

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Indiana	Hancock	Unincorporated areas	Apr. 21, 1975, Emergency			
Do	Grant	Matthews, town of	do	Dec. 28, 1973		
Do	Newton	Unincorporated areas	do	Jan. 3, 1975		
Iowa	Jackson	Bellevue, city of	do	Mar. 29, 1974		
Kansas	Jefferson	Perry, city of	do	Dec. 7, 1973		
Maine	York	South Berwick, town of	do	Aug. 9, 1974		
Minnesota	Dakota	Lilydale, city of	Apr. 9, 1971, Emergency	Feb. 9, 1973		
			Feb. 9, 1973, Regular			
			Jan. 15, 1975, Suspension			
			Apr. 9, 1975, Reinstated			
Missouri	Cass	Unincorporated areas	Apr. 21, 1975, Emergency			
Do	New Madrid	North Libourn, village of	do			
New Jersey	Hudson	East Newark, borough of	do	June 28, 1974		
Do	Bergen	Tenafly, borough of	do	Jan. 16, 1974		
New York	Oneida	Trenton, town of	do	Aug. 30, 1974		
Do	Westchester	Pound Ridge, town of	do	May 24, 1974		
Do	Sullivan	Lumberland, town of	do	Sept. 13, 1974		
North Carolina	Union	Monroe, city of	do	Sept. 20, 1974		
North Dakota	Billings	Medora, city of	do	Nov. 29, 1974		
Ohio	Cuyahoga	Berea, city of	do	Feb. 1, 1974		
Do	do	Brook Park, city of	do	June 7, 1974		
Do	Champaign	Urbana, city of	do	do		
Oklahoma	Mayes	Fryer Creek, city of	do			
Do	Tulsa	Unincorporated areas	do			
Pennsylvania	Putnam	Abbott, township of	do	Dec. 20, 1974		
Do	Delaware	Aston, township of	do	Oct. 25, 1974		
Do	Schuylkill	East Union, township of	do	Nov. 15, 1974		
Do	Sullivan	Forkville, township of	do	Aug. 16, 1974		
Do	Schuylkill	Foster, township of	do	Jan. 31, 1975		
Do	York	Hopewell, township of	do	Dec. 27, 1974		
Do	Butler	Harmony, borough of	do			
Do	Chester	Kennett Square, borough of	do	Dec. 28, 1973		
Do	York	Manheim, township of	do	Dec. 27, 1974		
Do	Schuylkill	Norwegian, township of	do	Jan. 10, 1975		
Do	do	Rush, township of	do	Nov. 22, 1974		
Do	Lawrence	Union, township of	do	Jan. 24, 1975		
South Dakota	Sanborn	Unincorporated areas	do			
Tennessee	Davidson	Goodlettsville, city of	do			
Do	Macon	Red Bolling Springs, city of	do	June 7, 1974		
Texas	Nueces	Bishop, city of	do	Feb. 1, 1974		
Virginia	Lee	Charles, town of	do			
West Virginia	Marion	Monongah, town of	do	May 31, 1974		
Do	Kanawha	Nitro, city of	do	Mar. 15, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: April 16, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance
Administrator.

[FR Doc.75-11135 Filed 4-29-75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 357-1]

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Certification of New Light Duty Diesel-Powered Trucks Intended for Initial Sale at High Altitude—1977 Model Year

The purpose of these regulations is to establish the certification procedures for light duty diesel-powered trucks offered for sale in high altitude regions in the Nation.

On October 22, 1974 (39 FR 37609), EPA published the final rulemaking concerning the control of emissions from light duty diesel-powered trucks. Specifically deleted from those regulations were the certification procedures for new light duty diesel-powered trucks offered for sale at high altitude. These procedures, although included in the notice of proposed rulemaking published on January 25, 1974 (39 FR 3276) were deleted from the final rulemaking for two reasons. First, the agency was in the process of formulating a consistent set of high altitude regulations for light duty gasoline-

fueled vehicles, light duty trucks and light duty diesel-powered vehicles which were not scheduled for completion until after the light duty diesel truck regulations were published. Second, the light duty diesel truck regulations were applicable to the 1976 model year and the certification procedures for high altitude vehicles do not take effect until the 1977 model year.

The January 25, 1974 notice of proposed rulemaking afforded an opportunity for the public to comment on the high altitude certification procedures applicable to light duty diesel-powered trucks. Since comments on those high altitude procedures were received and reviewed, the agency finds no reason for issuing a new notice of proposed rulemaking on this subject.

Several comments on high altitude certification procedures for light duty diesel-powered trucks were received and considered in the formulation of this final rulemaking. The comments and their disposition are as follows:

1. International Harvester Corporation requested that emission data vehicles be selected for high altitude testing only from engine families in which vehicles are sold in significant numbers at high altitude.

The Agency emphasizes that where both applicable and possible, regulations should be consistent for all vehicle types. The same revisions were made to the high altitude certification procedures for light duty diesel-powered trucks that were previously made to regulations applicable to other light duty vehicles. These regulations contain test requirements for high altitude vehicles which cannot be reduced below the technically supportable sound minimums specified. Thus IHC's comment was not incorporated into the final regulations.

2. International Harvester Corporation suggested that since diesel engines operate by direct injection into cylinders, high altitude conditions can be simulated by restricting the inlet air and evacuating the exhaust. IHC requested that such simulation be allowed for mileage accumulation and emission data tests.

The requirement for mileage accumulation at high altitude has been deleted for reasons stated in the preamble of the October 18, 1974 high altitude regulations (39 FR 37299). IHC's request for simulation of altitude conditions for mileage accumulation is therefore no longer necessary.

As to simulation of altitude effects by simple intake throttling and evacuation of exhaust gas, such a procedure provides only an estimate of exhaust emission levels. The regulations therefore make no provisions for simulation techniques other than those that provide for equivalent barometric pressures for emission data testing.

3. Perkins Engines, Inc. commented that their emission control system is extremely sensitive to adjustments of the injection system and therefore high risk is involved should the owner attempt to carry out modifications for altitude operation in accordance with instructions printed in an operator's handbook or manual.

EPA acknowledges Perkins' concern that adjustments of the injection system by vehicle owners may not be performed with the same precision as would be obtained by an expert trained in such adjustments. However, the purpose of a requirement to publish such instructions as are necessary to modify a vehicle so that it meets emission standards, should the vehicle be permanently transferred from one altitude region to another, is to notify the vehicle purchaser of the special maintenance needs and not to require that untrained owners perform such maintenance themselves. The Agency deems it proper to require that such instructions be published, and cannot support deletion of such a requirement solely because the subject maintenance may be difficult to perform.

4. Perkins also requested a deferment of the high altitude provisions based on considerations of cost and time required to develop systems to meet the standards at high altitude.

The January 25, 1974 notice of proposed rulemaking specified that beginning with the 1976 model year, vehicles which are sold at high altitude must be certified for compliance with emissions standards at high altitude. Both the regulations promulgated today and those promulgated on October 18, 1974, specify that the high altitude certification procedures will not begin until the 1977 model year, due to considerations outlined in the preamble to the October 18, 1974 regulations. No further delay in the implementation of the regulations for light duty diesel-powered trucks is deemed necessary or appropriate by the Agency.

The regulations promulgated herein require manufacturers to certify new light duty diesel-powered trucks designed for initial sale at high altitudes to comply with emission standards at those altitudes. Trucks which are not so certified may not be legally sold at high altitudes.

These amendments are applicable to light duty diesel-powered trucks beginning with the 1977 model year, are issued under the authority of sections 206 and 301 of the Clean Air Act as amended (42 U.S.C. 1857f-5, 1857g) and are effective May 30, 1975.

