3

United States Department of Agriculture

NRCS
Natural Resources Conservation Service
P.O. Box 2890
Washington, D.C. 20013

Jean Public
8 Winterberry Court
Whitehouse Station, NJ 08889

Dear Ms. Public:

Thank you for your fax of January13, 2009 in regard to Docket No. NRCS_FRDOC_0001, Regional Equity Interim Final Rule, as published in the *Federal Register* on January 13, 2009. As requested, please find attached a copy of this Interim Final Rule.

The conservation provisions of the Food, Conservation and Energy Act of 2008 (2008 Farm Bill) and the Administrative Procedures Act offer the public the opportunity to submit official comments on rule changes published in the *Federal Register* during the official public comment period indicated with each published rule change.

Regulatory changes generally are being published as interim final rules, enabling full implementation of the programs while public comment is assessed. NRCS acknowledges your fax. When received, your comments will be analyzed and given full consideration in the process of moving to final program rules. The preamble for final rules will include our analysis of public comments and their disposition with regard to the final rules.

Again, thank you for contacting us.

Sincerely,

Thomas W. Christensen

THOMAS W. CHRISTENSEN
Deputy Chief for Programs

Attachment

cc:
Maggie Rhodes, Team Leader, Program Allocations and Management Support Team, NRCS, Washington, D.C.

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

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Rules and Regulations

Federal Register
Vol. 74, No. 8
Tuesday, January 13, 2009

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DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

7 CFR Part 662

RIN 0578–AA44

Regional Equity

AGENCY: Natural Resources Conservation Service, United States Department of Agriculture.

ACTION: Interim final rule with request for comments.

SUMMARY: Section 2703 of Title II of the Food, Conservation, and Energy Act of 2008 (the 2008 Act) (Pub. L. 110–246) reauthorizes the subsection on Regional Equity established under section 1241(d) of the Food Security Act of 1985 (16 U.S.C. 3841(d)), as amended (Regional Equity provision). The purpose of this provision is to give priority to certain states for certain conservation program funding. States eligible to receive funding through the Regional Equity provision are those that have not received, for a given fiscal year, an aggregate allocation of at least $15,000,000 from programs specified in the Regional Equity provision. In addition, States must have approved applications for financial and technical assistance under the specified programs in order to be eligible to receive funding. The Regional Equity programs are all of the conservation programs authorized by subtitle D, Title XII of the Food Security Act of 1985, 16 U.S.C. 3801 *et seq.*, except for the Conservation Reserve Program, the Wetland Reserve Program, and the Conservation Security Program, which are excluded from the conservation programs affected by the Regional Equity provision. This interim final rule sets forth how the Natural Resources Conservation Service (NRCS), an agency of the U.S. Department of Agriculture (USDA), will implement the Regional Equity provision.

DATES: *Effective Date:* This rule is effective January 13, 2009.

Comment Date: Submit comments on or before March 16, 2009.

ADDRESSES: You may send comments (identified by the subject of Regional Equity) using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* U.S. Department of Agriculture, Natural Resources Conservation Service, Attn: Program Allocations and Management Support Team, Regional Equity Comments, P.O. Box 2890, Room 5212–S, Washington, DC 20013.
- *Fax:* 1–202–690–2378.
- *Hand Delivery:* Room 5212 of the USDA South Office Building, 1400 Independence Avenue, SW., Washington, DC 20250, between 9 a.m. and 4 p.m., Monday through Friday, except Federal Holidays. Please ask the guard at the entrance to the South Office Building to call 202–720–4527 in order to be escorted into the building.
- This interim final rule may be accessed via the Internet. Users can access the NRCS homepage at *http://www.nrcs.usda.gov/*; select the *Farm Bill* link from the menu; select the *Interim final* link from beneath the *Final and Interim Final Rules Index* title.
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FOR FURTHER INFORMATION CONTACT: Team Leader, Program Allocations and Management Support Team, NRCS, P.O. Box 2890, Room 5212–S, Washington, DC 20013; telephone (202) 690–0547; submit e-mail to: *RE2008@wdc.usda.gov*, Attention: Regional Equity comments.

SUPPLEMENTARY INFORMATION:

Comments Invited

The NRCS invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are also invited relating to the economic or environmental impacts that might result from adopting this regulation. The most helpful comments reference a specific portion of the rule, explain the reason for any recommended changes, and include supporting data. Please send two copies of written comments. All comments received will be filed in the docket, as well as a report summarizing each substantive public comment concerning this interim final rule. The docket, including any personal information provided, is made available for public inspection. All comments received on or before the closing date for comments will be considered. The regulation may be changed because of the comments received.

