

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (j) and (s) (100,000 kilograms).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

■ 46. By adding new § 721.10133 to subpart E to read as follows:

**§ 721.10133 2-Propenoic acid, 2-methyl, 2-hydroxyethyl ester, homopolymer.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as 2-propenoic acid, 2-methyl, 2-hydroxyethyl ester, homopolymer (PMN P-07-401; CAS No. 25249-16-5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63 (a)(4), (a)(5), (a)(6), (b), and (c). Respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1,000. A NIOSH-certified supplied-air respirator operated in pressure demand or other positive pressure mode and equipped with a tight-fitting full facepiece meets the minimum requirements for § 721.63(a)(4).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), and (g)(2)(iv).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

[FR Doc. E8-26409 Filed 11-4-08; 8:45 am]

BILLING CODE 6560-50-S

## DEPARTMENT OF LABOR

### Veterans' Employment and Training Service

#### 41 CFR Part 61-250

RIN 1293-AA16

### Annual Report From Federal Contractors

**AGENCY:** Veterans' Employment and Training Service (VETS), Labor.

**ACTION:** Final Rule.

**SUMMARY:** This final rule revises the regulations in 41 CFR Part 61-250 implementing the requirement under the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, ("VEVRAA") that Government contractors track and annually report the number of employees in their workforces who are veterans covered under the law. Today's final rule revises the regulations in 41 CFR Part 61-250 to incorporate the amendment to VEVRAA made by the Veterans' Benefit and Health Care Improvement Act of 2000 ("VBHCIA"). The VBHCIA amendment extended the protections of VEVRAA to a category of veterans called "recently separated veterans." In addition, the final rule published today clarifies that the regulations in 41 CFR Part 61-250 implement the reporting requirements under VEVRAA prior to their amendment in 2002 by the Jobs for Veterans Act ("JVA"), and apply to Government contracts entered into before December 1, 2003. The final rule also makes clear that the regulations in 41 CFR Part 61-300 implementing the JVA amendments to VEVRAA's reporting requirements, apply if a contract entered into before December 1, 2003, is modified on or after that date and the contract as modified is for \$100,000 or more.

**DATES:** These regulations are effective December 5, 2008.

**FOR FURTHER INFORMATION CONTACT:** Robert Wilson, Chief, Compliance and Investigations Division, Veterans' Employment and Training Service, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-1312, Washington, DC 20210, [Wilson.Robert2@dol.gov](mailto:Wilson.Robert2@dol.gov), (202) 693-4719 (this is not a toll-free number).

For press inquiries, contact Michael Biddle, Office of Public Affairs, U.S.

Department of Labor, 200 Constitution Avenue, NW., Room S-1032, Washington, DC 20210, [Biddle.Michael@dol.gov](mailto:Biddle.Michael@dol.gov), (202) 693-5051 (this is not a toll-free number).

### SUPPLEMENTARY INFORMATION:

#### Background

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, ("VEVRAA"), 38 U.S.C. 4212(d), requires that Federal contractors report annually to the Secretary of Labor the number of employees and new hires that belong to the categories of veterans protected under the statute. The Veterans' Employment and Training Service (VETS) has promulgated two sets of regulations to implement the reporting requirements under VEVRAA. The regulations in 41 CFR Part 61-250 implement the reporting requirements under VEVRAA prior to the amendments made by the JVA in 2002, and apply to Government contracts of \$25,000 or more that were entered into before December 1, 2003. The regulations in part 61-250 require contractors to use the VETS-100 Report form to provide information on the number of covered veterans in their workforces.

The recently published regulations in 41 CFR Part 61-300 implement the JVA amendments to the reporting requirements under VEVRAA (73 FR 28710, May 19, 2008), and apply to contracts entered into or modified on/or after December 1, 2003. The JVA amendments increased from \$25,000 to \$100,000, the dollar amount of the contract that subjects a Government contractor to the requirement to report the number of employees in their workforces who are covered veterans. In addition, the JVA amendments changed the categories of covered veterans under VEVRAA and thus the categories of veterans that contractors are required to track and report on annually. The regulations in part 61-300 require contractors to use the VETS-100A Report form to provide the required information on their employment of covered veterans.

Today's final rule revises the part 61-250 regulations to incorporate the amendment to VEVRAA that was made by the Veterans' Benefit and Health Care Improvement Act of 2000 (VBHCIA). Prior to amendment by the VBHCIA, VEVRAA required contractors with a contract of \$25,000 or more to report at least annually to the Secretary the number of employees, by job category and hiring location, who are "special disabled veterans, veterans of the Vietnam era, and other protected

veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.” The VBHCIA extended the protections of VEVRAA to a new category of veterans called “recently separated veterans.” Under the VBHCIA, “recently separated veteran” is defined as “any veteran during the one-year period beginning on the date of such veteran’s discharge or release from active duty.” (The JVA amendments expanded coverage of recently separated veterans from one to three years after discharge or release from active duty to three years.) In addition, the final rule clarifies that the regulations in 41 CFR Part 61–250 apply to any contract or subcontract of at least \$25,000 entered into before December 1, 2003, and that the regulations in 41 CFR Part 61–300, not the part 61–250 regulations, apply to such a contract if it is modified on or after December 1, 2003 and the contract as modified is for \$100,000 or more. This clarification will assist contractors in determining whether the reporting requirements in 41 CFR Part 61–250 and/or the reporting requirements in 41 CFR Part 61–300 apply to their contracts.