Dated: April 24, 1975.

RUSSELL E. TRAIN,
Administrator.

Part 85, Title 40 of the Code of Federal Regulations as applicable to 1977 and later model year light duty diesel-powered trucks, is amended as follows:

1. In § 85.302, paragraph (a) is revised. As amended, the section reads as follows:

§ 85.302 Definitions.

(a) * * *

(24) "High altitude" means any elevation over 1,219 meters (4,000 feet).

(25) "High altitude conditions" means a test altitude of 1,585 meters (5,200 feet), plus or minus 274 meters (900 feet), or equivalent observed barometric test conditions of 83.48 kPa (24.72 inches Hg), plus or minus 2.77 kPa (0.82 inches Hg).

2. In § 85.303, the following abbreviation is added to the list of abbreviations:

§ 85.303 Abbreviations.

kPa—Kilopascal (s).

3. In § 85.377-4, paragraph (b) is added to read as follows:

§ 85.377-4 Required data.

(b) (1) Emission data on such vehicles tested in accordance with the applicable test procedures of this subpart and in such numbers as therein specified, which will show their emissions after zero kilometers (zero miles), and 6,436 kilometers (4,000 miles) of operation.

(2) Emission data on those vehicles selected under § 85.377-5(b) (5) and tested in accordance with the applicable test procedures of this subpart and in such numbers as therein specified, which shall be tested at zero kilometers (zero miles) at any altitude, and under high altitude conditions after 6,436 kilometers (4,000 miles) of operation at any altitude.

4. In § 85.377-5, paragraphs (b) (5) and (b) (6) are added to read as follows:

§ 85.377-5 Test vehicles.

(b) Emission data vehicles. * * *

(5) The Administrator will also select one vehicle for each engine-system combination within an engine family for which vehicles are to be sold to ultimate purchasers at high altitude.

(6) The Administrator may combine testing requirements for any vehicle selected under paragraph (b) (5) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraphs (b) (2), (3), or (4) of this section by requiring a vehicle selected for testing under paragraphs (b) (2), (3), or (4) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance in accordance with § 85.377-4(b) (2).

In § 85.377-6, paragraph (b) is added to read as follows:

§ 85.377-6 Maintenance.

(b) (1) Adjustment of engine idle speed on emission data vehicles may be performed once before the 6,436 kilometer (4,000 mile) test point. Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission data vehicles shall be performed only with the advance approval of the Administrator.

(2) Maintenance on emission data vehicles selected under § 85.377-5(b) (5) and permitted to be tested for purposes of § 85.377-4(b) (2) under the provisions of § 85.377-5(b) (6) may be performed in conjunction with emission control system modifications at the 6,436 kilometer (4,000 mile) test point, and shall be performed in accordance with the maintenance instructions to be provided to the ultimate purchaser required under § 85.377-38(a) (3) and (4).

(3) Maintenance on those emission data vehicles selected under § 85.377-5(b) (5) which are not capable of being modified in the field for the purpose of complying with emission standards at an altitude other than intended by the original design may be performed in conjunction with the emission control system modifications at the 6,436 kilometer (4,000 mile) test point, and shall be approved in advance by the Administrator.

6. In § 85.377-7, paragraph (a) is added to read as follows:

§ 85.377-7 Mileage accumulation and emission measurements.

(a) (1) Emission data vehicles: Each emission data vehicle shall be driven 6,436 kilometers (4,000 miles) with all emission control systems installed and operating. Emission tests shall be conducted at zero kilometers (zero miles) and 6,436 kilometers (4,000 miles).

(2) The emission data vehicle(s) selected for testing under § 85.377-5(b) (5) shall be driven 6,436 kilometers (4,000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6,436 kilometers (4,000 miles) under high altitude conditions.

(3) The emission data vehicle(s) selected for testing under § 85.377-5(b) (5) and permitted to be tested for purposes of § 85.377-4(b) (2) under the provisions of § 85.377-5(b) (6) shall be driven 6,436 kilometers (4,000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6,436 kilometers (4,000 miles) under both low and high altitude conditions. For the purposes of this subparagraph, low altitude means any elevation less than 549 meters (1,800 feet).

7. In § 85.377-30 paragraphs (a) and (b) are added to read as follows:

§ 85.377-30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 85.306(c), and any other pertinent data or information, the Administrator determines that a test vehicle(s) meets the requirements of the Act and this subpart, he will issue a certificate of conformity with respect to such vehicle(s) except in cases covered by paragraph (c) of this section. The certificate will state which vehicles are certified for sale at high altitude.

(a) (2) * * *

(a) (3) A violation of section 203(a) (1) of the Clean Air Act occurs when any manufacturer sells, offers for sale, or delivers for introduction into commerce at high altitude locations any motor vehicle subject to the regulations under the Act which is not covered by a certificate of conformity issued under this subpart, unless such manufacturer has substantial reason to believe that such motor vehicle will not be sold to an ultimate purchaser for use at a high altitude location.

(a) (4) For the purpose of paragraph (a) (3) "high altitude location" means the intended location of registration, licensing, or titling of such motor vehicle by the ultimate purchaser, such location identified by name and altitude.

(a) (5) For the purpose of paragraph (a) (3) determination of "high altitude location" shall rest with the U.S. Geological Survey, as published in that Agency's 1:250,000 scale series of topographic maps for the United States.

(b) (1) * * *

(i) A test vehicle selected under §§ 85.377-5(b) (2) or (4) shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system combination to be sold below 1,219 meters (4,000 feet) in elevation.

(ii) A test vehicle selected under §§ 85.377-5(b) (3) shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-transmission type-fuel system combination to be sold below 1,219 meters (4,000 feet) in elevation.

(iii) * * *

(iv) A test vehicle selected under §§ 85.377-5(b) (5) shall represent all vehicles of the same engine-system combination to be sold at high altitude.

8. In § 85.377-35, paragraph (a) is added to read as follows:

§ 85.377-35 Labeling.

(a) * * *

(4) * * *

(iv) Engine tuneup specifications and adjustments, as recommended by the manufacturer in accordance with the altitude at which the vehicle is to be sold to the ultimate purchaser, including, but not limited to, low and high idle speeds, initial injection timing, valve lash, and aneroid adjustment, if any, as well as other parameters deemed necessary by the manufacturer. These specifications

should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation.

(v) * * *

(vi) The altitude at which the vehicle is intended for sale to the public as specified by a certificate of conformity under § 85.377-30(a).

9. In § 85.377-38, paragraph (a) is added to read as follows:

§ 85.377-38 Maintenance instructions.

(a) * * *

(3) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at low altitude, what adjustments or modifications, if any are necessary to allow the vehicle to meet emissions standards at high altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at high altitude.

(4) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at high altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at low altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at low altitude.

[FR Doc. 75-11313 Filed 4-29-75; 8:45 am]

[FRL 337-1]

SUBCHAPTER E—PESTICIDE PROGRAMS**PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT****PART 172—EXPERIMENTAL USE PERMITS****Revocation and Addition**

On March 27, 1974, notice was published in the Federal Register (39 FR 11306) proposing regulations to establish a new part 172 of Chapter 1 of Title 40 of the Code of Federal Regulations and revoke § 162.17 pursuant to the authority of section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 983). The intent of this rulemaking is to revise present procedures with respect to the use of pesticides for experimental purposes so as to conform to the provisions of FIFRA, as amended.