Regulatory Certifications

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this interim final rule is not significant and will not be reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim final rule because NRCS is not required by 5 U.S.C. 553, or any other provision of law, to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Analysis

The Regional Equity interim final rule establishes procedures for implementing this provision at part 662 of this title and will not directly impact the environment. This interim final rule falls within the categories of activities that have been determined not to have a significant individual or cumulative effect on the human environment and are excluded from the preparation of environmental assessment or environmental impact statement as set forth in the U.S. Department of Agriculture's (USDA) National Environmental Policy Act regulations in 7 CFR part 1b.3. Regional Equity is an administrative function that relates to the funding of programs and fund disbursements. These activities are categorically excluded based upon 7 CFR part 1b.3(a)(1) and 7 CFR part 1b.3(a)(2) of USDA regulations.

Paperwork Reduction Act

Section 2904 of the 2008 Act requires that implementation of programs authorized by Title II of the Act be made without regard to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, NRCS is not reporting recordkeeping or estimated paperwork burden associated with this interim final rule.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA requires NRCS to prepare a written statement, including a cost benefit assessment, for proposed and final rules with "Federal mandates" that may result in such expenditures for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined under Title II of the UMRA, for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 12988

This interim final rule has been reviewed in accordance with Executive Order 12988. The provisions of this interim final rule are not retroactive. Furthermore, the provisions of this interim final rule preempt State and local laws to the extent such laws are inconsistent with this interim final rule.

Executive Order 13132

NRCS has considered this interim final rule in accordance with Executive Order 13132, issued August 4, 1999. NRCS has determined that the interim final rule conforms with the Federalism principles set out in this Executive Order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, nor on the distribution of power and responsibilities among the various levels of government. Therefore, NRCS concludes that this interim final rule does not have Federalism implications.

Background

The Regional Equity provision (16 U.S.C. 3841(d)) was first introduced in the Farm Security and Rural Investment Act of 2002 (the 2002 Act) (Pub. L. 107–171), which amended the Food Security Act of 1985 (Pub. L. 99–198) to add the provision as section 1241(d), 16 U.S.C. 3841(d). Regional Equity, as established in the 2002 Act, required the Secretary to give priority for funding under certain conservation programs in subtitle D of the Food Security Act of 1985. The conservation programs listed under subtitle D (in the 2002 Act) included: Farm and Ranch Lands Protection Program, Grassland Reserve Program, Environmental Quality Incentives Program, Conservation Innovation Grants, Ground and Surface Water Conservation Program, Conservation of Private Grazing Land, Wildlife Habitat Incentive Program, Grassroots Source Water Protection Program, and Great Lakes Basin Program. The Conservation Reserve Program, the Wetlands Reserve Program, and the Conservation Security Program were excluded from the Regional Equity provision. Under that Regional Equity provision, those States (Regional Equity States) that did not receive an aggregate allocation, from the conservation programs specified in the statute, greater than $12,000,000 were eligible to receive additional funding. The additional funding made available to Regional Equity States, in order to reach the $12,000,000 requirement, was taken from those States that had initial aggregate funding allocations of specified conservation programs greater than $12,000,000. In addition, Regional Equity States were required to have approved applications for the specified conservation programs in order to receive Regional Equity funding. The 2002 Act set an April 1st deadline for Regional Equity States to have priority for the funding. NRCS implemented the Regional Equity provision utilizing multiple funding procedures from fiscal year 2004 through fiscal year 2008.

Statutory Authority and Interim Final Rule

The 2008 Act amended the Regional Equity provision. The 2008 Act increased the funding level used to identify Regional Equity States from $12,000,000 to $15,000,000, established new conservation programs under subtitle D that are subject to the Regional Equity provision (Agricultural Water Enhancement Program, Conservation Stewardship Program, Chesapeake Bay Watershed Program, and Voluntary Public Access and Habitat Incentive Program), and added language requiring the consideration of the respective demand in a Regional Equity State. NRCS is developing this regulation to establish consistency and certainty in implementation procedures for the Regional Equity provision.

Section-by-Section Overview

Section 662.1 describes the general purpose of the regulations, which is to establish NRCS implementation procedures for the Regional Equity provision. Section 662.2 defines terms used in this part. Section 662.3 describes applicability of the Regional Equity provision.

Finally, section 662.4 outlines the procedures for priority funding and allocation of program funds, in accordance with the Regional Equity provision. The Regional Equity provision requires the Secretary to give priority for funding to approved applications in Regional Equity States. NRCS will give priority for funding to approved applications in Regional Equity States by establishing program-specific drawing accounts for each covered program, sufficient to bring all Regional Equity States to $15,000,000 (funding opportunity). A Regional Equity State can request funds from the program-specific drawing accounts after the State has obligated at least 90 percent of its initial program allocation. This process enables NRCS to monitor the use of drawing account funds and ensure that funds are used in the most effective and timely manner. NRCS used a similar funding allocation procedure in fiscal year 2008. In fiscal year 2008, some Regional Equity States were unable to use all of their Regional Equity funding. By holding Regional Equity funds in program-specific drawing accounts, NRCS was able to reallocate these funds earlier in the fiscal year and was able to identify States that could obligate the funds toward high priority needs. This approach positions the Agency to ensure that program funds are directed to the highest-ranked applications.

