

Dated: November 29, 2001.

**Peter Caulkins,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR part 180 is corrected as follows:

**PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a, 371.

2. In § 180.412, the table in paragraph (b) the entry for “sheep, mbyp” is corrected to read as follows:

**§ 180.412 Sethoxydim; tolerances for residues.**

\* \* \* \* \*  
(b) \* \* \*

Commodity	Parts per million	Expiration/revocation date
Sheep, mbyp .....	1.0	12/31/03

\* \* \* \* \*

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**DEPARTMENT OF LABOR**

**Veterans' Employment and Training Service**

**41 CFR Part 61-250**

**RIN 1293-AA07**

**Annual Report From Federal Contractors**

**AGENCY:** Veterans' Employment and Training Service, Department of Labor.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** The Veterans' Employment and Training Service (VETS) is amending its regulations implementing the VETS-100 reporting requirement. This amendment revises the final rule that was published on October 11, 2001 (66 FR 51998), and that went into effect on November 13, 2001, to withdraw from the rule the specification for how Federal contractors filing the report were to calculate the maximum and minimum number of employees. The basic requirement to report the maximum and minimum number of employees remains.

**DATES:** *Effective Date:* This regulation is effective December 19, 2001.

*Comment Period:* Comments must be received on or before January 18, 2002.

**ADDRESSES:** Comments should be sent to Norman Lance, Chief, Investigations and Compliance Division, VETS, by regular mail at the U.S. Department of Labor, Veterans' Employment and Training Service, Federal Contractor Program FRN-Comments—Interim Final Rule, Federal Contractor Program Office, 6101 Stevenson Avenue, Alexandria, VA 22304, or by e-mail at *Lance-Norman@dol.gov*. Written comments limited to 10 pages or fewer also may be

transmitted by facsimile (FAX) at (202) 693-4755. Receipt of submissions, whether by U.S. mail, e-mail or FAX transmittal, will not be acknowledged; however, the sender may request confirmation that a submission has been received, by telephoning VETS at (202) 693-4731 (VOICE)

**FOR FURTHER INFORMATION CONTACT:** Norm Lance, Chief, Investigations and Compliance Division, VETS, at (202) 693-4731 or by e-mail at *Lance-Norman@dol.gov*. Individuals with hearing impairments may call (800) 670-7008 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Veterans Employment Opportunities Act (VEOA) was signed into law in October 1998. The statute extended the affirmative action and reporting responsibilities of Federal contractors and subcontractors. Among other changes, the VEOA added the requirement that contractors and subcontractors report the maximum number and the minimum number of persons they employed during the reporting period to the Secretary of Labor.

On October 5, 2000, VETS published a Notice of Proposed Rulemaking (65 FR 59684) to implement the provisions of the VEOA, including the requirement for reporting the minimum and maximum number of employees. The Notice of Proposed Rulemaking did not contain guidance on how covered contractors were to determine the minimum and maximum number of employees. One commenter asked for clarification about how to determine the minimum and maximum number of employees. The commenter asserted that there could be continuous changes in employment levels at a company and that it was unclear exactly when the minimum and maximum number of employees had to be determined. To respond to the concerns of the commenter, VETS clarified the

regulation language by adding the following language to the final rule:

The minimum and maximum number of employees reportable at each hiring location during the period covered by the report must be determined as follows: Contractors must review payroll records for each of the pay periods included in the report. The minimum number of employees is the total number of employees paid in the payroll period in which the contractor had the fewest number of employees. The maximum number of employees is the total number of employees paid in the payroll period in which the contractor had the greatest number of employees.

This new language was inserted in section 61-250.10(a)(3), and also in section 61-250.11 under the paragraph entitled “Maximum and minimum number of employees.” (66 FR 52004-52005, October 11, 2001).

It has been brought to the attention of VETS that the revised language might have inadvertently increased the record keeping burden on some contractors. VETS has learned that it might be difficult to match up payroll periods, employees, and physical VETS-100 reporting locations in the way contemplated by the final rule. For example, some companies use separate payrolls and pay dates for nonexempt and exempt employees within a single establishment. Other companies maintain separate payrolls and pay dates for bargaining unit employees and nonbargaining unit employees. Some companies temporarily remove employees who are on short-term leaves of absence from their payrolls. These absent employees, however, still may be considered “active” employees for purposes of the VETS-100 report.

To permit contractors flexibility in how they determine the maximum and minimum number of employees, VETS is making two amendments to part 61-250. In each place in which the instructions quoted above were placed in the rule, the instructions now are being withdrawn. Accordingly, contractors will be required to report the maximum and minimum number of

employees, but the method by which the count must be conducted will not be mandated.

However, VETS expressly requests comments on the methods contractors intend to use to calculate the minimum and maximum number of employees. VETS plans on publishing this information, either in regulatory format or as guidance to contractors, for future reporting cycles.