Written comments on the proposed regulations were invited and received from interested parties. As a result of these written comments and in an effort to clarify the intent of the regulations, certain changes were made and the revised draft widely distributed for public discussion. An informal public meeting was held on August 27, 1974 at which comments on this revised draft were re-

ceived; a transcript of the proceedings was made. All of the written comments received pertaining to section 5 are on file with the Agency. The modifications made between the proposed regulations of March 27, 1974, and this final rulemaking are described below.

Subpart A—§ 172.1 Definitions. In the proposed regulations, the term "participant" included any person who supervises the use of an experimental use pesticide at the application site and any person who has given permission for an experimental use pesticide to be used on his property. Several commenters correctly indicated that these two functions will not necessarily be performed by the same person. Accordingly, for purposes of clarification, the new term "cooperator" was developed. It includes within its scope the latter of the above functions, i.e., granting permission for an experimental use pesticide to be used on one's property. It is intended that, as between the cooperator and participant, the participant is to be the one responsible for the day-to-day supervision of testing programs within his particular area.

The phrase "value for pesticide purposes" has been added to clarify § 172.3, which is discussed below.

§ 172.2 General. Several commenters raised questions regarding the restrictions on sale of experimental use pesticides. The comments fell into two categories: (a) Industry suggested that a more permissive sale provision be adopted and (b) certain environmental groups desired that sale be prohibited entirely. Both these alternatives have been rejected; however, several word changes were necessitated by the introduction of the new terms "participant" and "cooperator." As was stated in the preamble to the proposed regulations, the intent of these regulations is to prevent the unmonitored and unregulated introduction of experimental pesticides into the environment. EPA has determined that absolute prohibition on sale could needlessly burden pesticide development. There is no environmental or human health reason why a participant or cooperator in an experimental program should not compensate the developer. Sale itself has not caused problems. Rather, the problem has centered on the imprecise sale limitations of current regulations. To solve this problem without imposing an unnecessary burden on research programs, these regulations will limit sale or distribution only to participants and cooperators in experimental programs and prohibit resale or other retail sale or other distribution. Such a restriction should provide an adequate safeguard to prevent a manufacturer from carrying on a market program with an experimental pesticide. Further, permits are intended to authorize the use of only enough experimental pesticide to gather data to support registration.

§ 172.3 Scope of requirements. Most of the commenters objected to the language of proposed § 172.3(a). The objections fell into two general categories: (1)

That the language of the proposed section was so restrictive that experimental work would be stifled and (2) that certain users and independent researchers would be precluded from conducting preliminary testing to determine value for pesticide purposes.

These objections were the result of misunderstandings as to the purpose of proposed § 172.3(a). This section was not intended to limit the issuance of experimental use permits to certain persons or to create exceptions to experimental use permit requirements. Rather, this section defines the scope of the requirement for an experimental use permit within the meaning of "pesticide" as defined in the Act. The scope of the requirement for an experimental use permit, set forth in these regulations, is not different from the requirements of the regulation at 40 CFR 162.17(a) promulgated under the 1947 FIFRA.

The development of an effective pesticide, culminating in registration, is a multi-stage process. The statutory scheme of FIFRA, as amended, recognizes this. Initial testing of a substance is for the purpose of determining its value for pesticidal purposes or its toxicity or other properties. This testing, among agricultural researchers, for example, would include laboratory screening for pesticidal activity, laboratory and greenhouse screening for spectra of activity, and limited outdoor testing to determine pesticidal activity under environmental use conditions. When the researcher desires to do large plot testing to accumulate information necessary to register a pesticide under section 3, the Act requires that an experimental use permit be secured. At this stage, the researcher will have determined that the substance has value for pesticidal purposes and will reasonably expect to receive benefit in pest control from its use. The substance, therefore, falls within the statutory definition of "pesticide," section 2(a) of FIFRA, as amended, and, accordingly, the provisions of section 5 are applicable.

In order to clarify this progression of events, Section 172.3(a) has been rewritten. Where a substance or mixture of substances is being tested for the sole purpose of determining whether or not it has pesticidal value for some intended use, and the user does not intend to derive pest control or other economic benefit from the testing, this substance would not come within the definition of pesticide and would therefore not be subject to the Act. It is the reasonable purpose and expectation of the user, as indicated by his actions, that is determinative. In order to make this determination more predictable, the Agency has established several categories of research test use, which will be presumed to be for the purpose of establishing the pesticidal value of the substance. If a research test use falls outside the established categories, then it will be presumed that the sole purpose of the test is not to determine pesticidal value and an experimental use permit will normally be required.

The Agency recognizes that not all situations can be covered in the presumptions. Provision is made, at § 172.3(b), for persons to request an Agency determination of whether testing may be conducted without a permit if they are uncertain as to whether a permit is required. Furthermore, the Agency will give consideration to the amendment of these regulations to add more examples of tests presumed to be for the purposes outlined in § 172.3(a), upon receipt of information indicating a need for such an amendment.

Questions have been raised as to the applicability of this section to registered pesticides. It is the Agency view that use of a registered pesticide in a test being conducted for a purpose not set forth on the label and where the purpose of the test is within the meaning of the first sentence of § 172.3(a), is not a pesticidal use within the meaning of the Act. Therefore, for this limited purpose and for such purposes only, the product would not be considered a pesticide and an experimental use permit would not be required.

§ 172.4 *Applications.* (a) *Time for submission.* The proposed regulations indicated that the Agency would require at least 90 days to process applications for experimental use permits. Several commenters indicated that a 30 or 60 day limit would be more appropriate. The Agency recognizes the importance of processing applications in a timely manner and has established special procedures for the review of applications. Because of the heavy workload in implementing the new law, the Agency cannot guarantee that applications will be acted upon in any specified period of time. In any event, applications will be processed as expeditiously as possible.

(b) *Contents of applications.* Several commenters indicated that the proposed regulations would have effectively precluded anyone from obtaining a permit other than the manufacturer or producer of the product. This was not the intent of the Agency. Therefore, this section has been reorganized to make a distinction between registered and non-registered products. The purpose of this change is to provide for and even encourage experimental testing by third parties, particularly on the minor or specialty use area.

Each application for an experimental use permit will be required to submit the information or data outlined in § 172.4 (b) (1) and, where appropriate, § 172.4 (b) (2). An applicant for a permit to test an unregistered pesticide will, in addition, be required to comply with § 172.4 (b) (3).

The purpose of this section is to require the applicant to submit sufficient data so that the Agency can effectively evaluate the proposed use of an experimental pesticide. The same criteria will be applicable regardless of whether the pesticide is a chemical or biological agent.

§ 172.5 *The permit.* A new subsection (e) has been added to this part. It provides a cross reference to the Section 8 regulations at 40 CFR 169 pertaining to

records required to be kept by producers of pesticides.

§ 172.6 *Labeling.* As with § 172.4, several commenters indicated that the proposed regulations on labeling of experimental use pesticides would have effectively precluded issuance of permits to persons other than the manufacturer of a product. Therefore, this section, too, has been reorganized to make a distinction between labeling necessary for experimental use of a registered and non-registered product. Subsection (a) lists specifically all the information normally required on the label of an experimental use pesticide. The new subsection (b) gives the Administrator discretion to approve on a case-by-case basis the supplemental labeling necessary for experimental use of a product already registered for another use.

§ 172.7 *Importation of technical material.* This section is a new provision designed to make clear that technical chemicals being imported for experimental purposes do not need to be registered if an experimental use permit has been requested. The applicant assumes all responsibility for storage and disposition of the materials should the Agency deny the permit request, including, if necessary, disposal in a manner protective of public health and the environment.