The 2008 Act added a requirement that the Secretary consider the respective demand in each Regional Equity State for each program covered by the Regional Equity provision. NRCS will consider the respective demand in each Regional Equity State in each program by having State Conservationists in Regional Equity States cooperatively determine the funding opportunity for each state's program-specific drawing account. State Conservationists will consult with their respective State Technical Committees in evaluating the demand in their State

for funding from the drawing accounts. In evaluating the demand for Regional Equity funding opportunities, State Conservationists will consider how applications address national program priorities; historic trends in program interest; and priority State natural resource concerns. This will enable additional funds to be allocated in a way that meets the natural resource conservation needs of each state's producers, meets the demand of each State's program needs, and helps ensure that States do not receive additional funding when there is insufficient demand.

List of Subjects in 7 CFR Part 662

Administrative practice and procedure, Agriculture, Soil conservation.

■ For the reasons stated in the preamble, the Natural Resources Conservation Service is adding a new part 662 in chapter VI of Title 7 of the Code of Federal Regulations to read as follows:

PART 662—REGIONAL EQUITY

Sec.
662.1 General.
662.2 Definitions.
662.3 Applicability.
662.4 Regional Equity implementation procedure.

Authority: 16 U.S.C. 3841(d).

§ 662.1 General.

This part sets forth the procedures that the Natural Resources Conservation Service (NRCS) will use to implement the Regional Equity provision of the Food, Security Act of 1985, 16 U.S.C. 3841(d).

§ 662.2 Definitions.

The following definitions are applicable to this part:

Chief means the Chief of the Natural Resources Conservation Service or the person delegated authority to act on behalf of the Chief.

Contribution programs means Regional Equity programs that contribute funding to Regional Equity States, as determined by the Chief each fiscal year, consistent with the limitations established in 16 U.S.C. 3841(d).

Drawing account means the aggregated amount of contribution program funds required to bring all States to the Regional Equity threshold.

Funding opportunity means the amount of funding needed to bring a State to the $15,000,000 Regional Equity threshold for the aggregate of the Regional Equity programs.

Initial allocation means the amount of conservation program allocation funding provided to all States through a merit-based, natural resource focused process.

Obligated means a specific binding agreement, in writing, for the purpose authorized by law and executed while the funding is available.

Regional Equity provision means the statutory requirement to give priority funding before April 1st for approved applications for specific programs within States that have not received a $15,000,000 aggregate level of funding.

Regional Equity programs means conservation programs under subtitle D (excluding the Conservation Reserve program, the Wetlands Reserve Program, and the Conservation Security Program) of the Food Security Act of 1985. These programs include: Conservation Stewardship Program, Farm and Ranch Lands Protection Program, Grassland Reserve Program, Environmental Quality Incentives Program, Conservation Innovation Grants, Agricultural Water Enhancement Program, Conservation of Private Grazing Land, Wildlife Habitat Incentive Program, Grassroots Source Water Protection Program, Great Lakes Basin Program, Chesapeake Bay Watershed Program, and the Voluntary Public Access and Habitat Incentive Program. Regional Equity programs will be aggregated to determine whether a State meets the $15,000,000 Regional Equity threshold. However, not all Regional Equity programs will be considered contribution programs.

Regional Equity threshold means the $15,000,000 minimum aggregate amount of Regional Equity program funds.

Regional Equity States means any State not meeting the Regional Equity threshold of $15,000,000 through the initial allocation for Regional Equity programs.

Respective demand means the mix of contribution program funds that each State Conservationist in a Regional Equity state requests to fill that State's funding opportunity.

State means all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Marianna Islands, and the Freely Associated States.

State Conservationist means the NRCS employee authorized to implement Regional Equity programs and direct and supervise NRCS activities in a State, the Caribbean Area, or the Pacific Islands Area.

§ 662.3 Applicability.

The regulation in this part sets forth the policies and procedures for the Regional Equity provision as administered by the NRCS. This regulation applies to the Regional Equity programs defined in this part. The Chief of NRCS will implement the Regional Equity provision by identifying programs that contribute to the establishment of program-specific drawing accounts for priority funding in Regional Equity states.

§ 662.4 Regional Equity implementation procedure.

The following procedures will implement the Regional Equity provision:

(a) *Determine initial allocations.* NRCS will determine initial conservation program funding levels for each State through a merit-based, natural resource focused allocation process, as determined by the Chief.

(b) *Determine the funding opportunity.* The combined initial allocation funding level for Regional Equity programs by State will be compared to the Regional Equity threshold to determine each Regional Equity State's funding opportunity.

