



FEDERAL REGISTER

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tion 381(c) (15) to any subsequent transaction in which such acquiring corporation is the distributor or transferor corporation.

§ 1.381(c) (17) **Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; deficiency dividend of personal holding company.**

Sec. 381. *Carryovers in certain corporate acquisitions.* * * *

(c) *Items of the distributor or transferor corporation.* The items referred to in subsection (a) are:

(17) *Deficiency dividend of personal holding company.* If the acquiring corporation pays a deficiency dividend (as defined in section 547(d)) with respect to the distributor or transferor corporation, such distributor or transferor corporation shall, with respect to such payments, be entitled to the deficiency dividend deduction provided in section 547.

§ 1.381(c) (17)-1 **Deficiency dividend of personal holding company.**

(a) *Carryover requirement.* If a determination (as defined in section 547(c)) establishes that a distributor or transferor corporation in a transaction to which section 381(a) applies is liable for personal holding company tax imposed by section 541 (or by a corresponding provision of prior income tax law) for any taxable year ending on or before the date of distribution or transfer, then in computing such tax the deduction described in section 547 shall be allowed pursuant to section 381(c) (17) to such corporation for the amount of deficiency dividends paid by the acquiring corporation with respect to the distributor or transferor corporation. Except as otherwise provided in this section, the provisions of section 547 and the regulations thereunder apply with respect to a deficiency dividend deduction allowable pursuant to section 381(c) (17).

(b) *Deficiency dividends paid by the acquiring corporation with respect to the distributor or transferor corporation.* A deficiency dividend paid by the acquiring corporation with respect to the distributor or transferor corporation is a distribution that would satisfy the definition of a deficiency dividend under section 547(d) (1) if paid by the distributor or transferor corporation to its own shareholders except that it shall be paid by the acquiring corporation to its own shareholders and shall be paid after the date of distribution or transfer and on, or within 90 days after, the date of the determination but before the acquiring corporation files claim under paragraph (c) of this section.

(c) *Claim for deduction.* A claim for a deduction under this section shall be made by the acquiring corporation on Form 976, in duplicate, and shall be filed within 120 days after the date of the determination. The form shall contain, or be accompanied by, the information required under paragraph (b) (2) of § 1.547-2 in sufficient detail to properly identify the facts with the distributor or transferor corporation and

the acquiring corporation. The statement required with respect to the shareholders on the date of payment of the deficiency dividend shall relate to the shareholders of the acquiring corporation, and the required certified copy of the resolution authorizing the payment of the dividend shall be that of the board of directors, or other authority, of the acquiring corporation. Necessary changes may be made in Form 976 in order to carry out the provisions of this paragraph. The claim shall be filed with the district director for the internal revenue district in which the return of the distributor or transferor corporation to which such claim relates was filed.

(d) *Effect on dividends paid deduction.* A deficiency dividend paid by the acquiring corporation, which is allowable as a deduction to a distributor or transferor corporation pursuant to section 381(c) (17), shall not become a part of the dividends paid deduction of the acquiring corporation under section 561 for any taxable year.

(e) *Successive transactions to which section 381(a) applies.* The provisions of this section shall apply in the case of successive transactions to which section 381(a) applies. Thus, if X Corporation transfers its assets to Y Corporation in a transaction to which section 381(a) applies and if Y Corporation transfers its assets to Z Corporation in a subsequent transaction to which section 381(a) applies, then, subject to the provisions of this section, X Corporation may take a deficiency dividend deduction for the amount of deficiency dividends paid by Z Corporation with respect to X Corporation.

(f) *Example.* The provisions of this section may be illustrated by the following example:

Example. M Corporation, a personal holding company, computes its taxable income on the basis of the calendar year. On December 31, 1956, N Corporation acquires the assets of M Corporation in a transaction to which section 381(a) applies. On July 31, 1958, a determination (as defined in section 547(c)) establishes that M Corporation is liable for the taxable year 1955 for personal holding company tax in the amount of \$35,500 based on undistributed personal holding company income of \$42,000 for such taxable year. N Corporation complies with the provisions of this section and on September 30, 1958, distributes \$42,000 to its shareholders as deficiency dividends with respect to M Corporation's taxable year 1955. The distribution of \$42,000 by N Corporation is a taxable dividend under section 316(b) (2) regardless of whether N Corporation is a personal holding company for the taxable year 1958 or whether it had any current or accumulated earnings and profits. See example (3) in paragraph (d) of § 1.316-1. Because N Corporation has paid deficiency dividends of \$42,000 in accordance with this section, M Corporation is entitled to a deficiency dividend deduction of \$42,000 for the taxable year 1955 and is thus relieved of its liability for personal holding company tax of \$35,500 for such taxable year. To prevent a duplication of deductions, the amount distributed by N Corporation in 1958 does not become a part of N Corporation's dividends paid deduction under section 561 for any taxable year.

