the Internal Revenue Code of 1939 treatment of separate operating mineral interests in the case of oil and gas wells. Section 1.614-3 prescribes the rules relating to the election under section 614(c)(1) permitting the aggregation of operating mineral inter-

ests in the cases of mines for taxable years beginning after December 31, 1957. Section 1.614-3 also sets forth rules relating to the election under section 614 (c)(2) in the case of mines by means of which a taxpayer is permitted to treat a single operating mineral interest as more than one such interest for taxable years beginning after December 31, 1957. At the election of the taxpayer with respect to an operating unit, the rules contained in § 1.614-3 are also applicable to taxable years beginning before January 1, 1958, to which the Internal Revenue Code of 1954 applies. If the taxpayer makes such an election, the rules contained in § 1.614-2 are not applicable to any of the operating mineral interests which are part of the operating unit with respect to which the election described in § 1.614-3 is made. Section 1.614-5 sets forth the rules relating to the aggregation of nonoperating mineral interests. Section 1.614-6 contains the rules relating to basis, holding period, and abandonment and casualty losses where properties have been aggregated or combined. Section 1.614-7 relates to the extension of time for performing certain acts. Section 1.614-8 contains the rules relating to the elections under section 614(b) as amended by section 226(a) of the Revenue Act of 1964 to treat separate operating mineral interests in the case of oil and gas wells as separate properties or in combination for taxable years beginning after December 31, 1963.

PAR. 3. Paragraphs (a) (4) and (b) of § 1.614-1 are amended to read as follows:

§ 1.614-1 Definition of property.

(a) *General rule.* * * *

(4) Upon the transfer of a "property" in any transaction in which the basis of such property in the hands of the transferee is determined by reference to the basis of such property in the hands of the transferor, such property shall, notwithstanding the provisions of subparagraph (3) of this paragraph, retain the same status and identity in the hands of the transferee as it had in the hands of the transferor. See paragraph (c) of § 1.614-6 if the transferor has made a binding election to treat a separate mineral interest as a separate property, to treat a separate mineral interest as more than one property under section 614(c), or to treat two or more separate mineral interests as an aggregated or combined property under section 614 (b) (as it existed either before or after its amendment by section 226(a) of the Revenue Act of 1964), (c), or (e).

(b) *Separation of interests treated as "single property" under prior regulations.* Each separate mineral interest which, in accordance with paragraph (a) of this section, is a separate property shall be so treated, notwithstanding the fact that the taxpayer under paragraph (1) of § 39.23(m)-1 of this chapter (Regulations 118) and corresponding provisions of prior regulations may have treated more than one of such interests as a "single property." The basis of each such separate property must be established by a reasonable method. See,

however, section 614(b) and (d) (as they existed prior to amendment by section 226 of the Revenue Act of 1964), section 614(c) and (e), and §§ 1.614-2, 1.614-3, 1.614-4, and 1.614-5 for special rules relating to the treatment of two or more separate mineral interests as a single property.

PAR. 4. Section 1.614-2 is amended by revising the heading; by revising paragraph (a); and by revising paragraph (e) by redesignating subparagraphs (1), (2), and (3) as subparagraphs (2), (3), and (4), by revising the headings of redesignated subparagraphs (2) and (3), by revising redesignated subparagraph (4), and by adding a new subparagraph (1). These revised and added provisions read as follows:

§ 1.614-2 Election to aggregate separate operating mineral interests under section 614(b) prior to its amendment by Revenue Act of 1964.

(a) *General rule.* (1) The provisions of this section relate to the election, under section 614(b) prior to its amendment by section 226(a) of the Revenue Act of 1964, to aggregate separate operating mineral interests, and, unless otherwise indicated, all references in this section to section 614(b) or any paragraph or subparagraph thereof are references to section 614(b) or a paragraph or subparagraph thereof as it existed prior to such amendment. Notwithstanding the preceding sentence, the definitions contained in paragraphs (b) and (c) of this section shall apply both before and after such amendment. All references in this section to section 614(d) are references to section 614(d) as it existed prior to its amendment by section 226(b)(3) of the Revenue Act of 1964.

(2) A taxpayer who owns two or more separate operating mineral interests, which constitute part or all of an operating unit, may elect under section 614(b) and this section to form one aggregation of any two or more of such operating mineral interests and to treat such aggregation as one property. Any operating mineral interest which the taxpayer does not elect to include within the aggregation within the time prescribed in paragraph (d) of this section shall be treated as a separate property. The aggregation of separate properties which results from exercising the election shall be considered as one property for all purposes of subtitle A of the Code. The preceding sentence does not preclude the use of more than one account under a single method of computing depreciation or the use of more than one method of computing depreciation under section 167, if otherwise proper. Any reasonable and consistently applied method or methods of computing depreciation of the improvements made with respect to the separate properties aggregated may be continued in accordance with section 167 and the regulations thereunder. Operating interests in different minerals which comprise part or all of the same operating unit may be included in the aggregation. It is not necessary for purposes of the aggregation that the sepa-

rate operating mineral interests be included in a single tract or parcel of land or in contiguous tracts or parcels of land so long as such interests are a part of the same operating unit. Under section 614(b), a taxpayer cannot elect to form more than one aggregation of separate operating mineral interests within one operating unit. For definitions of "operating mineral interest" and "operating unit" see respectively paragraphs (b) and (c) of this section.