§ 172.8 *Program surveillance and report of data.* Several commenters indicated that filing the immediate shipment reports required by the proposed regulations would be excessively burdensome. It is not the shipment data, per se, that the Agency was interested in but, rather, the time and location of the pesticide application. Accordingly, this provision has been deleted. All the information, including the shipment data, will now be required in the quarterly report. The quarterly reports shall indicate only what has transpired during the reporting period. Duplicative filing is not necessary. If no progress has been made during a period, the permittee must indicate this in his quarterly report.

EPA has the responsibility to monitor experimental programs to detect any unforeseen effects or failure by program participants to adhere to permit conditions. Consequently, a new § 172.8(e), has been added to assure that EPA has notification of proposed application dates, times, and locations so as to be able to monitor use as deemed necessary in particular cases.

Several commenters maintained that 90 days would not be sufficient time within which to prepare a final report. In response, the Agency has extended the time allowed to 180 days and provided that the data obtained under an experimental use permit may be submitted as a portion of an application for registration. It is hoped that these changes will facilitate the registration process and ensure complete reporting of the results of the programs conducted under experimental use permits without requiring duplicate submission.

The inspection provision at § 172.4(b) (5) (ii) of the proposed regulations has been transposed to paragraph (f) of this section. There is no change in substance from the proposed version. Several commenters suggested that EPA officials give notice before inspection. While it is contemplated that notice will normally be given before inspection, the Agency reserves the right to inspect without notice if circumstances warrant. The regulations provide that all inspection will be conducted at reasonable times.

§ 172.9 *Renewal*. There has been no change in this section. A commenter suggested that the Agency limit the number of renewals that would be granted to two so as to prevent indefinite renewals as a substitute for full registration. This suggestion has been rejected. The number of prior permits is not relevant to the grant or denial of an experimental use permit. A permit will be renewed provided the program still falls within the scope of bona fide experimental research and meets the requirements of these regulations. Indefinite renewals as a substitute for full registration will, of course, not be permitted.

§ 172.10 *Refusals to issue and revocation*. In response to several commenters the time within which to contest the refusal to issue or revocation of an experimental use permit has been extended from ten days after notification of such refusal or revocation to twenty days after receipt of such notification.

The language of section (a) and (b) has been modified to reflect more exactly the language of section 5(e) of the Act.

§ 172.11 *Publication*. The proposed regulations provided that the Administrator could in his discretion publish notice of the receipt of an application for an experimental use permit and would be required to publish notice of the issuance of such a permit. There was extensive comment on this provision. Generally, it fell into two categories: (1) That notice of the receipt of an application for an experimental use permit should be mandatory and not merely discretionary and (2) that the entire section should be deleted because of concern that publication of receipt of an application for an experimental use permit or of issuance of an experimental use permit would adversely affect research through possible loss of competitive advantage. These final regulations retain the provision for mandatory notice of issuance of an experimental use permit and discretionary notice of receipt of an application for an experimental use permit with opportunity for comment by interested persons. Language to clarify the contents of these notices has been included. In addition, language has been added to explicitly state in the regulations, that the Administrator may also within his discretion, issue notice of intent to call a public hearing prior to issuance of the experimental use permit.

There is neither a legal requirement nor a legal prohibition of FEDERAL REGISTER notice on experimental use permits.

Notice of the issuance of an experimental use permit assures that the public will be informed of what experimental pesticides are actually being used. Notice, within the discretion of the Administrator, of the receipt of an application for an experimental use permit, with opportunity for public comment and/or a public hearing, authorizes the Administrator to solicit comment prior to acting on an application for experimental use of a pesticide when he determines that the application is of significant public interest. Unless the application is of such significance, industry's research plans will not be made known to their competitors until the experimental use permit has been granted. This scheme is in accord with the general EPA policy of disclosure.

Subpart B—State Issuance of Permits. This part of the regulations is, of necessity, intertwined with regulations pursuant to Section 24(c). Among other things, the scope of a State experimental permit program will be determined by the definition of "special local needs." Specific regulations covering the state issuance of permits will be issued for comment at the time the Section 24(c) regulations are proposed.

Effective date. Pursuant to section 4 (d) of the Administrative Procedures Act, 5 U.S.C. Sec. 553(d), the effective date of a regulation must be at least 30 days after its publication, unless the Agency finds "good cause" for specifying an earlier date. The Agency finds that in this case there is good cause for providing that these regulations are effective immediately upon publication. Any delay in the effectiveness of the regulations may interfere with the orderly research efforts of pesticide development by creating confusion as to the Agency's current requirements for experimental permits under the amended FIFRA. In addition, the Act requires that the regulations were to have been promulgated by October 21, 1973. Any further delay in the promulgation of the regulations would needlessly frustrate this Congressional mandate. Finally, the Agency notes that the final regulations do not differ substantially or materially from the proposed regulations, which were published more than thirty days prior to the publication of the final regulations. The changes which have been made in these regulations were explained to all interested parties at a public meeting held in Washington, D.C. on August 27, 1974. The Agency therefore declares that these regulations are effective upon publication with the following exceptions:

1. Temporary permits issued pursuant to 40 CFR 162.17 will remain in effect until their expiration date subject to §§ 172.2, 172.5, 172.7, 172.8, 172.9 and 172.10. Applications for renewal of temporary permits issued pursuant to 40 CFR 162.17 received after the date of publication of these regulations will be granted if the requirements of § 172.9 are met.

2. Applications for temporary permits or renewals pending on the date of publication of these regulations will continue to be processed under 40 CFR 162.17.

3. Experimental testing of a pesticide currently being conducted by Federal and State agencies will be allowed to continue for the period necessary to complete such testing, such as remainder of the growing season, but in no event shall such testing be conducted without an experimental use permit after December 31, 1975. Federal and state agencies planning to initiate new testing must meet the requirements of these regulations.

4. Permit applications received after the date of publication of these regulations will be processed in accordance with the new requirements herein. To the extent that additional information is needed with respect to any such application, the applicant will be promptly notified. EPA will attempt to minimize the delays involved in this transition from the existing to the new regulations.

RUSSELL E. TRAIN,
Administrator.

Dated: April 24, 1975.

§ 162.17 [Revoked]

1. Title 40 of the Code of Federal Regulations is hereby amended by revoking § 162.17.

2. A new Part 172 is added as follows:

Subpart A

Sec.	
172.1	Definitions.
172.2	General.
172.3	Scope of requirement.
172.4	Applications.
172.5	The permit.
172.6	Labeling.
172.7	Importation of technical material.
172.8	Program surveillance and reporting of data.
172.9	Renewals.
172.10	Refusals to issue and revocation.
172.11	Publication.

Subpart B—State Issuance of Experimental Permits [Reserved]

AUTHORITY: Sections 5, 24 and 25(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (86 Stat. 973), and other legislation supplementary thereto and amendatory thereof.

Subpart A

§ 172.1 Definitions.

For the purposes of this Part, the following terms shall be defined as listed below:

(a) The term "Act" means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973), and other legislation supplementary thereto and amendatory thereof.

(b) The term "applicant" means any person who applies for an experimental use permit, pursuant to section 5 of the Act.

(c) The term "cooperator" means any person who grants permission to a permittee or a permittee's designated participant for the use of an experimental use pesticide at an application site owned or controlled by the cooperator.

(d) The term "experimental animals" means individual animals or groups of animals, regardless of species, intended for use and used solely for research purposes and does not include animals intended to be used for any food purposes.

(e) The term "participant" means any person acting as a representative of the permittee and responsible for making available for use, or supervising the use or evaluation of, an experimental use pesticide to be applied at a specific application site.

(f) The phrase "value for pesticide purposes" means that characteristic of a substance or mixture of substances which produces an efficacious action on a pest.