[F.R. Doc. 60-10993; Filed, Nov. 28, 1960; 8:45 a.m.]

[26 CFR (1954) Part 1]

DEFINITION OF "SCIENTIFIC"

Notice of Hearing on Proposed Regulations

Proposed regulations under section 501(c) (3) of the Code, relating to the definition of "scientific," were published in the FEDERAL REGISTER for Tuesday, November 15, 1960.

A public hearing on the provisions of these proposed regulations will be held on Tuesday, December 20, 1960, at 10:00 a.m., e.s.t., in Conference Room B, Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington 25, D.C.

Persons who plan to attend the hearing are requested to so notify the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., by December 16, 1960.

[SEAL]

MAURICE LEWIS,
Director,

Technical Planning Division,
Internal Revenue Service.

[F.R. Doc. 60-11039; Filed, Nov. 28, 1960; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 120]

LAND RECORDS AND TITLE DOCUMENTS

Maintenance

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 161 of the Revised Statutes (5 U.S.C. 22) and pursuant to other authorizing statutes, it is proposed to add a new Part 120 to Subchapter K, Title 25—Indians, of the Code of Federal Regulations as set forth below.

The purpose of this regulation is to provide for the maintenance in the area offices of the Bureau of Indian Affairs of land records and title documents affecting trust or restricted lands within Indian reservations under their respective jurisdictions and to govern the transfer thereto of such records and documents.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Bureau of Indian Affairs, Washington 25, D.C., within thirty days from the date of publication of this notice in the FEDERAL REGISTER.

§ 120.1 Maintenance of land records and title documents.

The area offices of the Bureau of Indian Affairs will be the office for the maintenance of records of the Department for trust or restricted Indian lands within Indian reservations under the jurisdiction of the respective area offices.

At the time such an area office is ready to undertake the maintenance of such records as to any reservation, the Secretary of the Interior shall cause to be transferred to such office all the records and title documents pertaining to trust or restricted lands on such reservation. Upon such transfer of records to the appropriate area office, the Secretary of the Interior shall have a notice published in the FEDERAL REGISTER of such action setting forth the effective date thereof. Thereafter, the custody and maintenance of land records and title documents as to such reservation will rest with the area office. Also, after such transfer, all documents which affect the title to trust or restricted Indian-owned lands, or interests therein, within such reservation shall be submitted to the area office for recording.

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

NOVEMBER 22, 1960.

[F.R. Doc. 60-11033; Filed, Nov. 28, 1960;
8:48 a.m.]

Bureau of Mines

[30 CFR Part 15]

[Bureau of Mines Schedule 1-H]

EXPLOSIVES AND RELATED ARTICLES

Procedures for Testing for Permissibility and Related Tests

Pursuant to section 4(a) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003(a)), notice is hereby given that under authority contained in secs. 2 and 5, 36 Stat. 370, as amended, 30 U.S.C. 3, 7; it is proposed to revise the regulations in Part 15, Title 30 Code of Federal Regulations, as set forth below.

The principal revisions are: In approval testing and in most field-sample testing of coal-mine explosives, Gallery test No. 1 is superseded by new Gallery test No. 7 employing modern statistical probability concepts to determine if the explosives have a suitably low tendency to ignite 8 percent methane in air; a minimum production-quantity criterion is established for maintenance of approved explosives on the Bureau's active list of permissibles; basic specifications of permissible explosives are established by the applicant, providing Bureau test results agree, within established tolerances, with applicant's specifications; changes in definitions are made in keeping with the foregoing revisions, and for general clarification; and fees charged for conducting tests are revised upward to reflect increased costs.

It is the policy of the Department of the Interior whenever practicable, to afford the public and opportunity to participate in the rule making process. Accordingly, interested persons may submit, in triplicate, written comments, suggestions, or objections with respect to the proposed revision to the Director, Bureau of Mines, Washington 25, D.C.,

within 30 days after date of publication of this notice in the FEDERAL REGISTER.

MARLING J. ANKENY,
Director, Bureau of Mines.

Approved: November 21, 1960.

FRED G. AANDAHL,
Assistant Secretary of the Interior.