(e) *Termination of election.*—(1) *Taxable years beginning after December 31, 1963, in the case of oil and gas wells.* In the case of oil and gas wells, the election provided for under section 614(b) and paragraph (a) of this section to form an aggregation of separate operating mineral interests shall not apply with respect to any taxable year beginning after December 31, 1963. In addition, if a taxpayer treated certain separate operating mineral interests in a single tract or parcel of land as separate rather than as an aggregation and decides to continue such treatment for taxable years beginning after December 31, 1963, he must make an appropriate election under section 614(b) as amended by the Revenue Act of 1964. See § 1.614-8.

(2) *Taxable years beginning after December 31, 1957, in the case of mines.*

(3) *Taxable years beginning before January 1, 1958, in the case of mines.*

(4) *Bases of separate operating mineral interests.* If an aggregation formed under section 614(b) is terminated by reason of the provisions of section 614(b) (4) (A), is terminated under section 614(b) (4) (B) for any taxable year after the first taxable year to which the election under section 614(b) applies, or is terminated by reason of the provisions of section 614(b) as amended by the Revenue Act of 1964, the bases of the separate operating mineral interests (and combinations thereof) included in such aggregation shall be determined in accordance with the rules contained in paragraph (a) (2) of § 1.614-6 as of the first day of the first taxable year for which the termination is effective. However, if by reason of the provisions of section 614(b) (4) (B), an election to aggregate under section 614(b) does not apply for any taxable year for which such election was made, the bases of the separate operating mineral interests included in the aggregation formed under section 614(b) shall be determined without regard to the election under section 614(b).

PAR. 5. Section 1.614-4 is amended by revising the heading and by revising paragraph (a). These revised provisions read as follows:

§ 1.614-4 Treatment under the Internal Revenue Code of 1939 with respect to separate operating mineral interests for taxable years beginning before January 1, 1964, in the case of oil and gas wells.

(a) *General rule.* (1) All references in this section to section 614(b) or any

paragraph or subparagraph thereof are references to section 614(b) or a paragraph or subparagraph thereof as it existed prior to its amendment by section 226(a) of the Revenue Act of 1964. All references in this section to section 614(d) are references to section 614(d) as it existed prior to its amendment by section 226(b)(3) of the Revenue Act of 1964.

(2) For taxable years beginning before January 1, 1964, in the case of oil and gas wells, a taxpayer may treat under section 614(d) and this section any property as if section 614(a) and (b) had not been enacted. For purposes of this section, the term "property" means each separate operating mineral interest owned by the taxpayer in each mineral deposit in each separate tract or parcel of land. Separate tracts or parcels of land exist not only when areas of land are separated geographically, but also when areas of land are separated by means of the execution of conveyances or leases. If the taxpayer treats any property or properties under this section, the taxpayer must treat each such property as a separate property except that the taxpayer may treat any two or more properties that are included within the same tract or parcel of land as a single property provided such treatment is consistently followed. If the taxpayer treats two or more properties as a single property under this section, such properties shall be considered as a single property for all purposes of subtitle A of the Internal Revenue Code of 1954. The taxpayer may not make more than one combination of properties within the same tract or parcel of land. Thus, if the taxpayer treats two or more properties that are included within the same tract or parcel of land as a single property, each of the remaining properties included within such tract or parcel of land shall be treated as a separate property. If the taxpayer has treated two or more properties that are included within the same tract or parcel of land as a single property and subsequently discovers or acquires an additional mineral deposit within the same tract or parcel of land, he may include his interest in such deposit with the two or more properties which are being treated as a single property or he may treat his interest in such deposit as a separate property. If the taxpayer has treated each property included within a tract or parcel of land as a separate property and subsequently discovers or acquires an additional mineral deposit within the same tract or parcel of land, he may combine his interest in such deposit with any one of the separate properties included within the tract or parcel of land, but not with more than one of them since they cannot be validly combined with each other. The taxpayer may not combine properties which are included within different tracts or parcels of land under this section irrespective of whether such tracts or parcels of land are contiguous. The treatment of a property as a separate property or the treatment of two or more properties included within a single tract or parcel of land as a single property

under this section shall be binding upon the taxpayer for the first taxable year for which such treatment is effective and for all subsequent taxable years beginning before January 1, 1964. For the continuation of such treatment under § 1.614-8 for taxable years beginning after December 31, 1963, see paragraph (d) of § 1.614-8. For provisions relating to the first taxable year for which treatment under this section becomes effective, see paragraph (d) of this section.

PAR. 6. Section 1.614-6 is amended by revising the heading; by revising paragraph (a) by revising the heading, by revising subparagraphs (1) and (2), by adding examples (5) and (6) at the end of subparagraph (3), and by adding a new subparagraph (5); by revising so much of paragraph (b) as precedes the example; and by revising paragraphs (c) and (d). These revised and added provisions read as follows:

§ 1.614-6 Rules applicable to basis, holding period, and abandonment losses where mineral interests have been aggregated or combined.

(a) *Basis of property resulting from aggregation or combination.*—(1) *General rule.* (i) When a taxpayer has aggregated as one property two or more interests under section 614(b) (prior to its amendment by section 226(a) of the Revenue Act of 1964), (c), or (e), the unadjusted basis of such aggregated property shall be the sum of the unadjusted bases of the various mineral interests aggregated. The adjusted basis of the aggregated property on the effective date of the aggregation shall be the unadjusted basis of the aggregated property, adjusted by the total of all adjustments to the bases of the several mineral interests aggregated as required by section 1016 to the effective date of aggregation. Thereafter, the adjustments to basis required by section 1016 shall apply to the total adjusted basis of the aggregated property for all purposes of subtitle A of the Code.