(g) The term "permittee" means any applicant to whom an experimental use permit has been granted.

Terms defined in the Act and not explicitly defined herein are used herein with the meaning given in the Act.

§ 172.2 General.

(a) Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 933), and except as herein provided by § 172.3, any person wishing to accumulate information necessary to register under section 3 of the Act and the regulations thereunder (1) a pesticide not registered with this Agency or (2) a registered pesticide for a use not previously approved in the registration of the pesticide may apply to the Administrator at any time for an experimental use permit.

(b) Pesticides under experimental use permits may not be sold or distributed other than through participants and, if sold or distributed through participants, may be used only at an application site of a cooperator and in accordance with the terms and conditions of the experimental use permit.

§ 172.3 Scope of requirement.

(a) A substance or mixture of substances being put through laboratory or greenhouse tests, or limited replicated field trials to confirm such tests, or other tests, in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties, and from which the producer, applicator or any other person conducting the test does not expect to receive any benefit in pest control from its use, is not considered a pesticide within the meaning of the Act and no experimental use permit will be required. This purpose will be presumed for the following types of tests.

(1) *Land use.* Tests conducted on a cumulative total of not more than 10 acres involving use of a particular substance or mixture of substances against a particular pest, provided that any food or feed crops involved in, or affected by, such tests (including but not limited to, crops subsequently grown on such land which may reasonably be expected to contain residues of such substance or mixture) shall be destroyed or consumed only by experimental animals unless a tolerance or exemption from tolerance has been established.

(2) *Aquatic use.* Tests conducted on a total of not more than one surface-acre of water involving use of a particular substance or mixture of substances against a particular pest, provided that (i) waters which are involved in, or which are affected by, such tests will not be used for irrigation purposes, drinking water supplies or body contact recreational activities and (ii) that no such tests may be conducted in any waters which contain, or which affect, any fish, shellfish or other plants or animals taken for recreation or commercial purposes and used for food or feed unless a tolerance or exemption from tolerance has been established.

(3) *Animal treatments.* Tests conducted only on experimental animals. No animals may be tested if they may be used in food or feed unless a tolerance or exemption from tolerance has been established.

(b) The above examples are not meant to be all inclusive nor to preclude testing in larger areas or larger numbers of units if the intended use falls within the meaning of § 172.3(a). Tests which do not come within the above examples will not be presumed to fall within the meaning of § 172.3(a) and the presumption will be that the test requires an experimental use permit. The Registration Guidelines specify, by way of further example, testing which requires an experimental use permit. The Agency will give consideration to the amendment of these regulations to add more examples of tests presumed to be for the purposes outlined in § 172.3(a) upon receipt of information indicating a need for such an amendment. Persons intending to conduct tests who are uncertain as to whether the testing may be conducted without a permit may submit a request for determination to the Registration Division. Such a request shall include the information listed in § 172.4(b)(1) (i) and (ii) and in the case of an unregistered product, the information in § 172.4(b)(3)(i).

(c) Use of a registered pesticide in a test being conducted to determine its pesticidal value for a use not set forth on the label and where the requirements of § 172.3(a) above are met shall not require an experimental use permit.

(d) No experimental use permit is required for a substance or mixture of substances being put through tests for the sole purpose of gathering data required for approval of such substance or mixture under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301) as:

- (1) A "new drug" (21 U.S.C. sec. 321(p) and sec. 355).
- (2) A "new animal drug" (21 U.S.C. sec. 321(w) and sec. 360(b) or
- (3) An "animal feed" (21 U.S.C. sec. 321(x)) containing a "new animal drug" (21 U.S.C. sec. 360(b)).

Paragraph (d) of this section shall not apply when a purpose of such test is to accumulate information necessary to register a pesticide under section 3 of the Act.

§ 172.4 Applications.

(a) *Time for submission.* An application or request for amendment to an existing permit shall be submitted in triplicate to the Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Washington, D.C. 20460, as far as possible in advance of the intended date of shipment or use. Applications will be processed as expeditiously as possible.

(b) *Contents of applications.* (1) *General requirements.*

(i) The name and address of the applicant;

(ii) The registration number of the product, if registered;

(iii) The purpose or objectives of the proposed testing; a description in detail of the proposed testing program including test parameters; a designation of the pest organism(s) involved; the amount of pesticide product proposed for use; the crops, fauna, flora, sites, modes, dosage rates, and situation of application on or in which the pesticide is to be used; the States in which the proposed program will be conducted; the number of acres, number of structural sites, or number of animals by State to be treated or included in the area of experimental use; the proposed dates or period(s) during which the testing program is to be conducted; and the manner in which supervision of the program will be accomplished;

(iv) The name, street address, telephone number, and qualifications of all participants in the program (whether or not in the employ of the applicant). A permit must be amended to add or change participants;

(v) The name and street address of all cooperators, if available at the time an application is submitted or as soon thereafter as available;

(vi) A description and the specific results of any appropriate prior testing of the product conducted by the applicant to determine toxicity and effects in or on target organisms at the site of application; and to determine phytotoxicity and other forms of toxicity or effects on non-target plants, animals, and insects at or near the site of application; and to determine adverse effects on the environment;

(vii) The proposed method of storage and disposition of any unused experimental use pesticide and its containers; and

(viii) Such other additional pertinent information as the Administrator may require.

(2) *Requirement for tolerance.* If the experimental use pesticide is to be used in such a manner that any residue can reasonably be expected to result in or on food or feed, the applicant must:

(i) Submit evidence that a tolerance or exemption has been established for residues of the pesticide in or on such food or feed under Section 408 of the Federal Food, Drug, and Cosmetic Act, or a regulation promulgated under Section 409 of that Act; or

(ii) Submit a petition proposing establishment of a tolerance or an exemption from the requirement of a tolerance under section 408, or a regulation under Section 409, of the Federal Food, Drug, and Cosmetic Act; or

(iii) Certify that the food or feed derived from the experimental program will be destroyed or fed only to experimental animals for testing purposes, or otherwise disposed of in a manner which will not endanger man or the environment. The method of such destruction or disposition shall be provided in the application for the permit.

(3) *Additional requirements for unregistered pesticide products.* (i) A complete confidential statement of composition for the formulation to be tested giving the name and percentage by weight of each ingredient, active and inert;

(ii) Chemical and physical properties of each active ingredient of the formulation to be tested, including, but not limited to, the manufacturing or laboratory processes and analytical methods suitable for determining the active ingredients in the formulation;

(iii) Appropriate data, if available, on the rate of decline of residues on the treated crop or environmental site or other information for determination regarding entry of persons into treated areas; and

(iv) Results of toxicity tests and other data relevant to the product's potential for causing injury to the users or other persons who may be exposed, including any available epidemiological information as to man.

§ 172.5 The permit.

(a) *Issuance.* The Experimental Use Permit shall be issued when the Administrator determines that the conditions of Section 5 of the Act, and the regulations thereunder, have been met subject to such terms and conditions as the Administrator determines are warranted.

(b) *Duration.* Permits will be effective for a specified period of time, normally one year, depending upon the crop or site to be tested and the requirements of the testing program submitted. The applicant should propose a suitable duration of the permit commensurate with the program submitted. Permits and associated temporary tolerances may be renewed, extended, or amended upon request if circumstances warrant.

(c) *Limitations.* The quantity of a pesticide allowed by a permit may be less than requested if it is determined that the available information on efficacy, toxicity or other hazards, the need for data, or the adequacy of program supervision does not justify the quantity of the pesticide requested. Other limitations may also be placed in the permit if necessary for the protection of the public health and the environment.

