

these changes are effective as of the original filing of the rules implementing the 2002 Act.

#### List of Subjects

##### 7 CFR Part 1412

Direct and counter-cyclical payments, Grains, Peanuts, Oilseeds, Reporting and record keeping requirements.

##### 7 CFR Part 1421

Agricultural commodities, Feed grains, Grains, Loan programs—agriculture, Oilseeds, Price support programs.

■ Accordingly, 7 CFR chapter XIV is corrected as follows:

#### PART 1412—DIRECT AND COUNTER-CYCLICAL PROGRAM AND PEANUT QUOTA BUYOUT PROGRAM

■ 1. The authority citation for part 1412 continues to read as follows:

**Authority:** 7 U.S.C. 7911–7918, 7951–7956; 15 U.S.C. 714b and 714c.

#### Subpart G—Establishment and Assignment of Peanut Base Acres and Yields for a Farm

■ 2. Revise § 1412.703(b) to read as follows:

##### § 1412.703 Assignment of average peanut yields and average peanut acreages to farms.

\* \* \* \* \*

(b) Notwithstanding paragraph (a) of this section, the average acreage determined under § 1412.701 for a farm may be assigned to a farm in a contiguous state only if either of the following apply:

(1) The historic peanut producer making the assignment produced peanuts in that State during at least one of the 1998 through 2001 crop years; or

(2) As of March 31, 2003, the historic peanut producer is a producer on a farm in that State.

\* \* \* \* \*

#### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR THE 2002 THROUGH 2007 CROP YEARS

■ 3. The authority citation for part 1421 continues to read as follows:

**Authority:** 7 U.S.C. 7231–7237 and 7931 *et seq.*; 15 U.S.C. 714b, 714c.

#### Subpart B—Marketing Assistance Loans

■ 4. In § 1421.109, paragraphs (e)(1) and (g) are corrected to read as follows:

##### § 1421.109 Personal liability of the producer.

\* \* \* \* \*

(e) For violations and the liquidated damages under paragraph (d)(1) of this section, the county committee shall:

(1) Require repayment of the marketing assistance loan quantity removed or disposed of at the lesser of:

(i) The applicable loan principal, and charges, plus interest, or:

(ii) The announced alternative repayment rate in effect on date the violation occurred, plus 15 percent of the loan rate, or as otherwise determined by the Deputy Administrator, and

\* \* \* \* \*

(g) The county committee may waive imposing liquidated damages if it determines that the violation was inadvertent, accidental, or unintentional.

\* \* \* \* \*

Signed in Washington, DC, on November 26, 2003.

**James R. Little,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 03–30198 Filed 12–4–03; 8:45 am]

**BILLING CODE 3410–05–P**

## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

#### 15 CFR Part 806

[Docket No. 030818205–3281–02]

RIN 0691–AA48

#### Direct Investment Surveys: BE–15, Annual Survey of Foreign Direct Investment in the United States

**AGENCY:** Bureau of Economic Analysis, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends regulations that set forth reporting requirements for the BE–15, Annual Survey of Foreign Direct Investment in the United States. The annual survey is comprised of four forms—the BE–15(LF) long form, the BE–15(SF) short form, the BE–15(EZ) form, which is a new form, and the BE–15 Supplement C—Claim for Exemption From Filing a BE–15(LF), BE–15(SF), or BE–15(EZ). The annual survey is a sample survey that collects data on the financial structure and operations of nonbank U.S. affiliates of foreign companies needed to update similar data for the universe of U.S. affiliates collected once every 5 years in the BE–12 benchmark survey. The data

are used to derive annual estimates of the operations of U.S. affiliates of foreign companies, including their balance sheets; income statements; property, plant, and equipment; external financing; employment and employee compensation; merchandise trade; sales of goods and services; taxes; and research and development activity. The data are needed to measure the size and economic significance of foreign direct investment in the United States, to measure changes in such investment, and to assess its impact on the U.S. economy.

**DATES:** This final rule will be effective January 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Obie G. Whichard, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9890.

**SUPPLEMENTARY INFORMATION:** On August 29, 2003, the Bureau of Economic Analysis (BEA) published in the **Federal Register** (68 FR 51942) a notice of proposed rulemaking setting forth revised reporting requirements for the BE–15, Annual Survey of Foreign Direct Investment in the United States. No comments on the proposed rule were received. Thus, the provisions in the proposed rule are adopted without change.

#### Description of Revisions

The BE–15, Annual Survey of Foreign Direct Investment in the United States, is mandatory and is conducted annually by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108)—hereinafter, “the Act.” BEA will send the survey to potential respondents in March of each year; responses will be due by May 31.

BEA will introduce a sampling procedure to help reduce respondent burden for some U.S. businesses. The procedure utilizes the new BE–15(EZ) form; this form provides a few basic indicators for non-sample firms that can be used as a basis for estimating data that they otherwise would have to report on the lengthier BE–15(LF) and BE–15(SF) forms. To bring the annual survey into conformity with the Benchmark Survey of Foreign Direct Investment in the United States–2002, the following changes are being made to the Code of Federal Regulations: (1) Direct that only nonbank majority-owned U.S. affiliates of foreign companies report on the BE–15(LF) long form (minority-owned affiliates will report on the BE–15(SF) short form, or

the BE-15(EZ) form, regardless of size); (2) raise the exemption level on the BE-15(LF) long form from \$100 million to \$125 million (reporting on a given form is required if the affiliate's assets, sales, or net income (or loss) exceed the exemption level); and (3) exempt nonbank subsidiaries or units of U.S. bank or bank holding company affiliates from reporting.

In addition, the following changes are being made to the forms: (1) Add questions to the BE-15 (LF) long form to collect detail on premiums earned and claims paid for U.S. affiliates operating in the insurance industry, and to collect detail on finished goods purchased for resale for U.S. affiliates operating in the wholesale and retail trade industries; (2) in conjunction with increasing the exemption level for reporting on the BE-15(LF) long form, add four items to the short form that will serve to improve estimates of gross product for majority-owned U.S. affiliates—certain realized and unrealized gains and losses, U.S. income taxes, interest received, and interest paid; (3) in conjunction with requiring all minority-owned U.S. affiliates to file on the short form, revise the State Schedule to collect additional detail, by State, for minority-owned U.S. affiliates with activities in more than five States; and (4) to reduce overall respondent burden, drop several questions that BEA feels are no longer of significant analytical interest to the data users.

### Survey Background

The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, “the Act.” Section 4(a) of the Act provides that with respect to foreign direct investment in the United States, the President shall, to the extent he deems necessary and feasible, conduct a regular data collection program to secure current information on international capital flows and other information related to international investment and trade in services, including (but not limited to) such information as may be necessary for computing and analyzing the United States balance of payments, the employment and taxes of United States parents and affiliates, and the international investment and trade in services position of the United States.

In Section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns direct investment to the Secretary of

Commerce, who has redelegated it to BEA.

The annual survey is a sample survey that collects data on the financial structure and operations of nonbank U.S. affiliates of foreign companies needed to update similar data for the universe of U.S. affiliates collected once every 5 years in the BE-12 benchmark survey. The data are used to derive annual estimates of the operations of U.S. affiliates of foreign companies, including their balance sheets; income statements; property, plant, and equipment; external financing; employment and employee compensation; merchandise trade; sales of goods and services; taxes; and research and development activity. The data are needed to measure the size and economic significance of foreign direct investment in the United States, to measure changes in such investment, and to assess its impact on the U.S. economy. Such data are generally found in enterprise-level accounting records of respondent companies. The data are disaggregated by industry of U.S. affiliate, by country and industry of foreign parent or ultimate beneficial owner, and, for selected items, by State.

### Executive Order 13132

This final rule does not contain policies with Federalism implications, as that term is defined in E.O. 13132.

### Executive Order 12866

This final rule has been determined to be not significant for purposes of E.O. 12866.

### Paperwork Reduction Act

Notwithstanding any other provisions of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection displays a currently valid Office of Management and Budget (OMB) Control Number. This final rule covers a collection of information subject to the provisions of the PRA. The OMB has approved this collection and assigned to it OMB Control Number 0608–0034. The collection will display this control number.

The survey is expected to result in the filing of reports from approximately 4,950 U.S. affiliates. The respondent burden for this collection of information is expected to vary from 20 minutes for the smallest and least complex company reporting on the BE-15 Supplement C form to 550 hours for the largest and most complex company reporting on the BE-15(LF) long form, with an average

burden of 21.8 hours per response (down from 32 hours for the previous annual survey), including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Total respondent burden for the previous (2001) annual survey was estimated at 128,000 hours. Total respondent burden for this survey is estimated to be 107,900 hours (4,950 responses times 21.8 hours average burden). The decrease of 20,100 hours in the estimated total respondent burden is largely attributable to the changes to the reporting requirements.

### Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed rule would not have a significant economic impact on a substantial number of small entities as that term is defined in the Regulatory Flexibility Act. The factual basis for the certification was published with the proposed rule. No comments were received regarding the economic impact of the rule. As a result, no final regulatory flexibility analysis was prepared.

### List of Subjects in 15 CFR Part 806

International transactions, Economic statistics, Foreign investment in the United States, Penalties, Reporting and record keeping requirements.

Dated: November 24, 2003.

### J. Steven Landefeld,

*Director, Bureau of Economic Analysis.*

■ For reasons set forth in the preamble, BEA amends 15 CFR part 806 as follows:

### PART 806—DIRECT INVESTMENT SURVEYS

■ 1. The authority citation for 15 CFR Part 806 continues to read as follows:

**Authority:** 5 U.S.C. 301; 22 U.S.C. 3101–3108; and E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

■ 2. Section 806.15(i) is revised to read as follows:

#### § 806.15 Foreign direct investment in the United States.

\* \* \* \* \*

(i) *Annual report form.* BE-15—Annual Survey of Foreign Direct Investment in the United States: One report is required for each consolidated

U.S. affiliate, except a U.S. banking affiliate or U.S. bank holding company affiliate (including all of the subsidiaries and units of the bank holding company), exceeding an exemption level of \$30 million. A long form, BE-15(LF), must be filed by each nonbank majority-owned U.S. affiliate (a "majority-owned" U.S. affiliate is one in which the combined direct and indirect ownership interests of all foreign parents of the U.S. affiliate exceed 50 percent) for which at least one of the three items-total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes-exceeds \$125 million (positive or negative), unless the nonbank majority-owned U.S. affiliate is selected to file a BE-15(EZ) form. A short form, BE-15(SF), must be filed by each nonbank majority-owned U.S. affiliate for which at least one of the three items-total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes-exceeds \$30 million but no one item exceeds \$125 million (positive or negative), and by each nonbank minority-owned U.S. affiliate (a "minority-owned" U.S. affiliate is one in which the combined direct and indirect ownership interest of all foreign parents of the U.S. affiliate is 50 percent or less) for which at least one of the three items-total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes-exceeds \$30 million (positive or negative), unless the nonbank U.S. affiliate is selected to file a BE-15(EZ) form. A BE-15(EZ) form must be filed by each nonbank U.S. affiliate that is selected to file this form in lieu of filing the BE-15(LF) or BE-15(SF). A BE-15 Supplement C (Exemption Claim) must be filed by each nonbank U.S. affiliate to claim exemption from filing a BE-15(LF), BE-15(SF), or BE-15(EZ). Following an initial filing, the BE-15 Supplement C is not required annually from those nonbank U.S. affiliates that meet the stated exemption criteria from year to year.

\* \* \* \* \*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 170

RIN 1076-AE50

#### Partial Distribution of Fiscal Year 2004 Indian Reservation Roads Funds

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Final rule.

**SUMMARY:** We are issuing a rule requiring that we immediately distribute \$25 million of fiscal year 2004 Indian Reservation Roads (IRR) funds to projects on or near Indian reservations using the relative need formula. This partial distribution reflects the funds the Federal Highway Administration has allocated to the Department of the Interior and is based on funding appropriated by a continuing resolution and the Surface Transportation Extension Act of 2003 in effect until February 29, 2004. We are using the Federal Highway Administration (FHWA) Price Trends report for the relative need formula distribution process, with appropriate modifications to address non-reporting States. This distribution will allow an immediate allocation of funds based on an existing formula, final allocations will be dependent on a final authorization of highway trust funds and a fiscal year 2004 appropriations.

**EFFECTIVE DATE:** December 10, 2003. Section 170.4b expires September 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** LeRoy Gishi, Chief, Division of Transportation, Tribal Services, Bureau of Indian Affairs, 1849 C Street, NW., MS-4058-MIB, Washington, DC 20240. Mr. Gishi may also be reached at (202) 208-4359 (phone) or (202) 208-4696 (fax).

#### SUPPLEMENTARY INFORMATION:

##### Background

*Where Can I Find General Background Information on the Indian Reservation Roads (IRR) Program, the Relative Need Formula, the Federal Highway Administration (FHWA) Price Trends Report, and the Transportation Equity Act for the 21st Century (TEA-21) Negotiated Rulemaking Process?*

The background information on the IRR program, the relative need formula, the FHWA Price Trends Report, and the TEA-21 Negotiated Rulemaking process is detailed in the **Federal Register** notice dated February 15, 2000 (65 FR 7431).

#### *Why Are You Publishing This Rule?*

We are publishing this rule to distribute \$25 million of fiscal year 2004 IRR Program funds. This rule sets no precedent for the final rule to be published as required by Section 1115 of TEA-21.

#### *Where Can I Find Information on the Distribution of Fiscal Year 2003 IRR Program Funds?*

You can find this information in the **Federal Register** notice dated June 5, 2003 (68 FR 33625).

#### *How Will the Secretary Distribute \$25 Million of Fiscal Year 2004 IRR Program Funds?*

Upon publication of this rule, the Secretary will distribute only \$25 million of fiscal year 2004 IRR program funds based on the current relative need formula used in fiscal years 2000, 2001, 2002 and in the first distribution in fiscal year 2003. We are using the latest indices from the FHWA Price Trends Report with appropriate modifications for non-reporting States in the relative need formula distribution process.

#### **Regulatory Planning and Review (Executive Order 12866)**

Under the criteria in Executive Order 12866, this rule is not a significant regulatory action because it will not have an annual effect of more than \$100 million on the economy. The total amount currently available for distribution of fiscal year 2004 IRR program funds is approximately \$145 million and we are distributing only \$25 million under this rule. Congress has authorized these funds and FHWA has already allocated them to BIA. The cost to the government of distributing the IRR program funds, especially under the relative need formula with which the tribal governments and tribal organizations and the BIA are already familiar, is negligible. The distribution of fiscal year 2004 IRR program funds does not require tribal governments and tribal organizations to expend any of their own funds. This rule is consistent with the policies and practices that currently guide our distribution of IRR program funds. This rule continues to adopt the relative need formula that we have used since 1993, adjusting the FHWA Price Trends Report indices for states that do not have current data reports. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another Federal agency. The FHWA has transferred the IRR program funds to us and fully expects the BIA to distribute the funds according to a funding formula approved by the