Part 15 of Subchapter C, Chapter I of Title 30, Code of Federal Regulations, is amended to read as follows:

- Sec.
- 15.1 Purpose.
 - 15.2 Definitions.
 - 15.3 Application for tests.
 - 15.4 Fees.
 - 15.5 Shipment, quantities, and sizes of explosives.
 - 15.6 Conditions under which tests for approval will be made.
 - 15.7 Place of investigation.
 - 15.8 Consultation.
 - 15.9 Observers at formal investigations and demonstrations.
 - 15.10 Chemical and physical tests.
 - 15.11 Establishment of basic specifications.
 - 15.12 Requirements for approval of explosives.
 - 15.13 Notification to applicant.
 - 15.14 Approved markings.
 - 15.15 Changes after certification.
 - 15.16 Withdrawal of certification.
 - 15.17 Release of test data.
 - 15.18 List of permissible explosives.
 - 15.19 Use of permissible explosives.
 - 15.20 Field testing.
 - 15.21 Tolerances and requirements as applied to field samples.
 - 15.22 Field sample failures.
 - 15.23 Variances from prescribed tolerances.
 - 15.24 Miscellaneous tests on explosives and other hazardous materials.

AUTHORITY: §§ 15.1 to 15.24 issued under sec. 5, 36 Stat. 370, as amended; 30 U.S.C. 7. Interpret or apply secs. 2, 3, 36 Stat. 370, as amended; 30 U.S.C. 3, 5.

§ 15.1 Purpose.

The regulations in this part state the requirements for certification of explosives as permissible for use in underground coal mines; provide standards for the examination of explosives previously certified to check conformance to their basic specifications; and provide for miscellaneous tests not leading to certification.

§ 15.2 Definitions.

As used in this part, the following terms are defined:

(a) "Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat. This definition does not include blasting devices as defined in Part 17 of this subchapter.

(b) "Certificate of approval" means a formal document issued by the Bureau stating that an explosive has met the specifications and requirements in this part, and authorizing the use of markings signifying this fact, as provided hereafter.

(c) "Applicant" means an individual, partnership, company, corporation, association, or other organization that compounds, manufactures, or controls the production of an explosive and that seeks a certificate of approval for permissibility.

(d) "Basic specifications" for an explosive that is submitted for certification means those chemical and physical properties which characterize it. They will be stated in the certificate of approval.

(e) "Poisonous gases" shall mean those gases, such as carbon monoxide, hydrogen sulfide, and oxides of nitrogen, which may have deleterious physiological effects even when present in the atmosphere in relatively low concentrations.

(f) "Ingredients" are substances specified or found to be present in any given sample of an explosive.

(g) "Bureau's test detonator" is a detonator containing a base charge of 0.25 ± 0.02 gram of pentaerythritol tetranitrate (PETN).

(h) "Bureau" means the United States Department of the Interior, Bureau of Mines.

§ 15.3 Application for tests.

Before an applicant may obtain any tests by the Bureau on an explosive, the applicant must file a written request, in duplicate (no application form is provided by the Bureau), with a statement as to the nature of the explosive to be tested, including the composition. This request should be addressed to the Chief, Explosives Research Laboratory, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh 13, Pennsylvania. The Bureau will review the application to determine whether the request is within the scope of this part. If the application is approved, an application number will be assigned and instructions given regarding the fees required and method of shipment of materials. Upon receipt of this information, the applicant shall transmit to the address given in this section a check, bank draft, or money order made payable to the Bureau of Mines, to cover all fees for the tests requested.

§ 15.4 Fees.

(a) The fee for complete tests leading to approval of an explosive as permissible is \$1200. If the applicant withdraws an explosive, or if the explosive fails to pass any of the tests prescribed in this part, the Bureau will charge for the tests actually performed, with a minimum charge of \$100, according to the charges stated in paragraph (b) of this section. The balance of the fees will be returned to the applicant.

(b) The fees covering individual tests are as follows:

- | | |
|--|------|
| (1) Pendulum friction test to determine sensitiveness to frictional impact..... | \$20 |
| (2) Physical examination (for each size cartridge)..... | 20 |
| (3) Chemical analysis of explosives..... | 100 |
| (4) Explosion by influence (halved-cartridge method)..... | 20 |
| (5) Ballistic mortar test..... | 40 |
| (6) Gallery test 4, per shot..... | 30 |
| (7) Gallery test 7..... | 500 |
| (8) Rate of detonation tests..... | 50 |
| (9) Gaseous products of explosion..... | 100 |
| (10) For other tests or additional work, the costs as determined by the Bureau based on an estimate of the actual cost of the test. The Bureau will notify the applicant in writing and the fee shall be paid before such tests are performed. | |