The changes made by the final rule are discussed in the Section-by-Section Analysis. The sections of the 41 CFR Part 61–250 regulations that have not been changed are not discussed in the preamble.

### Section-by-Section Analysis of Comments and Revisions

#### *Section 61–250.1 What are the purpose and scope of this part?*

This section outlines the purpose and scope of the regulations. The final rule adds the date to the statutory citation in paragraph (a) to indicate that the regulations in 41 CFR Part 61–250 implement the reporting requirements in 38 U.S.C. 4212(d) prior to their amendment in 2002 by the JVA. In addition, the final rule adds language to paragraph (a) to clarify that the reporting requirements in § 61–250.10 apply to any contract of \$25,000 or more entered into before December 1, 2003, and that the reporting requirements in § 61–300.10 apply to such a contract if it is modified on or after December 1, 2003, and the contract as modified is for \$100,000 or more.

Further, the final rule adds language to paragraphs (b) and (d) stating that the regulations in 41 CFR Part 60–250 administered by the Office of Federal Contract Compliance Programs apply to a contract of at least \$25,000 entered into before December 1, 2003 (and not

modified as described in paragraph (a) of this section).

#### *Section 61–250.2 What definitions apply to this part?*

The final rule amends § 61.250.2(b) by adding a new paragraph (7) setting forth the definition of “recently separated veteran” specified in the VBHCIA and by renumbering the remaining paragraphs in this section.

#### *Section 61–250.10 What reporting requirements apply to Federal contractors and subcontractors, and what specific wording must the reporting requirements contract clause contain?*

The final rule amends § 61–250.10 by adding “recently separated veterans” to the clause heading and to paragraphs (a)(1) and (2) of the clause.

#### *Section 61–250.11 On what form must the data required by this part be submitted?*

This section states that the data on veterans employment specified in the reporting requirements clause set forth in § 61–250.10 must be reported on the VETS–100 Report.

The final rule replaces “mailed” with “provided” in paragraph (a) to allow VETS the flexibility to distribute the form electronically. This change also would allow VETS to use the same distribution methods under both sets of regulations. In addition, the final rule revises the instructions for preparing the VETS–100 Report set forth in § 61–250.11 to conform to the instructions found on the VETS–100 Report form that is currently approved for use under OMB Control No. 1293–0005.

### Regulatory Procedures

#### Publication in Final

VETS has determined that this rulemaking need not be published as a proposed rule, as generally required by the Administrative Procedure Act, 5 U.S.C. 553 (“APA”). The final rule amends the regulations in 41 CFR Part 61–250 to include “recently separated veterans” as one of the categories of covered veterans. In this regard, the final rule merely incorporates the VBHCIA changes to the categories of veterans covered under VEVRAA.

In addition, the final rule amends 41 CFR 61–250.1(a) to clarify the scope and applicability of the reporting requirements of the regulations in 41 CFR Part 61–250 and the regulations in 41 CFR Part 61–300. The JVA amendments were made applicable only to Government contracts entered into or modified on or after December 1, 2003. The definitions relevant to contract

coverage under 41 CFR Part 61–250 are those contained in 41 CFR 60–250.2. The term “Government contract” is defined in existing 41 CFR 60–250.2(i) as “any agreement or modification thereof between any contracting agency and any person for the purchase, sale or use of personal property or non-personal services (including construction).” Because a contract modification is a “Government contract” the JVA amendments apply to modifications of otherwise covered contracts made on or after December 1, 2003. Consequently, the regulation at 41 CFR 61–250.1(a) provides that the contractor must comply with the reporting requirements in 41 CFR 61–300.10, and not 41 CFR 61–250.10, if its contract of \$25,000 or more entered into before December 1, 2003, is modified on or after that date and the contract as modified is for \$100,000 or more. In essence, the amendment to 41 CFR 61–250.1(a) incorporates the effective date of the JVA amendments, which was determined by statute.

All the amendments to the regulations in 41 CFR Part 61–250 made by this final rule track statutory amendments. The Department of Labor may not, in response to public comment, change or decline to implement the coverage provisions of the VBHCIA amendment or the effective dates of the JVA amendments. Consequently, there is good cause for finding that applying the notice-and-comment procedure to the amendments to 41 CFR Part 61–250 is unnecessary and contrary to the public interest, pursuant to Section 553(b)(B) of the APA.

### Executive Order 12866

This final rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. VETS has determined that this rule is not “a significant regulatory action” under Executive Order 12866, section 3(f). Accordingly, it does not require an assessment of potential costs and benefits under section 6(a)(3) of that order.

### Executive Order 13132

VETS reviewed the rule in accordance with Executive Order 13132 regarding federalism, and determined that it does not have “federalism implications.” The rule will not “have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

## Regulatory Flexibility Act

The rule clarifies existing requirements for Federal contractors. In view of this fact and because the rule does not substantively change existing obligations for Federal contractors, we certify that the rule will not have a significant economic impact on a substantial number of small business entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

## Small Business Regulatory Enforcement Fairness Act

VETS has concluded that the rule is not a "major" rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). In reaching this conclusion, the OFCCP has determined that the rule will not likely result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

## Unfunded Mandates Reform

Executive Order 12875—This rule does not create an unfunded Federal mandate upon any State, local, or tribal government. Unfunded Mandates Reform Act of 1995—This rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of \$100 million or more, or increased expenditures by the private sector of \$100 million or more.

## Congressional Review Act

This regulation is not a major rule for purposes of the Congressional Review Act.