(ii) When a taxpayer has combined as one property two or more interests under section 614(b) (as amended by section 226(a) of the Revenue Act of 1964), the adjusted basis of such combined property shall be the sum of—

(a) The unadjusted bases of all such interests which have never been included in an aggregation; and

(b) The adjusted bases of all such interests which at some time have been included in an aggregation, as of the date on which they ceased to participate in an aggregation;

adjusted by the total of all adjustments to the bases of the several mineral interests combined, as required by section 1016.

(c) In the case of interests described in (a), for the entire period of the taxpayer's ownership of such interest; and

(d) In the case of interests described in (b), for the period, if any, between the time of deaggregation and the time of combination.

Thereafter, the adjustments to basis required by section 1016 shall apply to the total adjusted basis of the combined property for all purposes of subtitle A of the Code.

(2) *Bases upon disposition of part of, or termination of, or change in, an aggregated or combined property.*—(i) *In general.* (a) When a taxpayer has aggregated or combined two or more separate mineral interests as one property under section 614(b) (either before or after its amendment by section 226(a) of the Revenue Act of 1964), (c), or (e) and thereafter sells, exchanges, or otherwise disposes of part of such property, the total adjusted basis of the property as of the date of sale, exchange, or other disposition shall be apportioned to determine the adjusted basis of the part disposed of and the part retained for purposes of computing gain or loss, depletion and for all other purposes of subtitle A of the Code. Such adjusted basis shall be determined by apportioning the total adjusted basis of the property between the part of the property disposed of and the part retained in the same proportion as the fair market value of each part (as of the date of sale, exchange, or other disposition) bears to the total fair market value of the property as of such date. For determining gain or loss on the sale or exchange of any part of the aggregated or combined property, the adjusted basis of the aggregated or combined property (from which the adjusted basis of the part is determined) shall not be reduced below zero.

(b) If, for any taxable year after the first taxable year for which an aggregation under section 614(b) (prior to its amendment by section 226(a) of the Revenue Act of 1964), (c), or (e) is effective—

(1) Any such aggregation is terminated for any reason other than the expiration of an aggregation by reason of section 614(b) as amended by section 226(a) of the Revenue Act of 1964 (see subdivision (ii) of this subparagraph), or

(2) The treatment of any mineral interests in any such aggregation is changed after obtaining the consent of the Commissioner,

then the adjusted basis of the aggregated property as of the first day of the first taxable year for which such termination or change is effective shall be apportioned to determine the adjusted bases of the resultant separate mineral interests, as of such first day, for purposes of computing gain or loss, depletion, and for all other purposes of subtitle A of the Code. The adjusted bases of such separate mineral interests shall be determined by apportioning the adjusted basis of the aggregated property (as of the first day of the first taxable year for which such termination or change is effective) between or among such interests in the same proportion as the fair market value of each such interest (as of such first day) bears to the total fair market value of the aggregated property as of such first day. For the purpose of de-

termining the adjusted bases of the separate mineral interests, the adjusted basis of the aggregated property (from which the adjusted basis of each separate mineral interest is determined) shall not be reduced below zero.

(ii) *Allocation of basis of aggregation of operating mineral interests in oil and gas wells as of the first day of the first taxable year beginning after December 31, 1963.*—(a) *Fair market value method.* Unless the taxpayer elects to use the allocation of adjustments method of determining basis provided in (b) of this subdivision (ii), the adjusted basis as of the first day of the first taxable year beginning after December 31, 1963, of each interest which was participating in an aggregation of operating mineral interests on the day preceding such first day shall be determined by multiplying the adjusted basis of the aggregation by a fraction the numerator of which is the fair market value of such interest and the denominator of which is the fair market value of such aggregation. For purposes of this subdivision (a), the adjusted basis and the fair market value of the aggregation, and the fair market value of such interest, shall be determined as of the day preceding the first day of the first taxable year which begins after December 31, 1963. Unless the taxpayer elects to use the allocation of adjustments method, he shall obtain accurate and reliable information, and keep records with respect thereto, establishing all facts necessary for making the computation prescribed in this subdivision (a). See example (5) of subparagraph (3) of this paragraph.

(b) *Allocation of adjustments method.*

(i) The taxpayer may elect to determine basis by an allocation of adjustments in lieu of the fair market value method prescribed in (a) of this subdivision (ii). In such a case, the adjusted basis (as of the first day of the first taxable year beginning after December 31, 1963) of each interest which was participating in an aggregation of operating mineral interests on the day preceding such first day is the unadjusted basis of such interest immediately after its acquisition by the taxpayer, adjusted by the total of all adjustments to its basis as required by section 1016 to the effective date of aggregation, and by that portion of those section 1016 adjustments to the basis of the aggregation which is reasonably attributable to such interest. For this purpose, two or more interests which are being combined upon deaggregation shall be treated as one interest. An adjustment to the basis of the aggregation is reasonably attributable to such interest to the extent that the adjustment thereto resulted from inclusion of the interest in the aggregation, even though such interest would not have been entitled to the adjustment to the same extent if such interest had been treated separately because of the 50 percent of taxable income limitation or for any other reason. In a case in which the amount of a percentage depletion deduction which was allowed with respect to an aggregation was limited by

the 50 percent of taxable income limitation of section 613(a), the portion of such amount which is attributable to each of the interests in the aggregation shall be determined by multiplying such amount by a fraction, the numerator of which is the gross income from such interest and the denominator of which is the gross income from the aggregation. The determination as to which property a particular adjustment is attributable may be based upon records of production or any other facts which establish the reasonableness of the determination. See example (6) of subparagraph (3) of this paragraph.