(d) *Additions.* With respect to an experimental use pesticide containing any chemical or combination of chemicals not included in any previously registered pesticides, the Administrator may require that additional studies be con-

ducted during the permit period to gather data to support the establishment of tolerances and/or registration. To the extent practicable, the applicant will be notified of any such requirements before or at the time an experimental use permit is issued.

(e) *Maintenance of records.* All producers of pesticides produced pursuant to an experimental use permit shall maintain records in accordance with Part 169.

§ 172.6 Labeling.

(a) *Contents.* Except as provided by (b) below, all pesticides shipped or used under an experimental use permit shall be labeled with directions and conditions for use which shall include the following:

(1) The prominent statement, "For Experimental Use Only";

(2) The Experimental Use Permit number;

(3) The statement, "Not for sale to any person other than a participant or cooperator of the EPA-approved Experimental Use Program";

(4) The name, brand, or trademark;

(5) The name and address of the permittee, producer, or registrant;

(6) The net contents;

(7) An ingredient statement;

(8) Warning or caution statements;

(9) Any appropriate limitations on entry of persons into treated areas;

(10) The establishment registration number, except in those cases where application of the pesticide is made solely by the producer; and

(11) The directions for use, except that the Administrator may approve the use of the experimental program as labeling provided that such program is to be distributed with the product.

(b) *Supplemental labeling.* In the case of a registered pesticide, the Administrator may, at his discretion, permit a pesticide to be used under an experimental use permit with supplemental labeling as approved by him.

§ 172.7 Importation of technical material.

Technical materials may be imported without registration in sufficient quantities to formulate a pesticide for which an Experimental Use Permit has been requested if the application for such permit states that such importation will occur.

§ 172.8 Program surveillance and reporting of data.

(a) The permittee shall supervise the test program and evaluate the results of testing at each site of application. It will further be the responsibility of the permittee to report immediately to the Administrator, or to any person designated by him, any adverse effects from use of, or exposure to, the pesticide.

(b) The permittee shall submit the following reports to the Registration Division during the experimental program.

(1) Unless otherwise directed, reports shall be submitted every three months from the date of the permit and shall include the following:

(i) Name and street address of the shipper of any pesticide covered by the permit and place or places from which shipped;

(ii) Name and street address of consignee;

(iii) Amount of each shipment;

(iv) Total quantities of the pesticide shipped and used during the reporting period;

(v) Total quantities of technical material imported to formulate pesticides covered by the permit;

(vi) List of States into which shipments were made; and

(vii) Summaries of the progress made and data obtained during the report period.

(2) A final report shall be submitted within 180 days after the expiration of the permit, unless a request for extension of time is approved, and shall include:

(i) All data gathered during the testing program; field notes need not be submitted but must be maintained and submitted upon request;

(ii) A description of the disposition of any pesticide containers and any unused pesticides including amounts disposed of and the method and site of disposition; and

(iii) The method of disposition of affected food and/or feed.

The data under paragraph (b) (2) (i) of this section above may be submitted as part of an application for registration submitted within 180 days after the expiration of the permit, provided that the final report shall include a statement that such application has been made, and the date of such application.

(c) In addition to the reporting requirements provided for elsewhere in this Part, in the case of any meat-producing animals or birds that receive a direct treatment or application of any experimental use pesticide, the name and location of the packing plant where the animals will be processed shall be sent to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Washington, D.C. 20250, at least 10 days before the animals are to be shipped for slaughter. This requirement may be waived, on request, by the USDA. These provisions do not exempt treated food-producing animals and their products from compliance with other applicable inspection requirements.

(d) Failure to submit required reports may constitute grounds for revocation of the permit.

(e) For the purpose of supervising the use of experimental use pesticides, the Agency may require the permittee or any participant to give reasonable advance notification of the intended dates, times, and sites on which such experimental use pesticide will be applied.

(f) The permittee or participants in the experimental use program will permit any authorized representative of the Agency, upon presentation of official identification, entry, at any reasonable time, to any premises involved in the

testing program to inspect and to determine whether there has been compliance with the terms and conditions of the permit.

§ 172.9 Renewals.

Applications for renewal of experimental use permits and temporary tolerances, to provide for additional testing, shall be submitted prior to expiration of the permit. Requirements for renewals are the same as for applications under § 172.4, except that information previously submitted may be incorporated by reference.

§ 172.10 Refusals to issue and revocation.

(a) *Refusal.* At any time that the Administrator determines that an experimental use permit is not justified, or that the issuance of such a permit would cause unreasonable adverse effects on the environment, or that for any other reason provided for under the law a permit shall not be issued, he shall notify the applicant in writing.

(b) *Revocation.* The Administrator may revoke an experimental use permit if he finds that its terms or conditions are being violated or that its terms or conditions are inadequate to avoid unreasonable adverse effects on the environment, or if new evidence is obtained which demonstrates that the tolerance will be inadequate to protect the public health, or for failure to meet any other provision of Part 172. The Administrator will notify the permittee in writing of such revocation. The permittee shall notify all participants of such revocation as soon as possible after he receives notice of revocation. The revocation of a permit shall not preclude the Administrator from initiating civil or criminal sanctions for the violations of the permit conditions or otherwise as authorized by law.

(c) *Hearing.* In the event that an applicant for an experimental use permit wishes to contest the refusal to issue an experimental use permit, or an experimental use permittee wishes to contest the revocation of any such permit, he shall, within twenty days after receipt of notice of such refusal or revocation, file with the Administrator a written request for an opportunity to confer with the Administrator or his designee. Within twenty days after such conference, the applicant or permittee will be notified of the Administrator's final decision.

§ 172.11 Publication.

(a) *Notice of receipt of an experimental use permit application.* The Administrator shall publish notice in the FEDERAL REGISTER of receipt of an application for an experimental use permit upon finding that issuance of the experimental use permit may be of regional or national significance. This notice shall include:

- (1) The active ingredients,
- (2) Use pattern(s),
- (3) Quantity of pesticide,
- (4) Total acreage,

(5) Location of area of application,
(6) A statement soliciting comments from any interested persons regarding the application.

(b) *Public hearing.* The Administrator may hold a public hearing, and publish notice in the FEDERAL REGISTER of the date and location of the hearing, when he determines that there is sufficient interest in the application to warrant a hearing, based upon the comments received in response to the Notice of Receipt of an Application, or that a hearing would otherwise be in the public interest.

(c) *Issuance of experimental use permit.* The Administrator shall give prompt notice in the FEDERAL REGISTER of the issuance of an experimental use permit. The notice shall include:

- (1) The active ingredients,
- (2) Use pattern(s),
- (3) Quantity of pesticide,
- (4) Total acreage,
- (5) Location of area of application,
- (6) A statement indicating where the experimental use permit is available for public inspection.

Subpart V—State Issuance of Experimental Permits [Reserved]

[FR Doc. 75-11314 Filed 4-29-75; 8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amendment 146]

PART 1-1—GENERAL

Procurement of Items Using Jewel Bearings

This amendment of the Federal Procurement Regulations amends § 1-1.319 to prescribe procedures for use in ordering jewel bearings and related items from the William Langer Jewel Bearing Plant for use in the performance of requirements and indefinite delivery contracts when such contracts authorize more than one ordering activity to place orders upon the contractor.

Section 1-1.319 is amended by revising paragraph (c)(1)(v). As revised the paragraph reads as follows:

§ 1-1.319 Procurement of items using jewel bearings.