## Paperwork Reduction Act

The information collection requirements contained in the existing VEVRAA regulations are currently approved under OMB Control No. 1293-0005. The currently approved VETS-100 Report form reflects the requirements of the VBHCIA amendments, and thus requests information on the number of current employees and new hires that are recently separated veterans. Accordingly, this final rule does not make any changes to the currently approved information collections, and therefore need not be reviewed by the

Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

## List of Subjects in 41 CFR Part 61-250

Government contracts, reporting and record keeping requirements, Veterans.

Signed at Washington, DC, on October 29, 2008.

**Charles S. Ciccolella,**

*Assistant Secretary of Labor for Veterans' Employment and Training.*

■ Based on the explanation provided by the preamble, VETS is amending Chapter 61 of Title 41 of the Code of Federal Regulations by revising Part 61-250 to read as follows:

## PART 61-250—ANNUAL REPORT FROM FEDERAL CONTRACTORS

Sec.

61-250.1 What are the purpose and scope of this part?

61-250.2 What definitions apply to this part?

61-250.10 What reporting requirements apply to Federal contractors and subcontractors, and what specific wording must the reporting requirements contract clause contain?

61-250.11 On what form must the data required by this part be submitted?

61-250.20 How will DOL determine whether a contractor or subcontractor is complying with the requirements of this part?

61-250.99 What is the OMB control number for this part?

Appendix A—Federal Contractor Veterans' Employment Report VETS-100

**Authority:** 38 U.S.C. 4211 (2001) and 38 U.S.C. 4212 (2001).

### § 61-250.1 What are the purpose and scope of this part?

(a) This part 61-250 implements 38 U.S.C. 4212(d) (2001). Each contractor or subcontractor with a contract in the amount of \$25,000 or more entered into before December 1, 2003, with any department or agency of the United States for the procurement of personal property and non-personal services (including construction), and who is subject to 38 U.S.C. 4212(a) and the Office of Federal Contract Compliance Programs (OFCCP) regulations at 41 CFR Part 60-250, must submit a report according to the requirements of § 61-250.10, except that the contractor or subcontractor must submit a report according to the requirements of § 61-300.10, not § 61-250.10, if such a contract is modified on or after December 1, 2003, and the contract as modified is in the amount of \$100,000 or more.

(b) Notwithstanding the regulations in this part, the regulations at 41 CFR Part

60-250, administered by OFCCP, continue to apply to the affirmative action obligations of contractors and subcontractors with contracts entered into before December 1, 2003 (and not modified as described in paragraph (a) of this section).

(c) Reporting requirements of this part regarding veterans will be deemed waived in those instances in which the Deputy Assistant Secretary, OFCCP, has granted a waiver under 41 CFR 60-250.4(b)(1), or has concurred in granting a waiver under 41 CFR 60-250.4(b)(2), from compliance with all the terms of the equal opportunity clause for those establishments not involved in government contract work. Where OFCCP grants only a partial waiver, compliance with these reporting requirements regarding veterans will be required.

(d) 41 CFR 60-250.42 and Appendix B to part 60-250 provide guidance concerning the affirmative action obligations of Federal contractors and subcontractors with contracts entered into before December 1, 2003, (and not modified as described in paragraph (a) of this section), with respect to applicants for employment who are protected veterans.

### § 61-250.2 What definitions apply to this part?

(a) For purposes of this part, and unless otherwise indicated in paragraph (b) of this section, the terms set forth in this part have the same meaning as set forth in 41 CFR Part 60-250.

(b) For purposes of this part:

(1) *Hiring location* (this definition is identical to establishment as defined by the instructions for completing Employer Information Report EEO-1, Standard Form 100 (EEO-1 Report)) means an economic unit which produces goods or services, such as a factory, office, store, or mine. In most instances the establishment is at a single physical location and is engaged in one, or predominantly one, type of economic activity. Units at different locations, even though engaged in the same kind of business operation, should be reported as separate establishments. For locations involving construction, transportation, communications, electric, gas, and sanitary services, oil and gas fields, and similar types of physically dispersed industrial activities, however, it is not necessary to list separately each individual site, project, field, line, etc., unless it is treated by the contractor as a separate legal entity with a separate Employer Identification Number (EIN). For these physically dispersed activities, list as establishments only those relatively

permanent main or branch offices, terminals, stations, etc., which are either:

(i) Directly responsible for supervising such dispersed activities, or

(ii) The base from which personnel and equipment operate to carry out these activities. (Where these dispersed activities cross State lines, at least one such establishment should be listed for each State involved.)

(2) *Employee* means any individual on the payroll of an employer who is an employee for purposes of the employer's withholding of Social Security taxes except insurance salespersons who are considered to be employees for such purposes solely because of the provisions of section 3121(d)(3)(B) of the Internal Revenue Code (26 U.S.C.). The term employee does not include persons who are hired on a casual basis for a specified time, or for the duration of a specified job, and who work on remote or scattered sites or locations where it is not practical or feasible for the employer to make a visual survey of the work force within the report period; for example, persons at a construction site whose employment relationship is expected to terminate with the end of the employees' work at the site; persons temporarily employed in any industry other than construction, such as mariners, stevedores, waiters/waitresses, movie extras, agricultural laborers, lumber yard workers, etc., who are obtained through a hiring hall or other referral arrangement, through an employee contractor or agent, or by some individual hiring arrangement; or persons on the payroll of a temporary service agency who are referred by such agency for work to be performed on the premises of another employer under that employer's direction and control.