(ii) If, under the adjustment described in (i) of this subdivision (b), the total of the adjusted bases of the interests which were included in the aggregation exceeds the adjusted basis of the aggregation, the adjusted bases of the interests shall be further adjusted so that the total of the adjusted bases of the interests equals the adjusted basis of the aggregation. This further adjustment shall be made by reducing the basis of each interest (other than an interest having a basis of zero) by an amount which is determined by multiplying such excess by a fraction, the numerator of which is the adjusted basis of such interest after making the adjustment described in (i) of this subdivision (b) and the denominator of which is the total of the adjusted bases of all such interests after making the adjustment described in (i) of this subdivision (b). See example (6) of subparagraph (3) of this paragraph.

(iii) The election provided for in this subdivision (b) shall be made not later than the time prescribed by law for filing the taxpayer's income tax return (including extensions thereof) for the first taxable year beginning after December 31, 1963, and shall be made in a statement attached to such return.

(3) * * *

Example (5). A taxpayer owns two operating mineral interests in oil wells, designated Nos. 1 and 2, in tract A, and another such interest, designated No. 3, in tract B. All three interests are in the same operating unit (as defined in paragraph (c) of § 1.614-2). The taxpayer, who is on a calendar year basis, has properly elected under § 1.614-2 to aggregate such interests for the calendar years 1954 through 1963. The unadjusted bases and adjustments under section 1016 for depletion through December 31, 1953, in respect of such interests are as follows:

	Unadjusted basis	Adjustments under section 1016
No. 1.....	\$42,000	\$11,000
No. 2.....	37,000	4,000
No. 3.....	19,000	23,000
Total.....	98,000	38,000

The adjusted basis of the aggregated property as of January 1, 1954, is therefore \$60,000 (\$98,000 minus \$38,000). The taxpayer properly elects under section 614(b) and § 1.614-8 to treat Nos. 1 and 2 as separate properties for the calendar year 1964 and thereafter and does not elect to use the allocation of adjustments method of deter-

mining basis provided in subparagraph (2) (ii) (b) of this paragraph. No. 3 will be treated as a separate property, also, because it is in a different tract than the taxpayer's other interests. From January 1, 1954, through December 31, 1963, \$50,000 of depletion has been allowed with respect to the aggregated property, leaving an adjusted basis of \$10,000 (\$60,000 minus \$50,000) on January 1, 1964. On December 31, 1963, the aggregated property has a fair market value of \$40,000. Nos. 1, 2, and 3 have fair market values of \$16,000, \$22,000, and \$2,000, respectively. Accordingly, the adjusted bases of Nos. 1, 2, and 3 on January 1, 1964, are \$4,000 ($\$10,000 \times \frac{16,000}{40,000}$), \$5,500 ($\$10,000 \times \frac{22,000}{40,000}$), and \$500 ($\$10,000 \times \frac{2,000}{40,000}$), respectively.

	Basis upon acquisition	Adjustments to time of aggregation	Attributable adjustments during aggregation	Basis upon deaggregation after first adjustment
No. 1.....	\$35,000	\$1,000	\$16,000	\$18,000
No. 2.....	30,000	11,000	23,000	0
No. 3.....	25,000	3,000	5,000	5,000
No. 4.....	10,000	12,000	9,000	
Total.....	100,000	27,000	53,000	24,000

The total of the adjusted bases (prior to further adjustment) of the interests which were included in the aggregation is \$24,000 while the adjusted basis of the aggregation is \$20,000 (\$100,000 minus the sum of \$27,000 and \$53,000). Therefore, the adjusted bases of the interests are further reduced by \$4,000 (\$24,000 minus \$20,000). The adjusted basis of No. 1 of \$18,000 is further reduced by \$3,000 ($\$4,000 \times \frac{18,000}{24,000}$) to \$15,000. Similarly, the adjusted basis of combined Nos. 3 and 4 of \$5,000 is further reduced by \$1,000 ($\$4,000 \times \frac{5,000}{24,000}$) to \$4,000. Assume further that the taxpayer also owns interest No. 5 in the same tract or parcel of land, that such interest was not a part of any aggregation, that such interest had a basis of \$15,000 upon acquisition and had subsequent adjustments in reduction of basis totalling \$17,000, and that the taxpayer does not elect to treat such interest as a separate property. In such case, Nos. 3, 4, and 5 will be combined. The combination will have an adjusted basis of \$3,000, determined by adding the unadjusted basis of No. 5 (\$15,000) and the adjusted bases of combined Nos. 3 and 4 upon deaggregation (\$5,000), and subtracting from the total thereof (\$20,000) the adjustments to No. 5 (\$17,000).

(5) *Basis for gain and loss where mineral interests acquired before March 1, 1913, are included in a combination and one or more of such interests have not previously been included in an aggregation.* Where mineral interests acquired before March 1, 1913, are included in a combination under section 614(b) and § 1.614-8 and one or more of such interests have not previously been included in an aggregation, the combined property has two bases, one for the determination of gain and another for the determination of loss upon the disposition of the whole or a part of the combined property. For the purpose of determining gain, the adjusted basis of the combined property on the effective date of combination shall be the sum of—

Example (6). A taxpayer owns four operating mineral interests in oil wells, designated Nos. 1, 2, 3, and 4. All four interests are in the same operating unit and the same tract or parcel of land. The taxpayer, who is on a calendar year basis, has properly elected under § 1.614-2 to aggregate such interests for the calendar years 1954 through 1963. The taxpayer properly elects under section 614(b) and paragraph (a) of § 1.614-8 to treat Nos. 1 and 2 as separate properties for the calendar year 1964 and thereafter. The taxpayer also properly elects to use the allocation of adjustments method of determining basis as provided in subparagraph (2) (ii) (b) of this paragraph. The unadjusted bases of Nos. 1, 2, and combined 3 and 4, the adjustments attributable to each, and the deaggregated basis of each (prior to further adjustment as provided in subparagraph (2) (ii) (b) (ii) of this paragraph) are as follows:

(i) The adjusted bases at the time of deaggregation, as determined under subparagraph (2) of this paragraph, of all interests which have previously been included in an aggregation.

(ii) The unadjusted bases of other mineral interests acquired on or after March 1, 1913, and

(iii) The cost of each other interest acquired before March 1, 1913 (adjusted for the period before March 1, 1913), or the fair market value of such interest as of March 1, 1913, whichever is greater,

and such sum shall be adjusted by the total of all adjustments to the bases of the mineral interests as required by section 1016 to the effective date of combination. For the purpose of determining loss, the adjusted basis of the combined property on the effective date of combination shall be the sum of—

(iv) The adjusted bases at the time of deaggregation, as determined under subparagraph (2) of this paragraph, of all interests which have previously been included in an aggregation.

(v) The unadjusted bases of other mineral interests acquired on or after March 1, 1913, and

(vi) The cost of other mineral interests acquired before March 1, 1913, adjusted for the period before March 1, 1913.

and such sum shall be adjusted by the total of all adjustments to the bases of the mineral interests as required by section 1016 to the effective date of combination. Thereafter, the adjustments to basis required by section 1016 shall apply to the total adjusted basis of the combined property for all purposes of the Code. Upon disposition of a part of the combined property, the adjusted basis for determining gain and the adjusted basis for determining loss with respect to each resultant part of the combined property

shall be determined in accordance with subparagraph (2) of this paragraph.

(b) *Holding period of aggregated or combined properties.* Where a taxpayer sells or exchanges either a part or all of an aggregated or combined property which includes part or all of a mineral interest which the taxpayer has held for 6 months or less, the sales price and adjusted basis attributable to the interest sold must be apportioned in proportion to the relative fair market values as of the date of sale to determine the amount of income represented by the sale of property held for 6 months or less. The application of this rule may be illustrated by the following example:

(c) *Acquisition of property with transferor's basis.* If a separate property or an aggregated or combined property is acquired in a transaction in which the basis of such property in the hands of the taxpayer is determined by reference to the basis of such property in the hands of a transferor, then the election of such transferor as to the treatment of such separate, aggregated, or combined property shall be binding upon the taxpayer for all taxable years ending after the transfer unless, in the case of an aggregation, the aggregation terminates or consent to make a change is obtained under paragraph (d) (4) of § 1.614-2, paragraph (f) (7) of § 1.614-3, or paragraph (b) (3) or (e) (5) of § 1.614-5, whichever is applicable.

(d) *Abandonment and casualty losses.* In the case of mineral interests which are aggregated or combined as one property, no losses resulting from worthlessness or abandonment are allowable until all the mineral rights in the entire aggregated or combined property are proven to be worthless or until the entire aggregated or combined property is disposed of or abandoned. Casualty losses are allowable in accordance with the rules applicable to casualty losses in general. For rules applicable to losses in general, see section 165 and the regulations thereunder.

PAR. 7. Immediately following § 1.614-7 a new section 1.614-8 is added, to read as follows:

§ 1.614-8 Elections with respect to separate operating mineral interests for taxable years beginning after December 31, 1963, in the case of oil and gas wells.

(a) *Election to treat separate operating mineral interests as separate properties.*—(1) *General rule.* If a taxpayer has more than one operating mineral interest in oil and gas wells in one tract or parcel of land, he may elect to treat one or more of such interests as separate properties for taxable years beginning after December 31, 1963. Any such interests with respect to which the taxpayer does not so elect shall be combined and treated as one property. Nonoperating mineral interests may not be included in such combination. There may be only one such combination in one tract or parcel. Any such combination of interests shall be considered as one property for all purposes of subtitle A of

the Code for the period to which the election applies. The preceding sentence does not preclude the use of more than one account under a single method of computing depreciation or the use of more than one method of computing depreciation under section 167, if otherwise proper. Any reasonable and consistently applied method or methods of computing depreciation of the improvements made with respect to the separate interests which are combined may be continued in accordance with section 167 and the regulations thereunder. Except as provided in paragraph (b) of this section, such an interest in one tract or parcel may not be combined with such an interest in another tract or parcel. For rules with respect to the allocation of the basis of an aggregation of separate operating mineral interests under this section among such interests as of the first day of the first taxable year beginning after December 31, 1963, see paragraph (a) (2) (ii) of § 1.614-6. For the definition of "operating mineral interest" see paragraph (b) of § 1.614-2.

(2) *Election in respect of newly discovered or acquired interest or interest ceasing to participate in cooperative or unit plan of operation.* (i) If the taxpayer makes an election under this paragraph in respect of an operating mineral interest in a tract or parcel of land and, after the taxable year for which such election is made, an additional operating mineral interest in the same tract or parcel is discovered or acquired by the taxpayer or is the subject of an election under this paragraph because it ceases to participate in a cooperative or unit plan of operation to which paragraph (b) of this section applies, the additional operating mineral interest shall be treated—

(a) If there is no combination of interests in such tract or parcel, as a separate property unless the taxpayer elects to combine it with another interest, or

(b) If there is a combination of interests in such tract or parcel, as part of such combination unless the taxpayer elects to treat it as a separate property.

(ii) The application of this subparagraph may be illustrated by the following example:

Example. Prior to 1964 a taxpayer acquired, and incurred development expenditures with respect to, three operating mineral interests in oil, designated Nos. 1, 2, and 3. All three interests are in the same tract or parcel of land. For the taxable year 1964, the taxpayer elects to treat such interests as three separate properties. During the taxable year 1965, the taxpayer discovers and incurs development costs with respect to a fourth operating mineral interest, No. 4, in the same tract of land. During the taxable year 1966, the taxpayer discovers and incurs development costs with respect to a fifth operating mineral interest, No. 5, in the same tract of land. If the taxpayer makes no election relative to No. 4 for 1965, such interest will thereafter be treated as a separate property. Alternatively, the taxpayer may make an election for 1965 to combine No. 4 with any one (and only one) of the three other interests and to treat such combination as one property. If, for example, he elects to combine No. 4 with No. 3, then in 1966, No. 5 will automatically become part

of the combination of Nos. 3 and 4 if no election is made to treat it as a separate property. After the combination of Nos. 3 and 4 is formed, Nos. 1 and 2, which were acquired or discovered prior to the formation of the combination and which were not included in such combination within the time prescribed, may not be included in that or any other combination. However, see subparagraph (3) (iv) of this paragraph.

(3) *Manner and scope of election.*—(i) *Election; when made.* Except as provided hereafter in this subdivision (i), any election under subparagraph (1) or (2) of this paragraph shall be made for each operating mineral interest not later than the time prescribed by law for filing the income tax return (including extensions thereof) for whichever of the following taxable years is later:

(a) The first taxable year beginning after December 31, 1963; or

(b) The first taxable year in which any expenditure for development or operation in respect of such operating mineral interest is made by the taxpayer after his acquisition of such interest.

Notwithstanding the provisions of (a) and (b), if it is determined that the operating mineral interest in respect of which the election is to be made was, during what would otherwise be the entire effective period of the election insofar as it would apply to the appropriate taxable year determined under (a) and (b), participating in a cooperative or unit plan of operation to which section 614(b) (3) applies, the election shall be made not later than the time prescribed by law for filing the income tax return (including extensions thereof) for the taxable year in which the interest ceases to participate in the cooperative or unit plan. See subdivision (iii) of this subparagraph for provisions relating to the effective date of an election and paragraph (b) of this section for provisions relating to certain unitization or pooling arrangements. For purposes of this subparagraph, expenditures for development include any intangible drilling or development costs within the purview of section 263(c). Delay rentals are not considered as expenditures for development. For purposes of this subparagraph, the acquisition of an option to acquire an economic interest in minerals in place does not constitute the acquisition of a mineral interest.

(ii) *Election; how made.* Any election under this paragraph shall be made by a statement attached to the income tax return of the taxpayer for the first taxable year for which the election is made. This statement shall identify by name, code number, or other means the operating mineral interests within the same tract or parcel of land which the taxpayer is electing to treat as separate properties or in combination, as the case may be. The statement shall also identify by name, code number, or other means the tract or parcel and shall set forth the facts upon which its treatment as a single and entire tract or parcel is based. See paragraph (a) (3) of § 1.614-1. However, if the taxpayer is electing to treat all of his operating mineral interests in a tract or parcel as separate properties, a blanket election with

respect to all of such interests in that tract or parcel which are owned by the taxpayer at the time the election is made will suffice and only the tract or parcel itself need be so identified. The taxpayer shall maintain and have available records and maps sufficient to clearly define the tract or parcel and all of the taxpayer's operating mineral interests therein.

(iii) *Election; when combination effective.* (a) If, by reason of the exercise or nonexercise of an election under this paragraph, a combination is formed of two or more operating mineral interests, all of which are owned and operated by a taxpayer on the first day of the first taxable year beginning after December 31, 1963, and are not participating in a cooperative or unit plan of operation to which paragraph (b) of this section applies on such first day, the combination is effective on such first day.

(b) If, by reason of the exercise or nonexercise of an election under this paragraph, a combination of operating mineral interests not described in (a) of this subdivision (including a combination described in (a) to which another operating mineral interest is added) is formed, the date on which each operating mineral interest which is being combined by the taxpayer for the first time enters into the combination is the later of (1) the earliest date within the taxable year affected on which the taxpayer incurred any expenditure for development or operation of such interest at a time when such interest was not participating in a cooperative or unit plan of operation to which paragraph (b) of this section applies, or (2) the earliest date on which the taxpayer incurred any expenditure for development or operation of any other interest with which such interest is to be combined at a time when such other interest was not participating in a cooperative or unit plan of operation to which paragraph (b) of this section applies.

(c) The application of these provisions may be illustrated by the following examples:

Example (1). In 1963, a taxpayer owned and operated mineral interests Nos. 1 and 2, both of which are in the same tract or parcel of land. Neither No. 1 nor No. 2 participates in a cooperative or unit plan of operation. The taxpayer, who is on a calendar year basis, continued to own and operate these interests during the year 1964, and made no election with respect to such interests in his income tax return for that year. As a result, Nos. 1 and 2 are combined as of January 1, 1964.

Example (2). Assume that the taxpayer described in example (1) discovered operating mineral interests Nos. 3 and 4 in the same tract or parcel of land as Nos. 1 and 2, that he made his first expenditures for the development of No. 3 on June 1, 1964, and of No. 4 on September 1, 1964, and that, in a timely return for 1964, he elected to treat No. 3 as a separate property and made no election with respect to No. 4. As a result, No. 3 is treated as a separate property and No. 4 joins the combination of Nos. 1 and 2 as of September 1, 1964.

Example (3). On March 1, 1964, a taxpayer acquired a tract or parcel of land containing operating mineral interests Nos. 1 and 2. The taxpayer made his first operating expenditures on No. 1 on April 1, 1964.

On October 1, 1964, the taxpayer made his first development expenditures with respect to operating mineral interest No. 2. The taxpayer made no election with respect to these interests. As a result, Nos. 1 and 2 enter into a combination as of October 1, 1964.

(iv) *Election; binding effect.* A valid election made under section 614(b) and this subparagraph shall be binding upon the taxpayer for the first taxable year for which made and for all subsequent taxable years. However, notwithstanding the preceding sentence, an election to treat one or more operating mineral interests as separate properties shall not prevent the making of a later election to combine a newly discovered or acquired operating mineral interest with one of such interests, if no other combination exists in the tract or parcel of land on the date when the later election would become effective under subdivision (iii) of this subparagraph. Nor will an election to treat an operating mineral interest as a separate property prevent its treatment with another interest as a single property under paragraph (b) of this section if such interest later participates in a cooperative or unit plan of operation to which paragraph (b) applies. For rules relating to the binding effect of an election in certain cases in which the basis of a separate or combined property in the hands of the transferee is determined by reference to the basis in the hands of the transferor, see paragraph (c) of § 1.614-6.

(b) *Certain unitization or pooling arrangements.* (1) Except as provided in this paragraph, if one or more of the taxpayer's operating mineral interests, or a part or parts thereof, participate, under a voluntary or compulsory unitization or pooling agreement as defined in subparagraph (6) of this paragraph, in a single cooperative or unit plan of operation, then for the period of such participation in taxable years beginning after December 31, 1963, such interest or interests, and part or parts thereof, included in such unit, shall be treated for purposes of subtitle A of the Code as one property, separate from the interest or interests, or part or parts thereof, not included in such unit.

(2) Subparagraph (1) of this paragraph shall apply to a voluntary agreement only if all the operating mineral interests covered by the agreement are in the same deposit or are in two or more deposits, the joint development or production of which is logical, without taking tax benefits into account, from the standpoint of geology, convenience, economy, or conservation, and which are in tracts or parcels of land which are contiguous or in close proximity. Operating mineral interests under a voluntary agreement to which subparagraph (1) does not apply are subject to the rules contained in paragraph (a) of this section. For purposes of this paragraph an agreement is voluntary unless required by the laws or rulings of any State or any agency of any State.

(3) Notwithstanding the provisions of subparagraph (1) of this paragraph, if the taxpayer, for the last taxable year

beginning before January 1, 1964, treated as separate properties two or more operating mineral interests which participate, under a voluntary or compulsory unitization or pooling agreement entered into in any taxable year beginning before January 1, 1964, in a single cooperative or unit plan of operation, and if it is determined that such treatment was proper under the law applicable to such taxable year, the taxpayer may continue to treat all such interests in a consistent manner for the period of such participation. If it is determined that such treatment was not proper under the law applicable to such taxable year, or if the taxpayer does not continue to treat all such interests in a manner consistent with the treatment of them for the last taxable year beginning before January 1, 1964, the treatment of the interests shall be in accordance with the provisions of subparagraph (1).

(4) If only a part of an operating mineral interest, which interest is not being treated under paragraph (a) of this section as part of a combination of interests, participates in a unit or pool, such part shall, for the period of its participation in the unit or pool, be treated for purposes of this section as being separate from the nonparticipating portion of the operating mineral interest of which it is a part. A portion of the adjusted basis and of the units of mineral of such operating mineral interest remaining at the beginning of the period described in the preceding sentence shall be allocated to the participating part in accordance with the principles contained in paragraph (a) (2) (i) (a) of § 1.614-6 as if such participating part had been sold. If participation in the unit or pool ends, the separate status of the participating part shall immediately terminate. At such time the adjusted basis of such part and the units of mineral with respect to such part remaining at the time of termination shall be added to the adjusted basis and to the remaining units of mineral of the nonparticipating portion of the operating mineral interest. During the period of participation in the unit or pool such participating part shall not be treated separately from the nonparticipating portion of the operating mineral interest in applying section 165.

(5) Where an operating mineral interest which is being treated under paragraph (a) of this section as part of a combination of interests begins participation in a unit or pool, the combination shall remain in force but the treatment of such participating interest as a part of the combination shall be suspended for the period of its participation in the unit or pool. If, for example, a taxpayer owns operating mineral interests Nos. 1, 2, and 3 in a single tract or parcel of land, elects to treat No. 1 as a separate property (with mineral interests Nos. 2 and 3 thus being combined), is later required by an agency of a State to place No. 2 in a unit, and subsequently discovers operating mineral interest No. 4 in the same tract or parcel of land, then under paragraph

(a) (2) (i) (b) of this section No. 4 will automatically be combined with No. 3 unless the taxpayer elects to treat it as a separate property. Under this subparagraph, an interest may be treated as part of a combination for a portion of a taxable year and as part of a unit or pool for a portion of a taxable year. At the commencement of participation in the unit or pool, a portion of the adjusted basis of the combination and a portion of the units of mineral with respect to the combination remaining at that time shall be allocated to such participating interest in accordance with the principles contained in paragraph (a) (2) (i) (a) of § 1.614-6 as if such interest had been sold. During the period of participation in the unit or pool such participating interest is nevertheless treated as a part of the combination for purposes of paragraph (d) of § 1.614-6. If participation in the unit or pool ends, the treatment of such interest as participating in the unit or pool shall immediately terminate. At such time, the adjusted basis of the participating interest and the units of mineral with respect to such interest remaining at the time of termination shall be added to the adjusted basis and to the remaining units of mineral of the nonparticipating portion of the combination. In determining the adjusted basis of the participating interest at the time of termination there shall be taken into account any section 1016 adjustments attributable to such interest for the period of its participation in the unit or pool. If two or more operating mineral interests of the taxpayer participate in a unit or pool and are treated as one property under subparagraph (1) of this paragraph, and if participation by such interests in the unit or pool terminates, the adjusted basis of each such interest at the time of termination shall be separately determined. If the total of the adjusted bases of such interests upon termination of their participation in the unit or pool exceeds the adjusted basis of such one property, then the adjusted bases of such interests shall be further adjusted by applying the principles contained in paragraph (a) (2) (ii) (b) (i) of § 1.614-6 so that the total of the adjusted bases of such interests equals the adjusted basis of such one property. In addition, the units of oil and gas estimated to be attributable to a participating interest at the time of termination of participation shall be restored to the units of oil and gas of the combination of which it is a part. The rules stated in this subparagraph with respect to an operating mineral interest which is being treated under paragraph (a) of this section as part of a combination and which begins participation in a unit or pool shall also apply to a portion of an operating mineral interest which is being treated under paragraph (a) as part of a combination if such portion begins participation in a unit or pool.

(6) As used in this paragraph, the term "unitization or pooling agreement" means an agreement under which two

or more persons owning operating mineral interests agree to have the interests operated on a unified basis and further agree to share in production on a stipulated percentage or fractional basis regardless of from which interest or interests the oil or gas is produced. In addition, in a situation in which one person owns operating mineral interests in several leases, an agreement of such person with his several royalty owners to determine the royalties payable to each on a stipulated percentage basis regardless of from which lease or leases oil or gas is obtained is also considered to be a unitization or pooling agreement. No formal cross-conveyance of properties is necessary. An agreement between co-owners of a tract or parcel of land or a part thereof for the development of the property by one of such co-owners for the account of all is not a unitization or pooling agreement, provided that the agreement does not affect ownership of minerals or entitle any such co-owner to share in production from any operating mineral interests other than his own.

(c) *Operating mineral interest defined.* For the definition of the term "operating mineral interest" as used in this section, see paragraph (b) of § 1.614-2.

(d) *Alternative treatment under Internal Revenue Code of 1939.* If, on the day preceding the first day of the first taxable year beginning after December 31, 1963, the taxpayer has any operating mineral interests which he treats under section 614(d) (as in effect before the amendments made by the Revenue Act of 1964) and § 1.614-4, such treatment shall be continued and shall be deemed to have been adopted pursuant to the provisions of section 614(b) and paragraph (a) of this section. Accordingly, a taxpayer, who has four operating mineral interests in a single tract or parcel of land, and who has treated two of such interests as one property and two of such interests as separate properties under section 614(d) prior to the first day of the first taxable year beginning after December 31, 1963, is deemed to have adopted such treatment pursuant to the provisions of section 614(b) and paragraph (a) of this section. Hence, in the absence of an election to the contrary, a fifth operating mineral interest in the same tract or parcel acquired by the taxpayer in a taxable year beginning after December 31, 1963, will, after an expenditure for development or operation, be combined with the combination of two interests made under section 614(d). Furthermore, an election which was made for a taxable year beginning before January 1, 1964, under section 614(d) as then in effect will be binding for all taxable years beginning after December 31, 1963, even though the time for making an election under section 614(b) and paragraph (a) of this section has not elapsed.

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[F.R. Doc. 65-11597; Filed, Oct. 27, 1965; 8:51 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury

[CGFR 65-46]

PART 3—CLAIMS REGULATIONS

Subpart H—Claims for General Average Contributions in Connection With the Shipment of Household Goods

Public Law 388, 83d Congress, approved June 4, 1954 (68 Stat. 176; 5 U.S.C. 73-b-5), and Executive Order 10614 have made general average contributions in connection with the shipment of household goods a part of the cost of transportation borne by the Government. These regulations will implement the authority so granted.

Sec.

3.125 Purpose.

3.126 Definitions.

3.127 Delegation of authority.

3.128 Action.

3.129 Exclusions.

3.130 Claims or shipments which exceed authorized limitations.

3.131 Payment of claims.

AUTHORITY: The provisions of this Subpart H issued under Pub. Law 388, 83d Cong., approved June 4, 1954 (68 Stat. 176; 5 U.S.C. 73-b-5), E.O. 10614.

§ 3.125 Purpose.

The purpose of this subpart is to implement Executive Order 10614, dated May 25, 1955, which was issued pursuant to Section 4, Public Law 388, 83d Congress, approved June 4, 1954 (68 Stat. 176; 5 U.S.C. 73-b-5).

§ 3.126 Definitions.

As used in this part, the following terms will have the meanings here indicated:

(a) "General-average contribution" means the contribution by all parties to a sea venture (1) to make good the loss sustained by any one of their number on account of voluntary sacrifices made of part of the ship or cargo to save the residue or the lives of those on board from impending peril, or (2) for extraordinary expenses necessarily incurred for the common benefit and safety of all.

(b) "Personnel" means (1) civilian officers and employees of the Treasury Department, including the Coast Guard, and former and deceased civilian officers and employees; (2) Coast Guard personnel and former and deceased members thereof; and (3) a "person" as defined in section 1 of the Missing Persons Act, as amended (50 U.S.C. App. 1001).

(c) "Household goods" means such baggage, household goods, and effects, including privately owned automobiles and professional books, papers, and equipment of personnel as are authorized to be transported at Government expense by law or regulation pursuant to law.