(c) *Policy.* (1) * * *

(v) In the case of requirements contracts (see § 1-3.409(b)) and indefinite quantity contracts (see § 1-3.409(c)) which authorize more than one activity to place orders upon the contractor. It is not practicable for a contractor to place an order with the Plant within 90 calendar days after the effective date of his contract for the entire amount of jewel bearings and related items that will be required for the performance of the contract. Where such contracts are involved, the clause in § 1-1.319(e) may be changed by modifying paragraphs (b) and (c) to provide for procurement, on a quarterly or other periodic basis, of an amount of

jewel bearings and related items equal to the amount (by type and size) of jewel bearings and related items actually used by the contractor in the performance of the contract during the period immediately preceding the ordering date. In addition, jewel bearings and related items so obtained shall be placed in the contractor's inventory for use in the performance of current or future Government contracts or for use in commercial production. Contracts which provide for periodic ordering on an actual use basis shall not be subject to the equitable adjustment provisions of paragraph (e) of the clause in § 1-1.319(e). Accordingly, the clause may be further modified to delete paragraph (e).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 483(c))

Effective date. This amendment is effective August 4, 1975, but may be observed earlier.

Dated: April 23, 1975.

DWIGHT A. INK,
Acting Administrator of
General Services.

[FR Doc. 75-11211 Filed 4-29-75; 8:45 am]

[FPR Amdt. 145]

COST ACCOUNTING STANDARDS

This amendment of the Federal Procurement Regulations implements revised Cost Accounting Standards Board (CASB) rules and regulations (39 FR 44389, December 24, 1974) regarding an exemption from CASB requirements for certain contracts and subcontracts of \$500,000 or less. The amendment (1) adds the additional exemption, (2) authorizes retroactive application under certain circumstances, and (3) adds an additional solicitation notice containing an appropriate Certificate of Exemption. The exemption is applicable to both negotiated national defense and negotiated nondefense contracts. The Cost Accounting Standards clause is amended to provide the same exemption for subcontracts. References to the above actions are made in Parts 1-4, 1-7, and 1-15. Under this new exemption authority:

(a) Contractors whose CAS covered contract(s) or subcontract(s) individually do not exceed \$500,000 as of January 1, 1975, are exempt for new contract(s) or subcontract(s) of \$500,000 or less;

(b) Contractors with existing CAS covered contract(s) or subcontract(s) individually in excess of \$500,000 as of January 1, 1975, are not exempt for new contract(s) or subcontract(s) of \$500,000 or less, unless the new contract or subcontract is awarded after receipt of notification of final acceptance of all items or work under existing contract(s) or subcontract(s) in excess of \$500,000;

(c) A contractor may elect to accept the CAS clause when awarded the first contract or subcontract after January 1, 1975, of \$500,000 or less which otherwise would be exempt under the criteria;

if he does so, he will continue to be subject to the clause for all new contracts and subcontracts in excess of \$100,000 until such time as he has received notification of final acceptance of all items or work on any contracts or subcontracts containing the CAS clause;

(d) However, a contractor who does not elect to accept the CAS clause for those contracts of \$500,000 or less exempt under the optional criteria (c. above) cannot thereafter make such an election to accept the CAS clause for new awards of \$500,000 or less until such time as he is no longer performing any work for which he has previously accepted the new exemption, i.e., until he has received notice of final acceptance of all items or work under his exempted contracts or subcontracts.

PART 1-3—PROCUREMENT BY NEGOTIATION

1. The table of contents for Part 1-3 is amended to change the entry for § 1-3.1203 to read, as follows:

Sec.

1-3.1203 Applicability of cost accounting standards and prime contractor disclosure statement(s).

2. Section 1-3.1203 is amended to change the caption of the section, to add a new paragraph (a) (1) (vi), and add a new paragraph (h), as follows:

§ 1-3.1203 Applicability of cost accounting standards and prime contractor disclosure statement(s).

(a) * * *

(1) * * *

(vi) In addition, paragraph (h) of this section sets forth conditions under which contracts of \$500,000 or less can be exempted and requires an additional notice to be inserted in solicitations.

(h) *Exemption for contracts of \$500,000 or less and additional notice for solicitations.* (1) In addition to the exemptions in paragraphs (a) (1) and (a) (2) of this § 1-3.1203, the requirements of this section shall not be applicable to any contract or subcontract of \$500,000 or less, unless it is awarded to a contractor, who, on the date of such award, (i) has already received a contract or subcontract in excess of \$500,000 and (ii) has not received notification of final acceptance of all items of work to be delivered on that contract or subcontract and on all other contracts or subcontracts awarded after January 1, 1975, which were subject to the Cost Accounting Standards clause. For this purpose, an intracorporate transfer shall be considered to be a subcontract. Notwithstanding this exemption, any contractor entitled to an exemption under this provision may elect to comply with the Cost Accounting Standards clause prescribed by § 1-3.1204. The contractor may elect to comply in connection with the receipt of its first contract or subcontract awarded after January 1, 1975, which but for this provision would be subject to the clause. A contractor who does not elect

to comply with the clause in connection with the receipt of the first contract or subcontract, may thereafter make such an election only if it receives a contract or subcontract of the type described, at a time when it has no other contract or subcontract of that type on which notification of final acceptance of all items or work to be delivered has not been received. Retroactive exemption of existing contracts entered into prior to January 1, 1975, where the circumstances are such that these existing contracts would have been exempt if awarded after that date is authorized, provided the contracting officer determines that the Government receives adequate consideration for deletion of the Cost Accounting Standards clause from the contract(s). In the event a contractor was awarded a prime contract containing the Cost Accounting Standards clause prior to January 1, 1975, and must award a subcontract of \$500,000 or less subsequent to January 1, 1975, such subcontract may be exempted in accordance with this paragraph (h) provided the contractor obtains from the subcontractor the substance of the Certificate of Exemption established in this paragraph (h) (2).

(2) *Additional notice for solicitations.* In addition to the notice for solicitations entitled "Disclosure Statement—Cost Accounting Practices and Certification," the following notice will be inserted in all solicitations that contain that notice as required by paragraph (a) (3) of this section:

COST ACCOUNTING STANDARDS—EXEMPTION FOR CONTRACTS OF \$500,000 OR LESS—CERTIFICATION

If this proposal is expected to result in the award of a contract of \$500,000 or less and the offeror is otherwise eligible for an exemption, he shall indicate by checking the box below that the exemption to the Cost Accounting Standards clause (FPR § 1-3.1204) under the provisions of 4 CFR 331.30(b) (8) (see FPR § 1-3.1203(h)) is claimed. Where the offeror fails to check the box, he shall be given the opportunity to make an election in writing to the Contracting Officer prior to award. Failure to check the box below or make such an election shall mean that the offeror cannot claim the exemption to the Cost Accounting Standards clause or that the offeror elects to comply with such clause.

[] Certificate of Exemption for Contracts of \$500,000 or Less.

The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 4 CFR 331.30(b) (8) and certifies that he has received notification of final acceptance of all items or work on (i) any prime contract or subcontract in excess of \$500,000 which contains the Cost Accounting Standards clause, and (ii) any prime contract or subcontract of \$500,000 or less awarded after January 1, 1975, which contains the Cost Accounting Standards clause. The offeror further certifies he will immediately notify the contracting officer in writing in the event he is awarded any other contract or subcontract containing the Cost Accounting Standards Clause subsequent to the date of this certificate but prior to the date of any award resulting from this proposal.

3. Section 1-3.1204 is amended to revise introductory material and paragraph (d) (2) of the clause as follows:

§ 1-3.1204 Contract clause.