(3) *Job category* means any of the following: Officials and managers, professionals, technicians, sales workers, office and clerical, craft workers (skilled), operatives (semiskilled), laborers (unskilled), service workers, as required by the Employer Information Report EEO-1, Standard Form 100 (EEO-1 Report), as defined as follows:

(i) *Officials and managers* means occupations requiring administrative and managerial personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operation. Includes: Officials, executives, middle management, plant managers, department managers and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, railroad

conductors and yard masters, ship captains and mates (except fishing boats), farm operators and managers, and kindred workers.

(ii) *Professionals* means occupations requiring either college graduation or experience of such kind and amount as to provide a background comparable to college education. Includes:

Accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations specialists, physical scientists, physicians, social scientists, surveyors, teachers, and kindred workers.

(iii) *Technicians* means occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post-high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: Computer programmers and operators, drafters, engineering aides, junior engineers, mathematical aides, licensed, practical or vocational nurses, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic, physical science), and kindred workers.

(iv) *Sales* means occupations engaging wholly or primarily in direct selling. Includes: Advertising agents and sales workers, insurance agents and brokers, real estate agents and brokers, stock and bond sales workers, demonstrators, sales workers and sales clerks, grocery clerks and cashier-checkers, and kindred workers.

(v) *Office and clerical* includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual though some manual work not directly involved with altering or transporting the products is included. Includes bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, legal assistants, and kindred workers.

(vi) *Craft workers (skilled)* means manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. These workers exercise considerable independent judgment and usually receive an extensive period of training. Includes: The building trades, hourly paid supervisors and lead operators who

are not members of management, mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors, arts occupations, hand painters, coaters, decorative workers, and kindred workers.

(vii) *Operatives (semiskilled)* means workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: Apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, dressmakers and sewers (except factory), dryers, furnace workers, heaters (metal), laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (except construction and maintenance), photographic process workers, stationary firefighters, truck and tractor drivers, weavers (textile), welders and flame cutters, electrical and electronic equipment assemblers, butchers and meat cutters, inspectors, testers and graders, hand packers and packagers, and kindred workers.

(viii) *Laborers (unskilled)* means workers in manual occupations which generally require no special training to perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, gardeners (except farm) and grounds keepers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.

(ix) *Service workers* means workers in both protective and non-protective service occupations. Includes: Attendants (hospital and other institutions, professional and personal service, including nurses aides and orderlies), barbers, char workers and cleaners, cooks (except household), counter and fountain workers, elevator operators, firefighters and fire protection workers, guards, doorkeepers, stewards, janitors, police officers and detectives, porters, servers, amusement and recreation facilities attendants, guides, ushers, public transportation attendants, and kindred workers.

(4) *Special disabled veteran* means:

(i) A veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability:

(A) Rated at 30 percent or more, or

(B) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap; or

(ii) A person who was discharged or released from active duty because of a service-connected disability.

(5) *Veteran of the Vietnam era* means a veteran:

(i) Who served on active duty in the U.S. military, ground, naval or air service for a period of more than 180 days, and who was discharged or released there from with other than a dishonorable discharge, if any part of such active duty was performed:

(A) In the Republic of Vietnam between February 28, 1961, and May 7, 1975, or

(B) Between August 5, 1964 and May 7, 1975 in any other location; or

(ii) Who was discharged or released from active duty in the U.S. military, ground, naval or air service for a service-connected disability, if any part of such active duty was performed:

(A) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(B) Between August 5, 1964, and May 7, 1975, in any other location.

(6) *Other protected veteran* means any other veteran who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, other than special disabled veterans or veterans of the Vietnam era.

(7) *Recently separated veteran* means a veteran during the one-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval, or air service.

(8) *OFCCP* means the Office of Federal Contract Compliance Programs, Employment Standards Administration, U.S. Department of Labor.

(9) *VETS* means the Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor.

(10) *States* means each of the several States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Wake Island, and the Trust Territories of the Pacific Islands.

(11) *Eligibility period* means the calendar year (January 1 through December 31) preceding the year in which the report must be filed. This calendar year is the same year in which the contractor received the Federal contract.

(12) *NAICS* means the North American Industrial Classification System.

**§ 61–250.10 What reporting requirements apply to Federal contractors and subcontractors, and what specific wording must the reporting requirements contract clause contain?**

Each contractor or subcontractor described in § 61–250.1 must submit reports in accordance with the following reporting clause, which must be included in each of its covered government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract). Such clause is considered as an addition to the equal opportunity action clause required by 41 CFR 60–250.5. The reporting requirements clause is as follows:

Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, Other Protected Veterans, and Recently Separated Veterans.

(a) The contractor or subcontractor agrees to report at least annually, as required by the Secretary of Labor, on:

(1) The number of current employees in each job category and at each hiring location who are special disabled veterans, the number who are veterans of the Vietnam era, the number who are other protected veterans, and the number who are recently separated veterans;

(2) The total number of new employees hired during the period covered by the report, and of that total, the number who are special disabled veterans, the number who are veterans of the Vietnam era, the number who are other protected veterans, and the number who are recently separated veterans; and

(3) The maximum number and minimum number of employees of such contractor at each hiring location during the period covered by the report.

(b) The above items must be reported by completing the form entitled "Federal Contractor Veterans' Employment Report VETS–100."

(c) VETS–100 reports must be submitted no later than September 30 of each year beginning September 30, 2001. The eligibility period (the period during which an employer received a Federal contract) for this report and all subsequent reports is the calendar year (January 1 through December 31) that

precedes the year in which the report is submitted.