## II. Revised Sections

### *Section 250.10 What Reporting Requirements Apply to Federal Contractors and Subcontractors, and What Specific Wording Must the Reporting Requirements Contract Clause Contain?*

Section 61–250.10(a)(3). The language quoted above that specified how contractors were to determine the maximum number and minimum number of employees is withdrawn. Contractors are still obligated to provide a count of the maximum and minimum number of employees. However, contractors may use any reasonable method for calculating and determining the maximum number and minimum number of employees during the reporting period.

### *Section 61–250.11 On What Form Must the Data Required by This Part Be Submitted?*

The language quoted above, which appears as a paragraph entitled “Maximum and minimum number of employees” under section 250.11, is withdrawn. All other instructions in this section on how to prepare the VETS–100 report remain intact.

## III. Regulatory Procedures

### *Executive Order 12866*

The Department of Labor has determined that this Interim Final Rule is not economically significant as defined in the Regulatory Flexibility Act. However, this rule has been reviewed by the Office of Management and Budget under Executive Order 12866. This rule will not: (1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency, or otherwise interfere, with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel

legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in Executive Order 12866. Therefore, a regulatory impact analysis is unnecessary.

### *Congressional Review Act*

This Interim Final Rule is not a major rule for purposes of the Congressional Review Act.

### *Unfunded Mandates*

Executive Order 12875—This Interim Final Rule does not create an unfunded Federal Mandate upon any State, local, or tribal government.

Unfunded Mandate Reform Act of 1995—This Interim Final 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.

### *Executive Order 13132*

These regulations have been reviewed in accordance with Executive Order 13132 regarding Federalism. This 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. Therefore, the requirements of section 6 of Executive Order 13132 do not apply to this rule.

### *Regulatory Flexibility Act*

This Interim Final Rule does not substantially change the existing obligations of Federal contractors or subcontractors. The Department of Labor certifies that the rule will not have a significant economic impact on a substantial number of small business entities. Therefore, no regulatory flexibility analysis is required.

### *Paperwork Reduction Act*

The inclusion of guidelines in the October 11, 2001, final rule on how to determine the minimum and maximum number of employees may have inadvertently resulted in greater burden than that reflected in the rule. By removing the portion of the rule that specified how the minimum and maximum number of employees was to be computed, this Interim Final Rule restores the burden to that reflected in the final rule.

### *Absence of Notice of Proposed Rulemaking/Effective Date of This Interim Rule*

The Department of Labor has determined that it is unnecessary and

contrary to the public interest to publish a Notice of Proposed Rulemaking (NPRM) regarding this amendment. This Interim Final Rule will prevent covered contractors from having to comply with a possibly significant and inadvertent increase in their recordkeeping burdens. The portion of the October 11 rule that is being removed simply provided information on how the maximum and minimum number of employees was to be computed; removing that information nevertheless retains unchanged the fundamental statutory requirement that contractors report their maximum and minimum employment.

For the above-listed reasons, the Department of Labor finds that publishing an NPRM, and providing a period for notice and comment, before implementing this Interim Final Rule is unnecessary and contrary to the public interest, and therefore pursuant to 5 U.S.C. 553(b)(B) good cause exists for publishing these regulations as an Interim Final Rule. Furthermore, the Department finds that the above-listed reasons also constitute good cause under 5 U.S.C. 553(d)(3) for waiving the customary requirement to delay the effective date of a regulation for 30 days following its publication. Therefore, this Interim Final Rule is effective immediately upon publication.

### **List of Subjects in 41 CFR Part 61–250**

Government contracts, Reporting and recordkeeping requirements, Veterans.

Signed at Washington, DC, this 13th day of December 2001.

**Frederico Juarbe, Jr.,**

*Assistant Secretary of Labor for Veterans’ Employment and Training Service.*

For the reasons set forth in the preamble, 41 CFR part 61–250 is amended as set forth below:

### **PART 61–250—ANNUAL REPORT FROM FEDERAL CONTRACTORS**

1. The authority citation for part 61–250 continues to read as follows:

**Authority:** 38 U.S.C. 4212(d).

#### **§ 250.10 [Amended]**

2. Section 250.10 is amended in the contract clause by removing all of paragraph (a)(3) except for the first sentence.

#### **§ 250.11 [Amended]**

3. Section 250.11 is amended in the contract clause by removing the paragraph entitled “Maximum and minimum number of employees:” which appears under the heading entitled

“Information on Employees (Veterans and non-veterans).”

[FR Doc. 01-31188 Filed 12-18-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 950616159-1292-06; I.D. 022601D]

RIN 0648-ZA16

#### Northeast Multispecies Fishery; Fishing Capacity Reduction Program

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Interim final rule; announcement of a fishing capacity reduction program and solicitation for bids from participants.