(c) *Establish contribution program fund levels.* Subject to availability of funds, contribution program fund levels are determined by:

(1) Identifying which programs contribute funds, as determined by the Chief, consistent with the limitations established in 16 U.S.C. 3841(d); and

(2) Each State's respective demand.

(i) State Conservationists in Regional Equity States, in consultation with State Technical Committees, will evaluate and determine their respective program demands based on the following criteria:

(A) Program applications and how they address national program priorities;

(B) Historic trends in program interest; and

(C) State priority natural resource concerns.

(ii) The State Conservationist's identified respective demand will assist the Chief in determining the composition of contribution program funds within the established drawing account.

(d) *Establish the drawing account.* NRCS will establish a drawing account for each contribution program, as determined in (c)(1) and (c)(2) of this section, and will give priority before April 1st of each fiscal year, for such funds to be used to fund applications in Regional Equity States, sufficient to bring each of the Regional Equity States to the Regional Equity threshold of $15,000,000.

(e) *Access the drawing account.* State Conservationists in Regional Equity

States may request access to that State's assigned portion of the drawing account once that State has obligated at least 90 percent of its initial allocation for that same program.

(f) *Re-allocation of funds.* The program-specific drawing accounts for Regional Equity States will be available until April 1st of each fiscal year, after which date the remaining funds may be re-allocated at the discretion of the Chief.

Dated: January 6, 2009.

Arlen L. Lancaster,

Chief, Natural Resources Conservation Service.

[FR Doc. E9–492 Filed 1–12–09; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 080731960–81629–02]

RIN 0691–AA66

Direct Investment Surveys: BE–11, Annual Survey of U.S. Direct Investment Abroad

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends regulations of the Bureau of Economic Analysis, Department of Commerce (BEA) to change the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad. The BE–11 survey is conducted annually and is a sample survey that obtains financial and operating data covering the overall operations of U.S. parent companies and their foreign affiliates. BEA is making changes in the reporting criteria that will raise the thresholds for reporting on the survey.

DATES: This final rule will be effective February 12, 2009.

FOR FURTHER INFORMATION CONTACT: David H. Galler, Chief, Direct Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9835 or e-mail (*david.galler@bea.gov*).

SUPPLEMENTARY INFORMATION: In the September 11, 2008, **Federal Register**, 73 FR 52802–52804, BEA published a notice of proposed rulemaking setting forth revised reporting criteria for the BE–11, Annual Survey of U.S. Direct Investment Abroad. No comments on the proposed rule were received. Thus, the proposed rule is adopted without change. This final rule amends 15 CFR 806.14 to set forth the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad.

Description of Changes

The BE–11 survey is a mandatory survey and is conducted annually by BEA 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.

This final rule changes the reporting criteria on the BE–11 annual survey as follows: (a) The threshold for reporting on the BE–11B(SF) short form and BE–11C form increases from $40 million to $60 million, and (b) the threshold for reporting on the BE–11B(LF) long form increases from $150 million to $225 million. Majority-owned nonbank affiliates with assets, sales or gross operating revenues, or net income (loss) over $60 million but less than or equal to $225 million will be filed on the BE–11B(SF) short form; majority-owned nonbank affiliates with assets, sales or gross operating revenues, or net income (loss) over $225 million will be filed on the BE–11B(LF) long form. Minority-owned nonbank affiliates with assets, sales or gross operating revenues, or net income (loss) over $60 million will be filed on the BE–11C form. Two reporting thresholds remain unchanged—the threshold for reporting on Form BE–11B(FN) remains at $250 million and the threshold for reporting only selected items on Form BE–11A remains at $150 million.

Survey Background

The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, conducts the BE–11 survey under the authority of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, "the Act." Section 4(a) of the Act requires that the President shall, to the extent he deems necessary and feasible, conduct a regular data collection program to secure current information on international financial 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, as amended by Executive Orders 12318 and 12518, the President delegated the responsibility for performing functions under the Act concerning direct investment to the Secretary of Commerce, who has redelegated it to BEA. The annual survey of U.S. direct investment abroad is a sample survey that collects information on a variety of measures of the overall operations of U.S. parent companies and their foreign affiliates, including total assets, sales, net income, employment and employee compensation, research and development expenditures, and exports and imports of goods. The sample data are used to derive universe estimates in nonbenchmark years from similar data reported in the BE–10, Benchmark Survey of U.S. Direct Investment Abroad, which is taken every five years. The data are needed to measure the size and economic significance of direct investment abroad, measure changes in such investment, and assess its impact on the U.S. and foreign economies. The data are disaggregated by country and industry of the foreign affiliate and by industry of the U.S. parent.

Executive Order 12866

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

Executive Order 13132

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

Paperwork Reduction Act

The collection-of-information in this final rule was submitted to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act (PRA). OMB approved the information collection under control number 0608–0053. Notwithstanding any other provisions of the 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 unless that collection displays a currently valid OMB control number.

The BE–11 survey is expected to result in the filing of reports from approximately 1,550 respondents. The respondent burden for this collection of information will vary from one company to another, but is estimated to average 99.3 hours per response, including time for reviewing

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Recipient Information

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Received Time Jan. 13. 1:24PM

re ifrcs rin 0578-aa44 regional equity
this whole dept should be shut down. it accomplishes nothing of value for the average american citizen and requires billions to run. i also want you to know that details on he program are virtually unreachable on the regulations gov website, which is a very unreliable website. you canno access the details on the project. please send me the regulation in paper form so that i can further comment on it for the record. jean public 8 winterberry court, whitehouse station nj 08889

Received Time Jan. 13. 1:24PM

United States Department of Agriculture

NRCS
Natural Resources Conservation Service
P.O. Box 2890
Washington, D.C. 20013

Denise Decker

Jean Public
8 Winterberry Court
Whitehouse Station, NJ 08889

Dear Ms. Public:

Thank you for your fax of January13, 2009 in regard to Docket No. NRCS_FRDOC_0001, Regional Equity Interim Final Rule, as published in the *Federal Register* on January 13, 2009. As requested, please find attached a copy of this Interim Final Rule.

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Again, thank you for contacting us.

Sincerely,

Thomas W. Christensen

THOMAS W. CHRISTENSEN
Deputy Chief for Programs

Attachment

cc:
Maggie Rhodes, Team Leader, Program Allocations and Management Support Team, NRCS, Washington, D.C.

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Natural Resources Conservation Service

7 CFR Part 662

RIN 0578–AA44

Regional Equity

AGENCY: Natural Resources Conservation Service, United States Department of Agriculture.

ACTION: Interim final rule with request for comments.

SUMMARY: Section 2703 of Title II of the Food, Conservation, and Energy Act of 2008 (the 2008 Act) (Pub. L. 110–246) reauthorizes the subsection on Regional Equity established under section 1241(d) of the Food Security Act of 1985 (16 U.S.C. 3841(d)), as amended (Regional Equity provision). The purpose of this provision is to give priority to certain states for certain conservation program funding. States eligible to receive funding through the Regional Equity provision are those that have not received, for a given fiscal year, an aggregate allocation of at least $15,000,000 from programs specified in the Regional Equity provision. In addition, States must have approved applications for financial and technical assistance under the specified programs in order to be eligible to receive funding. The Regional Equity programs are all of the conservation programs authorized by subtitle D, Title XII of the Food Security Act of 1985, 16 U.S.C. 3801 *et seq.*, except for the Conservation Reserve Program, the Wetland Reserve Program, and the Conservation Security Program, which are excluded from the conservation programs affected by the Regional Equity provision. This interim final rule sets forth how the Natural Resources Conservation Service (NRCS), an agency of the U.S. Department of Agriculture (USDA), will implement the Regional Equity provision.

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Comment Date: Submit comments on or before March 16, 2009.

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The Regional Equity interim final rule establishes procedures for implementing this provision at part 662 of this title and will not directly impact the environment. This interim final rule falls within the categories of activities that have been determined not to have a significant individual or cumulative effect on the human environment and are excluded from the preparation of environmental assessment or environmental impact statement as set forth in the U.S. Department of Agriculture's (USDA) National Environmental Policy Act regulations in 7 CFR part 1b.3. Regional Equity is an administrative function that relates to the funding of programs and fund disbursements. These activities are categorically excluded based upon 7 CFR part 1b.3(a)(1) and 7 CFR part 1b.3(a)(2) of USDA regulations.

Paperwork Reduction Act

Section 2904 of the 2008 Act requires that implementation of programs authorized by Title II of the Act be made without regard to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, NRCS is not reporting recordkeeping or estimated paperwork burden associated with this interim final rule.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA requires NRCS to prepare a written statement, including a cost benefit assessment, for proposed and final rules with "Federal mandates" that may result in such expenditures for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined under Title II of the UMRA, for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 12988

This interim final rule has been reviewed in accordance with Executive Order 12988. The provisions of this interim final rule are not retroactive. Furthermore, the provisions of this interim final rule preempt State and local laws to the extent such laws are inconsistent with this interim final rule.

Executive Order 13132

NRCS has considered this interim final rule in accordance with Executive Order 13132, issued August 4, 1999. NRCS has determined that the interim final rule conforms with the Federalism principles set out in this Executive Order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, nor on the distribution of power and responsibilities among the various levels of government. Therefore, NRCS concludes that this interim final rule does not have Federalism implications.

Background

The Regional Equity provision (16 U.S.C. 3841(d)) was first introduced in the Farm Security and Rural Investment Act of 2002 (the 2002 Act) (Pub. L. 107–171), which amended the Food Security Act of 1985 (Pub. L. 99–198) to add the provision as section 1241(d), 16 U.S.C. 3841(d). Regional Equity, as established in the 2002 Act, required the Secretary to give priority for funding under certain conservation programs in subtitle D of the Food Security Act of 1985. The conservation programs listed under subtitle D (in the 2002 Act) included: Farm and Ranch Lands Protection Program, Grassland Reserve Program, Environmental Quality Incentives Program, Conservation Innovation Grants, Ground and Surface Water Conservation Program, Conservation of Private Grazing Land, Wildlife Habitat Incentive Program, Grassroots Source Water Protection Program, and Great Lakes Basin Program. The Conservation Reserve Program, the Wetlands Reserve Program, and the Conservation Security Program were excluded from the Regional Equity provision. Under that Regional Equity provision, those States (Regional Equity States) that did not receive an aggregate allocation, from the conservation programs specified in the statute, greater than $12,000,000 were eligible to receive additional funding. The additional funding made available to Regional Equity States, in order to reach the $12,000,000 requirement, was taken from those States that had initial aggregate funding allocations of specified conservation programs greater than $12,000,000. In addition, Regional Equity States were required to have approved applications for the specified conservation programs in order to receive Regional Equity funding. The 2002 Act set an April 1st deadline for Regional Equity States to have priority for the funding. NRCS implemented the Regional Equity provision utilizing multiple funding procedures from fiscal year 2004 through fiscal year 2008.

Statutory Authority and Interim Final Rule

The 2008 Act amended the Regional Equity provision. The 2008 Act increased the funding level used to identify Regional Equity States from $12,000,000 to $15,000,000, established new conservation programs under subtitle D that are subject to the Regional Equity provision (Agricultural Water Enhancement Program, Conservation Stewardship Program, Chesapeake Bay Watershed Program, and Voluntary Public Access and Habitat Incentive Program), and added language requiring the consideration of the respective demand in a Regional Equity State. NRCS is developing this regulation to establish consistency and certainty in implementation procedures for the Regional Equity provision.

Section-by-Section Overview

Section 662.1 describes the general purpose of the regulations, which is to establish NRCS implementation procedures for the Regional Equity provision. Section 662.2 defines terms used in this part. Section 662.3 describes applicability of the Regional Equity provision.

Finally, section 662.4 outlines the procedures for priority funding and allocation of program funds, in accordance with the Regional Equity provision. The Regional Equity provision requires the Secretary to give priority for funding to approved applications in Regional Equity States. NRCS will give priority for funding to approved applications in Regional Equity States by establishing program-specific drawing accounts for each covered program, sufficient to bring all Regional Equity States to $15,000,000 (funding opportunity). A Regional Equity State can request funds from the program-specific drawing accounts after the State has obligated at least 90 percent of its initial program allocation. This process enables NRCS to monitor the use of drawing account funds and ensure that funds are used in the most effective and timely manner. NRCS used a similar funding allocation procedure in fiscal year 2008. In fiscal year 2008, some Regional Equity States were unable to use all of their Regional Equity funding. By holding Regional Equity funds in program-specific drawing accounts, NRCS was able to reallocate these funds earlier in the fiscal year and was able to identify States that could obligate the funds toward high priority needs. This approach positions the Agency to ensure that program funds are directed to the highest-ranked applications.

The 2008 Act added a requirement that the Secretary consider the respective demand in each Regional Equity State for each program covered by the Regional Equity provision. NRCS will consider the respective demand in each Regional Equity State in each program by having State Conservationists in Regional Equity States cooperatively determine the funding opportunity for each state's program-specific drawing account. State Conservationists will consult with their respective State Technical Committees in evaluating the demand in their State

for funding from the drawing accounts. In evaluating the demand for Regional Equity funding opportunities, State Conservationists will consider how applications address national program priorities; historic trends in program interest; and priority State natural resource concerns. This will enable additional funds to be allocated in a way that meets the natural resource conservation needs of each state's producers, meets the demand of each State's program needs, and helps ensure that States do not receive additional funding when there is insufficient demand.

List of Subjects in 7 CFR Part 662

Administrative practice and procedure, Agriculture, Soil conservation.

■ For the reasons stated in the preamble, the Natural Resources Conservation Service is adding a new part 662 in chapter VI of Title 7 of the Code of Federal Regulations to read as follows:

PART 662—REGIONAL EQUITY

Sec.
662.1 General.
662.2 Definitions.
662.3 Applicability.
662.4 Regional Equity implementation procedure.

Authority: 16 U.S.C. 3841(d).

§ 662.1 General.

This part sets forth the procedures that the Natural Resources Conservation Service (NRCS) will use to implement the Regional Equity provision of the Food, Security Act of 1985, 16 U.S.C. 3841(d).

§ 662.2 Definitions.

The following definitions are applicable to this part:

Chief means the Chief of the Natural Resources Conservation Service or the person delegated authority to act on behalf of the Chief.

Contribution programs means Regional Equity programs that contribute funding to Regional Equity States, as determined by the Chief each fiscal year, consistent with the limitations established in 16 U.S.C. 3841(d).

Drawing account means the aggregated amount of contribution program funds required to bring all States to the Regional Equity threshold.

Funding opportunity means the amount of funding needed to bring a State to the $15,000,000 Regional Equity threshold for the aggregate of the Regional Equity programs.

Initial allocation means the amount of conservation program allocation funding provided to all States through a merit-based, natural resource focused process.

Obligated means a specific binding agreement, in writing, for the purpose authorized by law and executed while the funding is available.

Regional Equity provision means the statutory requirement to give priority funding before April 1st for approved applications for specific programs within States that have not received a $15,000,000 aggregate level of funding.

Regional Equity programs means conservation programs under subtitle D (excluding the Conservation Reserve program, the Wetlands Reserve Program, and the Conservation Security Program) of the Food Security Act of 1985. These programs include: Conservation Stewardship Program, Farm and Ranch Lands Protection Program, Grassland Reserve Program, Environmental Quality Incentives Program, Conservation Innovation Grants, Agricultural Water Enhancement Program, Conservation of Private Grazing Land, Wildlife Habitat Incentive Program, Grassroots Source Water Protection Program, Great Lakes Basin Program, Chesapeake Bay Watershed Program, and the Voluntary Public Access and Habitat Incentive Program. Regional Equity programs will be aggregated to determine whether a State meets the $15,000,000 Regional Equity threshold. However, not all Regional Equity programs will be considered contribution programs.

Regional Equity threshold means the $15,000,000 minimum aggregate amount of Regional Equity program funds.

Regional Equity States means any State not meeting the Regional Equity threshold of $15,000,000 through the initial allocation for Regional Equity programs.

Respective demand means the mix of contribution program funds that each State Conservationist in a Regional Equity state requests to fill that State's funding opportunity.

State means all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Marianna Islands, and the Freely Associated States.

State Conservationist means the NRCS employee authorized to implement Regional Equity programs and direct and supervise NRCS activities in a State, the Caribbean Area, or the Pacific Islands Area.

§ 662.3 Applicability.

The regulation in this part sets forth the policies and procedures for the Regional Equity provision as administered by the NRCS. This regulation applies to the Regional Equity programs defined in this part. The Chief of NRCS will implement the Regional Equity provision by identifying programs that contribute to the establishment of program-specific drawing accounts for priority funding in Regional Equity states.

§ 662.4 Regional Equity implementation procedure.

The following procedures will implement the Regional Equity provision:

(a) *Determine initial allocations.* NRCS will determine initial conservation program funding levels for each State through a merit-based, natural resource focused allocation process, as determined by the Chief.

(b) *Determine the funding opportunity.* The combined initial allocation funding level for Regional Equity programs by State will be compared to the Regional Equity threshold to determine each Regional Equity State's funding opportunity.

(c) *Establish contribution program fund levels.* Subject to availability of funds, contribution program fund levels are determined by:

(1) Identifying which programs contribute funds, as determined by the Chief, consistent with the limitations established in 16 U.S.C. 3841(d); and

(2) Each State's respective demand.

(i) State Conservationists in Regional Equity States, in consultation with State Technical Committees, will evaluate and determine their respective program demands based on the following criteria:

(A) Program applications and how they address national program priorities;

(B) Historic trends in program interest; and

(C) State priority natural resource concerns.

(ii) The State Conservationist's identified respective demand will assist the Chief in determining the composition of contribution program funds within the established drawing account.

(d) *Establish the drawing account.* NRCS will establish a drawing account for each contribution program, as determined in (c)(1) and (c)(2) of this section, and will give priority before April 1st of each fiscal year, for such funds to be used to fund applications in Regional Equity States, sufficient to bring each of the Regional Equity States to the Regional Equity threshold of $15,000,000.

(e) *Access the drawing account.* State Conservationists in Regional Equity

States may request access to that State's assigned portion of the drawing account once that State has obligated at least 90 percent of its initial allocation for that same program.

(f) *Re-allocation of funds.* The program-specific drawing accounts for Regional Equity States will be available until April 1st of each fiscal year, after which date the remaining funds may be re-allocated at the discretion of the Chief.

Dated: January 6, 2009.

Arlen L. Lancaster,

Chief, Natural Resources Conservation Service.

[FR Doc. E9–492 Filed 1–12–09; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 080731960–81629–02]

RIN 0691–AA66

Direct Investment Surveys: BE–11, Annual Survey of U.S. Direct Investment Abroad

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends regulations of the Bureau of Economic Analysis, Department of Commerce (BEA) to change the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad. The BE–11 survey is conducted annually and is a sample survey that obtains financial and operating data covering the overall operations of U.S. parent companies and their foreign affiliates. BEA is making changes in the reporting criteria that will raise the thresholds for reporting on the survey.