(d) The employment activity report required by paragraphs (a)(2) and (a)(3) of this clause must reflect total new hires and maximum and minimum number of employees during the 12-month period preceding the ending date that the contractor selects for the current employment report required by paragraph (a)(1) of this clause.

Contractors may select an ending date:

(1) As of the end of any pay period during the period July 1 through August 31 of the year the report is due; or (2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO–1, Standard Form 100 (EEO–1 Report).

(e) The number of veterans reported according to paragraph (a) of this clause must be based on data known to contractors and subcontractors when completing their VETS–100 Reports. Contractors' and subcontractors' knowledge of veteran status may be obtained in a variety of ways, including, in response to an invitation to applicants to self-identify in accordance with 41 CFR 60–250.42, voluntary self-disclosures by protected incumbent veterans, or actual knowledge of an employee's veteran status by a contractor or subcontractor. Nothing in this paragraph (e) relieves a contractor from liability for discrimination under 38 U.S.C. 4212. (OMB No. 1293–0005)

**§ 61–250.11 On what form must the data required by this part be submitted?**

(a) Data items required in paragraph (a) of the contract clause set forth in § 61–250.10 must be reported for each hiring location on the VETS–100 form. This form is provided annually to those contractors who are included in the VETS–100 data base. The form, and instructions for preparing it, are also set forth as follows:

**The Vets–100 Report Form Is Reprinted as Appendix A to**

**41 CFR Part 61–250**

**WHO MUST FILE**

This VETS–100 Report is to be completed by all nonexempt federal contractors and subcontractors with a contract or subcontract entered into before December 1, 2003, in the amount of \$25,000 or more with any department or agency of the United States for the procurement of personal property and non-personal services. Services include but are not limited to the following services: utility, construction,

transportation, research, insurance, and fund depository, irrespective of whether the government is the purchaser or seller. Entering into a covered federal contract or subcontract during a given calendar year establishes the requirement to file a VETS-100 Report during the following calendar year. A VETS-100A Report is to be completed by all nonexempt federal contractors and subcontractors whose only contract or subcontract with any department or agency of the United States for the procurement of personal property and non-personal services (including construction) was entered into or modified on or after December 1, 2003.

#### WHEN TO FILE

This annual report must be filed no later than September 30. Mail to the address pre-printed on the front of the form.

#### LEGAL BASIS FOR REPORTING REQUIREMENTS

Title 38, United States Code, Section 4212(d) and PL 105-339, requires that federal contractors report at least annually the numbers of existing employees who are: (1) Special disabled veterans, (2) veterans of the Vietnam era, and (3) other protected veterans (that is, who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized). For the existing employees, the numbers of veterans within these three groups are to be broken out by job category. New hires are to be reported over a twelve-month reporting period. The total number of veteran new hires in each of the three groups above is to be reported, along with the total number of recently separated veterans (*i.e.*, hired within twelve months of separation). In addition, over the same twelve-month period, the total number of new hires, both veterans and non-veterans, is required to be reported, along with the minimum and maximum total employment. This reporting is required by hiring location.

#### HOW TO SUBMIT THE VETS-100 REPORT

Single-establishment employers must file one completed form. All multi-establishment employers, *i.e.*, those doing business at more than one hiring location, must file (A) one form covering the principal or headquarters office; (B) A separate form for each hiring location employing 50 or more persons; and (C) EITHER, (i) a separate form for each hiring location employing fewer than 50 persons, OR (ii) consolidated reports that cover hiring locations within one

State that have fewer than 50 employees. Each state consolidated report must also list the name and address of the hiring locations covered by the report. Company consolidated reports such as those required by EEO-1 reporting procedures are NOT required for the VETS-100 Report. Completed reports for the headquarters location and all other hiring locations for each company should be mailed in one package to the address indicated on the front of the form.

#### RECORDKEEPING

Employers must keep copies of the completed annual VETS-100 Report submitted to DOL for a period of three years.

#### HOW TO PREPARE THE FORMS

Multi-establishment employers submitting hard copy reports should produce facsimile copies of the headquarters form for reporting data on each location.

*Type of Reporting Organization:* Indicate the type of contractual relationship (prime contractor or subcontractor) that the organization has with the Federal Government. If the organization serves as both a prime contractor and a subcontractor on various federal contracts, check both boxes.

*Type of Form:* If a reporting organization submits only one VETS-100 Report form for a single location, check the Single Establishment box. If the reporting organization submits more than one form, only one form should be checked as Multiple Establishment-Headquarters. The remaining forms should be checked as either Multiple Establishment-Hiring Location or Multiple Establishment-State Consolidated. For state consolidated forms, the number of hiring locations included in that report should be entered in the space provided. For each form, only one box should be checked within this block.

#### COMPANY IDENTIFICATION INFORMATION

*Company Number:* Do not change the Company Number that is printed on the form. If there are any questions regarding your Company Number, please call the VETS-100 staff at (301) 306-6752 or e-mail [HELPDESK@VETS100.COM](mailto:HELPDESK@VETS100.COM).

*Twelve Month Period Ending:* Enter the end date for the twelve-month reporting period used as the basis for filing the VETS-100 Report. To determine this period, select a date in the current year between July 1 and August 31 that represents the end of a

payroll period. That payroll period will be the basis for reporting Number of Employees, as described below. Then the twelve-month period preceding the end date of that payroll period will be your twelve-month period covered. This period is the basis for reporting New Hires, as described below. Any federal contractor or subcontractor who has written approval from the Equal Employment Opportunity Commission to use December 31 as the ending date for the EEO-1 Report may also use that date as the ending date for the payroll period selected for the VETS-100 Report.