**SUMMARY:** NMFS issues this interim final rule to establish a voluntary fishing capacity reduction program (FCRP) for the Northeast multispecies fishery that permanently removes multispecies limited access fishing permits. Permit holders who would like to participate may submit bids, which will be ranked based on the amount of the bid and an estimate of the fishing capacity represented by the permit. The intent of this program is to obtain the maximum sustained reduction in fishing capacity at the least cost. As this is a limited access fishery, the capacity removed by the program cannot be replaced. It is being implemented by an interim final rule to allow public comments, in particular on its related Environmental Assessment and on the determination under the Regulatory Flexibility Act that this action will not have a significant economic impact on a substantial number of small entities.

**DATES:** Effective January 18, 2002. NMFS will accept bids through February 19, 2002. Comments must be received on or before January 18, 2002.

**ADDRESSES:** Written comments should be sent to National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930, Attn: Jack Terrill. Comments involving the reporting burden estimates or any other aspects of the collection-of-information requirements contained in this interim final rule should be sent to both Jack Terrill and to the Office of Information and Regulatory Affairs, Office of

Management and Budget (OMB), Washington, D.C. 20503 (ATTN: NOAA Desk Officer). Copies of the Environmental Assessment may be obtained from Jack Terrill, Fishery Administrator, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Jack Terrill, Fishery Administrator, (Jack.Terrill@noaa.gov) 978-281-9136 or Daniel Morris, Special Projects Officer, (Daniel.Morris@noaa.gov) 978-281-9237. This **Federal Register** document is also accessible via the Internet at the Office of the Federal Register website at <http://www.access.gpo.gov/su-docs/aces/aces140.tml>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 13, 2000, the President signed the Military Construction Appropriations Act for FY 2001 (Act) (Pub.L. 106-246), which authorized a \$10 million emergency supplemental appropriation for disaster assistance for the Northeast multispecies fishery. The funds are intended to compensate industry permittees who choose to participate in a program aimed at reducing the permitted fishing capacity in the multispecies fishery. NMFS published a notice of the proposed program, solicited comments on the proposal, and announced nine public meetings throughout New England at 66 FR 17668, April 3, 2001. NMFS received 21 written comments, one of which was signed by 88 people. The nine public meetings were attended by approximately 130 people; NMFS responds to the comments below. Further background for this program is provided in the April 3, 2001, **Federal Register** notice and is not repeated here.

##### II. Summary of Comments and Responses

In general, commenters expressed support for the proposed program, which would compensate holders of limited access multispecies permits for the voluntary surrender of their permits. Separate from this FCRP, capacity reduction in the multispecies fishery is under consideration by the New England Fishery Management Council (Council) and is closely related to many other initiatives, including gear and time/area restrictions, aimed at promoting the recovery of depressed groundfish stocks. During the public meetings related to the FCRP, NMFS received many comments regarding measures under consideration by the Council. These comments have been

shared with Council staff. Except where the comments are relevant to this FCRP, issues related to the Council's activities are not addressed in the following paragraphs.

*Relation of the FCRP to Amendment 13.* Among its many goals, Amendment 13 to the Northeast Multispecies Fishery Management Plan (FMP), which has been under development by the Council for about 2 years, aims to address issues related to over-capacity in the fishery. The Council developed an ad hoc Capacity Committee to develop management alternatives to reduce the number of excess days-at-sea (DAS) allocated in the fishery. Many commenters expressed concern about the timing of the FCRP with respect to Amendment 13. Some suggested that the FCRP should come after the Council's actions. They argued that Amendment 13 could devalue and/or invalidate latent permits, and if so, then the FCRP could remove even more of the permits or, as others suggested, the FCRP would be irrelevant. Some commenters insisted that the FCRP should come before the implementation of Amendment 13, suggesting that the Council's capacity reduction proposals could be inappropriate or even rendered moot, if the FCRP is very successful. In either case, the uncertainty of the ultimate proposed measures of Amendment 13 and the timing of those measures are confounding factors for fishers who must decide whether or not to participate in the FCRP.

The statutory language establishing the FCRP requires that NMFS implement the program in a timely manner, and NMFS has attempted to do that. NMFS acknowledges that the uncertainty regarding the capacity reduction measures in Amendment 13 and the timing thereof may make it difficult for some permittees to determine whether or not to participate in the FCRP and at what level to set their bids.

*Tax implications.* Several commenters asked about the tax implications of participating in the program, suggested that the funds should be tax exempt, or recommended that the payout be spread across several years to reduce the tax burden in any 1 year. Others claimed that taxes could be deferred if the funds are put in the Fishing Vessel Capital Construction Fund (CCF)(46 U.S.C. 1177).

Funds received through participation in the FCRP may be considered taxable income. The type of income and the tax rate would be determined by the participant's tax situation, and it would be the responsibility of the program participant to seek appropriate tax