Insert the following clause in all negotiated contracts exceeding \$100,000 unless the procurement is exempted under § 1-3.1203 (a) (1), (a) (2), or (h) (1):

COST ACCOUNTING STANDARDS

(d) * * *

(2) Prices set by law or regulation, and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to accept the Cost Accounting Standards clause by reason of § 331.30(b) of Title 4, Code of Federal Regulations (4 CFR 331.30(b)) or § 1-3.1203 (a) (2) of Title 41, Code of Federal Regulations (41 CFR 1-3.1203(a) (2)).

However, * * *

PART 1-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

4. Subsection 1-4.410-5 is amended to revise paragraph (d) as follows:

§ 1-4.410-5 Uniform clauses for utility service contracts.

(d) *Cost accounting standards.* Where applicable, insert the two notices for solicitations as set forth in § 1-3.1203 (a) (3) and (h) (2) in negotiated solicitations under the conditions contained in Subpart 1-3.12. Where applicable, incorporate the contract clause set forth in § 1-3.1204 in negotiated contracts under the conditions contained in Subpart 1-3.12. Note that as provided in § 1-3.1203, the notice and clause shall not be used when the price is set by law or regulation.

PART 1-7—CONTRACT CLAUSES

5. Section 1-7.103-27 is amended to revise paragraph (a) as follows:

§ 1-7.103-27 Cost Accounting Standards.

(a) Insert the two notices for solicitations as set forth in § 1-3.1203 (a) (3) and (h) (2) in negotiated solicitations under the conditions contained in Subpart 1-3.12.

6. Section 1-7.203-23 is amended to revise paragraph (a) as follows:

§ 1-7.203-23 Cost Accounting Standards.

(a) Insert the two notices for solicitations as set forth in § 1-3.1203 (a) (3) and (h) (2) in negotiated solicitations under the conditions contained in Subpart 1-3.12.

7. Section 1-7.602-16 is amended to revise paragraph (a) as follows:

§ 1-7.602-16 Cost Accounting Standards.

(a) Insert the two notices for solicitations as set forth in § 1-3.1203 (a) (3) and (h) (2) in negotiated solicitations under the conditions contained in Subpart 1-3.12.

8. Section 1-7.702 is amended to revise paragraph (c) (3) as follows:

§ 1-7.702 Solicitation instructions and conditions for transportation contracts.

(c) * * *

(3) *Cost accounting standards.* Insert the two notices for solicitations set forth in § 1-3.1203(a) (3) and (h) (2) in negotiated solicitations under the conditions contained in Subpart 1-3.12.

PART 1-15—CONTRACT COST PRINCIPLES AND PROCEDURES

9. Section 1-15.109 is revised as follows:

§ 1-15.109 Definitions.

As used in this part, except with respect to those contracts exempted under §§ 1-3.1203 (a) (1), (a) (2), or (h) (1), the words and phrases shall have the meanings prescribed by the Cost Accounting Standards Board. For convenience, CASB definitions are set forth in § 1-3.1220.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective January 1, 1975.

Dated: April 11, 1975.

DWIGHT A. INK,
Acting Administrator
of General Services.

[FR Doc. 75-11210 Filed 4-29-75; 8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 103—BILINGUAL VOCATIONAL TRAINING

Grant and Contract Awards

Notice of proposed rulemaking was published in the FEDERAL REGISTER on March 4, 1975 at 40 FR 8955, setting forth the proposed regulations governing the award of grants and contracts to eligible applicants in order to develop bilingual vocational training programs under the Vocational Education Act of 1963 (20 U.S.C. 1241 through 1393f) as amended by section 841 of the Education Amendments of 1974, Pub. L. 93-380.

Interested persons were invited to submit written comments, suggestions, or objections regarding these proposed regulations on or before April 3, 1975. One comment was received which asked whether the Commissioner would award the full cost of bilingual vocational training programs or projects.

In accordance with § 103.42, the Commissioner will award grants or contracts for the cost of developing and operating programs "in an amount equal to the total sums expended by the applicant for the purposes set forth in that application." The plain meaning of this provision is that the Commissioner will pay the entire cost of the program or project. No change has been made in § 103.42.

The regulations, therefore, are issued as originally published without change as set forth below.

Pursuant to section 192(b) of the Vocational Education Act, these regulations were submitted to the Secretary of Labor for approval prior to the notice of proposed rulemaking in the FEDERAL REGISTER at 40 FR 8955. Since there are no changes being made to the notice of proposed rulemaking, there is no need to resubmit the final regulations to the Secretary of Labor for approval.

Effective date. The notice of proposed rulemaking was transmitted to Congress on February 24, 1975, pursuant to section 431(d) of the General Education Provisions Act (20 U.S.C. 1232(d)). The time period set forth therein has expired without such action having been taken. Therefore, these regulations shall become effective upon April 30, 1975.

(Catalog of Federal Domestic Assistance No. 13.558 Bilingual Vocational Training.)

Dated: April 16, 1975.

T. H. BELL,
U.S. Commissioner of Education.

Approved: April 24, 1975.

CASPAR W. WEINBERGER,
Secretary of Health,
Education, and Welfare.

1. Section 103.1 is revised to read as follows:

§ 103.1 Applicability.

The regulations to this part apply to grants and contracts made by the U.S. Commissioner of Education for research and training programs under section 131(a) of Part C, for exemplary programs and projects under section 142(c) of Part D, for curriculum development programs under section 189 of Part I, and for bilingual vocational training under section 191 of Part J of the Vocational Education Act of 1963, as amended.

2. Two new definitions are added to § 103.3 to read as follows:

§ 103.3 Definitions.

"Bilingual vocational training" means training or retraining which is conducted as part of a program designed to prepare individuals of limited English-speaking ability for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies, by regulation, to be generally considered professional which requires a baccalaureate or higher degree; bilingual vocational training includes guidance and counseling (either individually or through group instruction) in connection with such training or for the purpose of facilitating occupational choices; instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; the training of persons engaged as, or preparing to become, instructors in a bilingual vocational training program; travel of students and

vocational training personnel while engaged in a bilingual vocational training program; and the acquisition, maintenance, and repair of instructional supplies, aids, and equipment, but such term does not include the construction, acquisition, or initial equipment of buildings or the acquisition or rental of land. (20 U.S.C. 1248(14))

"Postsecondary educational institution" means a nonprofit institution legally authorized to provide postsecondary education within a State for persons sixteen years of age or older, who have graduated or left elementary or secondary school.

(20 U.S.C. 1248(15))

3. A new Subpart E is added to read as follows:

Subpart E—Bilingual Vocational Training

- Sec.
- 103.41 Purpose.
- 103.42 Eligible programs and projects.
- 103.43 Eligible applicants.
- 103.44 Applications for grants or contracts.
- 103.45 Review of applications.
- 103.46 Criteria.

Subpart E—Bilingual Vocational Training
§ 103.41 Purpose.

In order to insure that vocational training programs are available to persons in all communities of the United States whose language as normally used is other than English, and in order to find new ways to assist such persons to fill the critical need for more and better trained personnel in occupational categories vital to both the persons and the economy, funds available to the Commissioner pursuant to Part J of the Act may be used for making grants or contracts for bilingual vocational training programs.

(20 U.S.C. 1393)

§ 103.42 Eligible programs and projects.

Funds available under section 193 of Part J of the Act may be used by the Commissioner to award grants or contracts for the cost of developing and operating programs or projects designed to carry out the purpose set forth in § 103.41 in an amount equal to the total sums expended by the applicant for the purposes set forth in that application. Such programs include:

(a) Bilingual vocational training programs for persons who have completed or left elementary or secondary school and who are available for training programs by the agencies and institutions enumerated in § 103.43;

(b) Bilingual vocational training programs for persons who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

(c) Training allowances for participants in bilingual vocational training programs subject to the same conditions