*Name and Address for Single Establishment Employers:* COMPLETE the identifying information under the Parent Company name and address section. LEAVE BLANK all of the identifying information for the Hiring Location.

*Name and Address for Multi Establishment Employers:* For parent company headquarters location, COMPLETE the name and address for the parent company headquarters, LEAVE BLANK the name and address of the Hiring Location. For hiring locations of a parent company, COMPLETE the name and address for the Parent Company location, COMPLETE the name and address for the Hiring Location.

*NAICS Code, DUNS Number, and Employer ID Number:* Single Establishment and Multi Establishment Employers must COMPLETE the NAICS Code, Employer ID Number, and the DUNS number if the contractor has a DUNS number, as described below.

*NAICS Code* Enter the six (6) digits NAICS Code applicable to the hiring location for which the report is filed. If there is not a separate NAICS Code for the hiring location, enter the NAICS Code for the parent company.

*Dun and Bradstreet I.D. Number (DUNS):* If the company or any of its establishments has a Dun and Bradstreet Identification Number, please enter the nine (9) digit number in the space provided. If there is a specific DUNS Number applicable to the hiring location for which the report is filed, enter that DUNS Number. Otherwise, enter the DUNS number for the parent company.

*Employer I.D. Number (EIN):* Enter the nine (9) digit numbers assigned by the I.R.S. to the contractor. If there is a specific EIN applicable to the hiring location for which the report is filed, enter that EIN. Otherwise, enter the EIN for the parent company.

**INFORMATION ON EMPLOYEES**

*Counting Veterans:* Some veterans will fall into more than one of the protected veteran categories. For example, a veteran may be both a special disabled veteran and a Vietnam era veteran. In such cases, the veteran must be counted in each category. Recently separated veterans will be counted in the New Hires section of the VETS-100 Report only. In subsequent years, these veterans will no longer be considered newly separated veterans.

*Number of Employees:* Select any payroll period ending between July 1 and August 31 of the current year. Provide all data for permanent full-time and part-time employees who were special disabled veterans, Vietnam-era veterans, or other protected veterans employed as of the ending date of the selected payroll period. Do not include employees specifically excluded as indicated in 41 CFR 61-250.2(b)(2). Employees must be counted by veteran status for each of the nine occupational categories (Lines 1-9) in columns L, M, and N. The description of job categories can be found in 41 CFR 61-250.2(b)(3). Blank spaces will be considered zeros.

*New Hires:* Report the number of permanent full-time and part-time employees by veteran status who were hired (both veterans and non-veterans) and who were included in the payroll for the first time during the 12-month period ending between July 1 through August 31 of the current year. The totals in columns O, P, Q, R, and S (Line 10) are required. Enter all applicable numbers, including zeros.

*Maximum/Minimum Employees:* Report the maximum and minimum number of permanent employees on board during the period covered as indicated by 41 CFR 61-250.10(a)(3). Contractors may use any reasonable method for calculating and determining the maximum and minimum number of employees during the reporting period.

**DEFINITIONS**

*Hiring location* means an establishment as defined at 41 CFR 61-250.2(b).

*Special Disabled Veteran* means (i) a veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans' Affairs for a disability (A) rated at 30 percent or more, or (B) rated

at 10 or 20 percent in the case of a veteran who has been determined under Section 38 U.S.C. 3106 to have a serious employment handicap or (ii) a person who was discharged or released from active duty because of a service-connected disability.

*Veteran of the Vietnam-era* means a person who: (i) Served on active duty in the U.S. military, ground, naval or air service for a period of more than 180 days, and who was discharged or released there from with other than a dishonorable discharge, if any part of such active duty was performed: (A) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or (B) between August 5, 1964, and May 7, 1975, in all other cases; or (ii) was discharged or released from active duty in the U.S. military, ground, naval or air service for a service-connected disability if any part of such active duty was performed (A) in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or (B) between August 5, 1964, and May 7, 1975, in any other location.

*Recently Separated Veteran* means any veteran who served on active duty in the U.S. military, ground, naval or air service during the one-year period beginning on the date of such veteran's discharge or release from active duty.

*Other Protected Veterans* means veterans who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized. For those with Internet access, the information required to make this determination is available at <http://www.opm.gov/veterans/html/vgmedal2.htm>. A copy of the list also may be obtained by calling (301) 306-6752 and requesting that a copy of the list be mailed to you.

(b) Contractors and subcontractors that submit computer-generated output for more than 10 hiring locations to satisfy their VETS-100 reporting obligations must submit the output in the form of an electronic file. This file must comply with current Department of Labor specifications for the layout of these records, along with any other specifications established by the Department for the applicable reporting year. Contractors and subcontractors that submit VETS-100 Reports for ten locations or less are exempt from this requirement, but are strongly encouraged to submit an electronic file.

In these cases, state consolidated reports count as one location each.

(c) Contractors and subcontractors may submit the VETS-100 Report via the Internet. The Internet address for the site is <https://vets100.vets.dol.gov/vets100login.htm>. A company number is required to access this site. The number is provided to employers on the VETS-100 Report form that is provided annually to those employers who are included in the VETS-100 database. Other employers may obtain a company number by e-mailing their request to [HELPDESK@VETS100.COM](mailto:HELPDESK@VETS100.COM) or by calling the VETS-100 Reporting System at (301) 586-1580.