DATES: This final rule will be effective February 12, 2009.

FOR FURTHER INFORMATION CONTACT: David H. Galler, Chief, Direct Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9835 or e-mail (*david.galler@bea.gov*).

SUPPLEMENTARY INFORMATION: In the September 11, 2008, **Federal Register**, 73 FR 52802–52804, BEA published a notice of proposed rulemaking setting forth revised reporting criteria for the BE–11, Annual Survey of U.S. Direct Investment Abroad. No comments on the proposed rule were received. Thus, the proposed rule is adopted without change. This final rule amends 15 CFR 806.14 to set forth the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad.

Description of Changes

The BE–11 survey is a mandatory survey and is conducted annually by BEA 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.

This final rule changes the reporting criteria on the BE–11 annual survey as follows: (a) The threshold for reporting on the BE–11B(SF) short form and BE–11C form increases from $40 million to $60 million, and (b) the threshold for reporting on the BE–11B(LF) long form increases from $150 million to $225 million. Majority-owned nonbank affiliates with assets, sales or gross operating revenues, or net income (loss) over $60 million but less than or equal to $225 million will be filed on the BE–11B(SF) short form; majority-owned nonbank affiliates with assets, sales or gross operating revenues, or net income (loss) over $225 million will be filed on the BE–11B(LF) long form. Minority-owned nonbank affiliates with assets, sales or gross operating revenues, or net income (loss) over $60 million will be filed on the BE–11C form. Two reporting thresholds remain unchanged—the threshold for reporting on Form BE–11B(FN) remains at $250 million and the threshold for reporting only selected items on Form BE–11A remains at $150 million.

Survey Background

The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, conducts the BE–11 survey under the authority of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, "the Act." Section 4(a) of the Act requires that the President shall, to the extent he deems necessary and feasible, conduct a regular data collection program to secure current information on international financial 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, as amended by Executive Orders 12318 and 12518, the President delegated the responsibility for performing functions under the Act concerning direct investment to the Secretary of Commerce, who has redelegated it to BEA. The annual survey of U.S. direct investment abroad is a sample survey that collects information on a variety of measures of the overall operations of U.S. parent companies and their foreign affiliates, including total assets, sales, net income, employment and employee compensation, research and development expenditures, and exports and imports of goods. The sample data are used to derive universe estimates in nonbenchmark years from similar data reported in the BE–10, Benchmark Survey of U.S. Direct Investment Abroad, which is taken every five years. The data are needed to measure the size and economic significance of direct investment abroad, measure changes in such investment, and assess its impact on the U.S. and foreign economies. The data are disaggregated by country and industry of the foreign affiliate and by industry of the U.S. parent.

Executive Order 12866

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

Executive Order 13132

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

Paperwork Reduction Act

The collection-of-information in this final rule was submitted to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act (PRA). OMB approved the information collection under control number 0608–0053. Notwithstanding any other provisions of the 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 unless that collection displays a currently valid OMB control number.

The BE–11 survey is expected to result in the filing of reports from approximately 1,550 respondents. The respondent burden for this collection of information will vary from one company to another, but is estimated to average 99.3 hours per response, including time for reviewing

1-16-09

Tom,

I have changed our standard response slightly to address this incoming. The writer of the incoming fax is asking for a paper copy of Regional Equity, in order to comment on it. I therefore changed the second-to-the-last paragraph to acknowledge her fax and indicate that we will consider her comments when received.

Denise

Jean Public
8 Winterberry Court
Whitehouse Station, NJ 08889

Dear Ms. Public:

Thank you for your fax of January13, 2009 in regard to Docket No. NRCS-RIN- 0578-aa44, Regional Equity Interim Final Rule, as published in the *Federal Register on January 13, 2009*. As requested, please find attached a copy of this Interim Final Rule.

The conservation provisions of the Food, Conservation and Energy Act of 2008 (2008 Farm Bill) and the Administrative Procedures Act offer the public the opportunity to submit official comments on rule changes published in the *Federal Register* during the official public comment period indicated with each published rule change.

Regulatory changes generally are being published as interim final rules, enabling full implementation of the programs while public comment is assessed. NRCS acknowledges your fax. When received, your comments will be analyzed and given full consideration in the process of moving to final program rules. The preamble for final rules will include our analysis of public comments and their disposition with regard to the final rules.

Again, thank you for contacting us.

Sincerely,

THOMAS W. CHRISTENSEN
Deputy Chief for Programs

Attachment

cc:
Maggie Rhodes, Team Leader, Program Allocations and Management Support Team, NRCS, Washington, D.C.

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