(d) VETS or its designee will use all available information to distribute the required forms to contractors identified as subject to the requirements of this part.

(e) It is the responsibility of each contractor or subcontractor to obtain necessary supplies of the VETS-100 Report form before the annual September 30 filing deadline. Contractors and subcontractors who do not receive forms should request them in time to meet the deadline. Requests for the VETS-100 Report form may be made by mail by contacting: Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attn: VETS-100 Report Form Request or on the Internet at <https://vets100.vets.dol.gov/>. (OMB No. 1293-0005).

**§ 61-250.20 How will DOL determine whether a contractor or subcontractor is complying with the requirements of this part?**

During the course of a compliance evaluation, OFCCP may determine whether a contractor or subcontractor has submitted its report as required by this part.

**§ 61-250.99 What is the OMB control number for this part?**

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and its implementing regulations at 5 CFR Part 1320, the Office of Management and Budget has assigned Control No. 1293-0005 to the information collection requirements of this part.

BILLING CODE 4510-79-P

**Appendix A to Part 61-250—Federal Contractor Veterans' Employment Report VETS-100**



Maximum Number	Minimum Number



## FEDERAL CONTRACTOR VETERANS' EMPLOYMENT REPORT (VETS-100)

### WHO MUST FILE

This VETS-100 Report is to be completed by all nonexempt federal contractors and subcontractors with a contract or subcontract entered into before December 1, 2003, in the amount of \$25,000 or more with any department or agency of the United States for the procurement of personal property and non-personal services. Services include but are not limited to the following services: utility, construction, transportation, research, insurance, and fund depository, irrespective of whether the government is the purchaser or seller. Entering into a covered federal contract or subcontract during a given calendar year establishes the requirement to file a VETS-100 Report during the following calendar year. A VETS-100A Report is to be completed by all nonexempt federal contractors and subcontractors whose only contract or subcontract with any department or agency of the United States for the procurement of personal property and non-personal services (including construction) was entered into or modified on or after December 1, 2003.

### WHEN TO FILE

This annual report must be filed no later than September 30. Mail to the address pre-printed on the front of the form.

### LEGAL BASIS FOR REPORTING REQUIREMENTS

Title 38, United States Code, Section 4212(d) and PL 105-339, requires that federal contractors report at least annually the numbers of **existing** employees who are: 1) special disabled veterans, 2) veterans of the Vietnam era, and 3) other protected veterans (that is, who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized). For the existing employees, the numbers of veterans within these three groups are to be broken out by job category. **New hires** are to be reported over a twelve-month reporting period. The total number of veteran new hires in each of the three groups above is to be reported, along with the total number of recently separated veterans (i.e. hired within twelve months of separation). In addition, over the same twelve-month period, the total number of new hires, both veterans and non-veterans, is required to be reported, along with the minimum and maximum total employment. This reporting is required by hiring location.

### HOW TO SUBMIT THE VETS-100 REPORT

Single-establishment employers must file one completed form. All multi-establishment employers, i.e., those doing business at more than one hiring location, must file (A) one form covering the principal or headquarters office; (B) a separate form for each hiring location employing 50 or more persons; and (C) EITHER, (i) a separate form for each hiring location employing fewer than 50 persons, OR (ii) consolidated reports that cover hiring locations within one State that have fewer than 50 employees. Each state consolidated report must also list the name and address of the hiring locations covered by the report. Company consolidated reports such as those required by EEO-1 reporting procedures are NOT required for the VETS-100 Report. Completed reports for the headquarters location and all other hiring locations for each company should be mailed in one package to the address indicated on the front of the form.

### RECORD KEEPING

Employers must keep copies of the completed annual VETS-100 Report submitted to DOL for a period of three years.

### HOW TO PREPARE THE FORMS

Multi-establishment employers submitting hard copy reports should produce facsimile copies of the headquarters form for reporting data on each location.

**Type of Reporting Organization** Indicate the type of contractual relationship (prime contractor or subcontractor) that the organization has with the Federal Government. If the organization serves as both a prime contractor and a subcontractor on various federal contracts, check both boxes.

**Type of Form** If a reporting organization submits only one VETS-100 Report form for a single location, check the Single Establishment box. If the reporting organization submits more than one form, only one form should be checked as Multiple Establishment-Headquarters. The remaining forms should be checked as either Multiple Establishment-Hiring Location or Multiple Establishment-State Consolidated. For state consolidated forms, the number of hiring locations included in that report should be entered in the space provided. For each form, only one box should be checked within this block.

#### I. COMPANY IDENTIFICATION INFORMATION

**Company Number** Do not change the Company Number that is printed on the form. If there are any questions regarding your Company Number, please call the VETS-100 staff at (301) 306-6752 or e-mail [HELPDESK@VETS100.COM](mailto:HELPDESK@VETS100.COM).

**Twelve Month Period Ending** Enter the end date for the twelve-month reporting period used as the basis for filing the VETS-100 Report. To determine this period, select a date in the current year between July 1 and August 31 that represents the end of a payroll period. That payroll period will be the basis for reporting Number of Employees, as described below. Then the twelve-month period preceding the end date of that payroll period will be your twelve-month period covered. This period is the basis for reporting New Hires, as described below. Any federal contractor or subcontractor who has written approval from the Equal Employment Opportunity Commission to use December 31 as the ending date for the EEO-1 Report may also use that date as the ending date for the payroll period selected for the VETS-100 Report.

**Name and Address for Single Establishment Employers** COMPLETE the identifying information under the Parent Company name and address section. LEAVE BLANK all of the identifying information for the Hiring Location.

**Name and Address for Multi Establishment Employers** For parent company headquarters

**location**, COMPLETE the name and address for the parent company headquarters, LEAVE BLANK the name and address of the Hiring Location. **For hiring locations of a parent company**, COMPLETE the name and address for the Parent Company location, COMPLETE the name and address for the Hiring Location.

**NAICS Code, DUNS Number, and Employer ID Number** Single Establishment and Multi Establishment Employers must COMPLETE the NAICS Code, Employer ID Number, and the DUNS number if the contractor has a DUNS number, as described below.

**NAICS Code** Enter the six (6) digits NAICS Code applicable to the hiring location for which the report is filed. If there is not a separate NAICS Code for the hiring location, enter the NAICS Code for the parent company.

**Dun and Bradstreet I.D. Number (DUNS)** If the company or any of its establishments has a Dun and Bradstreet Identification Number, please enter the nine (9) digit number in the space provided. If there is a specific DUNS Number applicable to the hiring location for which the report is filed, enter that DUNS Number. Otherwise, enter the DUNS number for the parent company.

**Employer I.D. Number (EIN)** Enter the nine (9) digit numbers assigned by the IRS to the contractor. If there is a specific EIN applicable to the hiring location for which the report is filed, enter that EIN. Otherwise, enter the EIN for the parent company.

#### II. INFORMATION ON EMPLOYEES

**Counting Veterans** Some veterans will fall into more than one of the protected veteran categories. For example, a veteran may be both a special disabled veteran and a Vietnam era veteran. In such cases, the veteran must be counted in each category. Recently separated veterans will be counted in the New Hires section of the VETS-100 Report only. In subsequent years, these veterans will no longer be considered newly separated veterans.

**Number of Employees** Select any payroll period ending between July 1 and August 31 of the current year. Provide all data for permanent full-time and part-time employees who were special disabled veterans, Vietnam-era veterans, or other protected veterans employed as of the ending date of the selected payroll period. Do not include employees specifically excluded as indicated in 41 CFR 61-250.2(b)(2). Employees must be counted by veteran status for each of the nine occupational categories (Lines 1-9) in columns L, M, and N. The description of job categories can be found in 41 CFR 61-250.2(b)(3). Blank spaces will be considered zeros.

**New Hires** Report the number of permanent full-time and part-time employees by veteran status who were hired (both veterans and non-veterans) and who were included in the payroll for the first time during the 12-month period ending between July 1 through August 31 of the current year. The totals in columns O, P, Q, R, and S (Line 10) are required. Enter all applicable numbers, including zeros.

**Maximum/Minimum Employees** Report the maximum and minimum number of permanent employees on board during the period covered as indicated by 41 CFR 61-250.10(a)(3). Contractors may use any reasonable method for calculating and determining the maximum and minimum number of employees during the reporting period.

#### DEFINITIONS:

**Hiring location** means an establishment as defined at 41 CFR 61.250.2(b).

**Special Disabled Veteran** means (i) a veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability (A) rated at 30 percent or more, or (B) rated at 10 or 20 percent in the case of a veteran who has been determined under Section 38 U.S.C. 3106 to have a serious employment handicap or (ii) a person who was discharged or released from active duty because of a service-connected disability.

**Veteran of the Vietnam-era** means a person who (i) served on active duty in the U.S. military, ground, naval or air service for a period of more than 180 days, and who was discharged or released therefrom with other than a dishonorable discharge, if any part of such active duty was performed: (A) in the Republic of Vietnam between February 28, 1961, and May 7, 1975, or (B) between August 5, 1964, and May 7, 1975, in all other cases; or (ii) was discharged or released from active duty in the U.S. military, ground, naval or air service for a service-connected disability if any part of such active duty was performed (A) in the Republic of Vietnam between February 28, 1961, and May 7, 1975, or (B) between August 5, 1964, and May 7, 1975, in any other location.

**Recently Separated Veterans** means any veteran who served on active duty in the U.S. military, ground, naval or air service during the one-year period beginning on the date of such veteran's discharge or release from active duty.

**Other Protected Veterans** means veterans who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized. For those with Internet access, the information required to make this determination is available at <http://www.opm.gov/veterans/html/vgmedal2.htm>. A copy of the list also may be obtained by calling (301) 306-6752 and requesting that a copy of the list be mailed to you.

Public reporting burden for this collection is estimated to average 60 minutes per paper response, and 30 minutes per electronic response, including the time for reviewing instructions, searching existing data source, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to the Department of Labor, Office of Information Management, Room N-1301, 200 Constitution Avenue, NW, Washington D.C. 20210. All completed VETS-100 Reports should be sent to the address indicated on the front of the form.

[FR Doc. E8-26185 Filed 11-4-08; 8:45 am]

BILLING CODE 4510-79-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 64

[Docket No. FEMA-8049]

#### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

**DATES: Effective Dates:** The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42

U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

Previously, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension

date. Since these notifications were made, this final rule may take effect within less than 30 days.

**National Environmental Policy Act.** This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act.** The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

**Regulatory Classification.** This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Executive Order 13132, Federalism.** This rule involves no policies that have federalism implications under Executive Order 13132.

**Executive Order 12988, Civil Justice Reform.** This rule meets the applicable standards of Executive Order 12988.

**Paperwork Reduction Act.** This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

#### List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

#### PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

#### § 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows: