

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2004-18697/Airspace Docket No. 04-AWP-4." The postcard will be date/time stamped and returned to the commenter.

### Availability of NPRM

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at <http://www.faa.gov> or the Superintendent of Documents web page at <http://www.access.gpo.gov/nara>.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-8783. Communications must identify both document numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

### The Proposal

The FAA is considering an amendment to 14 CFR part 71 by establishing a Class E airspace area at Napa, CA. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the VOR RWY 6 IAP into Napa County Airport. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing this instrument procedure. Class E airspace designations

are published in paragraph 6005 of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp. p. 389.

#### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

#### AWP CA E5 Napa, CA [New]

Napa County Airport, CA  
(Lat. 38°12'47" N, long. 122°16'50" W)

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Napa County Airport, and that airspace bounded by a line beginning at lat.

38°02'07" N, long. 122°39'41" W; to lat. 37°55'05" N, long. 122°30'56" W; to lat. 37°51'19" N, long. 122°31'22" W; to lat. 37°50'26" N, long. 122°36'17" W; to the point of beginning.

\* \* \* \* \*

Issued in Los Angeles, California, on July 30, 2004.

**John Clancy,**

*Area Director, Western Terminal Operations.*

[FR Doc. 04-18821 Filed 8-16-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

#### 15 CFR Part 806

[Docket No. 040805231-4231-01]

RIN 0691-AA52

### Direct Investment Surveys: BE-10, Benchmark Survey of U.S. Direct Investment Abroad—2004

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule amends regulations of the Bureau of Economic Analysis, Department of Commerce (BEA) to set forth the reporting requirements for the BE-10, Benchmark Survey of U.S. Direct Investment Abroad. The BE-10 survey is conducted once every 5 years and covers virtually the entire universe of U.S. direct investment abroad in terms of value. The benchmark survey will be conducted for 2004. To address the current needs of data users while at the same time keeping the respondent burden as low as possible, BEA proposes modification, addition, or deletion of several items on the survey forms and in the reporting criteria. Changes are proposed to make the survey more consistent with the surveys of direct investment in the United States and more consistent with its annual and quarterly counterparts.

Changes proposed by BEA in the reporting requirements to be implemented in this proposed rule are: (a) Increasing the exemption level for reporting on the BE-10B(SF) short form from \$7 million to \$25 million and on the BE-10B Bank form from \$7 million to \$10 million; (b) increasing the exemption level for reporting on the BE-10B(LF) long form from \$100 million to \$150 million; and (c) increasing the exemption level for reporting only selected items on the BE-10A form from \$100 million to \$150 million. In conjunction with these

increases in exemption levels, BEA proposes to introduce an abbreviated short form, Form BE-10B Mini, for reporting nonbank foreign affiliates with assets, sales or gross operating revenues, and net income (loss) less than or equal to \$25 million but greater than \$10 million.

**DATES:** Comments on these proposed rules will receive consideration if submitted in writing on or before October 18, 2004.

**ADDRESSES:** You may submit comments, identified by RIN 0691-AA52, and referencing the agency name (Bureau of Economic Analysis), by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- E-mail: [Obie.Whichard@bea.gov](mailto:Obie.Whichard@bea.gov).

- Fax: Office of the Chief, International Investment Division, (202) 606-5318.

- Mail: Office of the Chief, International Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE-50, Washington, DC 20230.

- Hand Delivery/Courier: Office of the Chief, International Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE-50, Shipping and Receiving, Section M100, 1441 L Street, NW., Washington, DC 20005.

Public Inspection: Comments may be inspected at BEA's offices, 1441 L Street, NW., Room 7006, between 8:30 a.m. and 4:30 p.m., eastern time Monday through Friday.

**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:** These proposed rules amend 15 CFR 806.16 to set forth the reporting requirements for the BE-10, Benchmark Survey of U.S. Direct Investment Abroad—2004. The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

### Description of Changes

The BE-10 survey is a mandatory survey and is conducted once every 5 years 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 2005; responses will be due by May 31, 2005 for respondents required to file fewer than 50 foreign affiliate report forms and by June 30, 2005 for those required to file 50 or more forms.

BEA maintains a continuing dialogue with respondents and with data users, including its own internal users, to ensure that, as much as possible, the required data serve their intended purposes and are available from existing records, that instructions are clear, and that unreasonable burdens are not imposed. In designing the survey, BEA contacted data users and survey respondents to obtain their views on the proposed benchmark survey. The list of proposed changes reflects users' and respondents' comments. In reaching decisions on what questions to include in the survey, BEA considered the Government's need for the data, the burden imposed on respondents, the quality of the likely responses (*e.g.*, whether the data are readily available on respondents' books), and BEA's experience in previous benchmark and related annual surveys.

To reduce respondent burden, particularly for small companies, BEA proposes the following changes to the Code of Federal Regulations: (1) Increase the exemption level for reporting on the BE-10B(SF) short form from \$7 million to \$25 million and on the BE-10B Bank form from \$7 million to \$10 million; (2) increase the exemption level for reporting on the BE-10B(LF) long form from \$100 million to \$150 million; and (3) increase the exemption level for reporting only selected items on the BE-10A form from \$100 million to \$150 million. In conjunction with these increases in exemption levels, BEA proposes to introduce an abbreviated short form for reporting nonbank foreign affiliates with assets, sales or gross operating revenues, and net income (loss) less than or equal to \$25 million but greater than \$10 million.

In addition to the changes in the reporting criteria mentioned above, BEA proposes to expand reporting requirements on the BE-10B(SF) so that certain items that previously had been reportable only for majority-owned affiliates with assets, sales or gross operating revenues, or net income (loss) over \$50 million will now be reportable for all majority-owned affiliates being filed on the BE-10B(SF).

On the BE-11 Annual Survey of U.S. Direct Investment Abroad, these items are filed for affiliates with assets, sales or gross operating revenues, or net income (loss) over \$30 million. Also, several of the items are on the

abbreviated short form and would be filed for affiliates with exemption-level-item values between \$10 million and \$25 million.

BEA proposes to add questions to the BE-10A form and BE-10B(LF) long form to collect detail on: (1) The broad occupational structure of employment; (2) premiums earned and claims paid for U.S. Reporters and foreign affiliates operating in the insurance industry; (3) finished goods purchased for resale for U.S. Reporters and foreign affiliates operating in the wholesale and retail trade industries; and (4) research and development performed for affiliated persons or for others. BEA proposes to add an item to the BE-10A form to help address questions on outsourcing by U.S. businesses to foreign countries. In addition, BEA proposes to expand the income statement on the BE-10B(SF) short form to include items on the long form and to add questions to the BE-10A Bank and BE-10B Bank forms to collect information on sales of services and on interest received and paid.

To offset the burden imposed by these additional questions, BEA proposes to remove questions on: (1) U.S. trade in goods by product; (2) U.S. Reporter exports to unaffiliated foreign persons by country of destination; and (3) composition of external finances for the U.S. Reporter. BEA also proposes to replace sales by country of destination on the BE-10B(LF) with sales by major countries/regions.

### 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(b) of the Act provides that with respect to United States direct investment abroad, the President shall conduct a benchmark survey covering year 1982, a benchmark survey covering year 1989, and benchmark surveys covering every fifth year thereafter. In conducting surveys pursuant to this subsection, the President shall, among other things and to the extent he determines necessary and feasible—

(1) Identify the location, nature, and magnitude of, and changes in total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) Obtain (A) information on the balance sheet of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and

feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade, including trade in both goods and services, between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) Collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) Obtain information on tax payments by parents and affiliates by country; and

(5) Determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

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 benchmark surveys are BEA's censuses, intended to cover the universe of U.S. direct investment abroad in terms of value. U.S. direct investment abroad is defined as the ownership or control, directly or indirectly, by one U.S. person of 10 percent or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise, including a branch.

The purpose of the benchmark survey is to obtain universe data on the financial and operating characteristics of, and on positions and transactions between, U.S. parent companies and their foreign affiliates. The data are needed to measure the size and economic significance of U.S. direct investment abroad, measure changes in such investment, and assess its impact on the U.S. and foreign economies. The data are used to derive current universe estimates of direct investment from sample data collected in other BEA surveys in nonbenchmark years. In particular, they will serve as benchmarks for the quarterly direct investment estimates included in the U.S. international transactions and national income and product accounts, and for annual estimates of the U.S. direct investment position abroad and of the operations of U.S. parent companies and their foreign affiliates.

As proposed, the survey will consist of an instruction booklet, a claim for not filing the BE-10, and a number of report forms. The amount and type of data required to be reported vary according to the size of the U.S. Reporters or foreign affiliates, whether they are banks or nonbanks and, for foreign affiliates, whether or not they are majority-owned by U.S. direct investors. For purposes of the BE-10 survey, a "bank" is a business entity engaged in deposit banking or closely related functions, including commercial banks, Edge Act corporations engaged in international or foreign banking, foreign branches and agencies of U.S. banks whether or not they accept deposits abroad, savings and loans, savings banks, bank holding companies, and financial holding companies. If this proposed rule is adopted, the report forms that would be used in the survey consist of the following:

1. Form BE-10A—Report for nonbank U.S. Reporters;

2. Form BE-10A BANK—Report for U.S. Reporters that are banks;

3. Form BE-10B(LF) (Long Form)—Report for majority-owned nonbank foreign affiliates of nonbank U.S. parents with assets, sales, or net income greater than \$150 million (positive or negative);

4. Form BE-10B(SF) (Short Form)—Report for majority-owned nonbank foreign affiliates of nonbank U.S. parents with assets, sales, or net income greater than \$25 million but not greater than \$150 million (positive or negative); minority-owned nonbank foreign affiliates of nonbank U.S. parents with assets, sales, or net income greater than \$25 million (positive or negative); and nonbank affiliates of U.S. bank parents with assets, sales, or net income greater than \$25 million (positive or negative);

5. Form BE-10B Mini—Report for nonbank foreign affiliates with assets, sales, or net income greater than \$10 million but not greater than \$25 million (positive or negative); and

6. Form BE-10B BANK—Report for foreign affiliates that are banks.

Although the proposed survey is intended to cover the universe of U.S. direct investment abroad, to reduce respondent burden, foreign affiliates with assets, sales, and net income each equal to or less than \$10 million (positive or negative) are exempt from being reported on Form BE-10B(SF), BE-10B Mini, or BE-10B BANK (but must be listed, along with selected identification information and data, on Form BE-10A SUPPLEMENT A or BE-10A BANK SUPPLEMENT A).

#### Executive Order 12866

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

#### Executive Order 13132

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

#### Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The requirement has been submitted to OMB for approval as a reinstatement, with change, of a previously approved collection for which approval has expired under OMB control number 0608-0049.

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 survey, as proposed, is expected to result in the filing of reports from approximately 3,875 respondents. The respondent burden for this collection of information will vary from one company to another, but is estimated to average 110 hours per response, including time for reviewing existing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total respondent burden for the 2004 survey is estimated at 428,750 hours, compared to 458,000 hours estimated for the previous, 1999, survey. The decrease in burden is largely attributable to the proposed changes in reporting criteria.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis

(BE-1), U.S. Department of Commerce, Washington, DC 20230 (FAX: 202-606-5311); and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608-0049, Attention PRA Desk Officer for BEA, via the Internet at [pbugg@omb.eop.gov](mailto:pbugg@omb.eop.gov), or by FAX at 202-395-7245.

### 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 this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. A BE-10 report is required of any U.S. company that had a foreign affiliate—that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise—at any time during the U.S. company's 2004 fiscal year. Companies that have direct investments abroad tend to be quite large. To reduce the reporting burden on smaller U.S. companies, U.S. Reporters with total assets, sales or gross operating revenues, and net income less than or equal to \$150 million (positive or negative) are required to report only selected items on the BE-10A form for U.S. Reporters in addition to forms they may be required to file for their foreign affiliates.

### List of Subjects in 15 CFR Part 806

Economic statistics, Foreign investments in United States, Penalties, Reporting and recordkeeping requirements, United States investments abroad.

Dated: July 30, 2004.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 806 as follows:

### PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 is revised to read as follows:

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

2. Section 806.16 is revised to read as follows:

### § 806.16 Rules and regulations for BE-10, Benchmark Survey of U.S. Direct Investment Abroad—2004.

A BE-10, Benchmark Survey of U.S. Direct Investment Abroad will be conducted covering 2004. All legal authorities, provisions, definitions, and requirements contained in § 806.1 through § 806.13 and § 806.14(a) through (d) are applicable to this survey. Specific additional rules and regulations for the BE-10 survey are given in paragraphs (a) through (e) of this section. More detailed instructions are given on the report forms and instructions.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE-10, Benchmark Survey of U.S. Direct Investment Abroad—2004, contained in this section, whether or not they are contacted by BEA. Also, a person, or their agent, that is contacted by BEA about reporting in this survey, either by sending them a report form or by written inquiry, must respond in writing pursuant to § 806.4. This may be accomplished by:

(1) Certifying in writing, by the due date of the survey, to the fact that the person had no direct investment within the purview of the reporting requirements of the BE-10 survey;

(2) Completing and returning the “BE-10 Claim for Not Filing” by the due date of the survey; or

(3) Filing the properly completed BE-10 report (comprising Form BE-10A or BE-10A BANK and Forms BE-10B(LF), BE-10B(SF), BE-10B Mini and/or BE-10B BANK) by May 31, 2005, or June 30, 2005, as required.

(b) *Who must report.* (1) A BE-10 report is required of any U.S. person that had a foreign affiliate—that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise—at any time during the U.S. person's 2004 fiscal year.

(2) If the U.S. person had no foreign affiliates during its 2004 fiscal year, a “BE-10 Claim for Not Filing” must be filed by the due date of the survey; no other forms in the survey are required. If the U.S. person had any foreign affiliates during its 2004 fiscal year, a BE-10 report is required and the U.S. person is a U.S. Reporter in this survey.

(3) Reports are required even if the foreign business enterprise was established, acquired, seized, liquidated, sold, expropriated, or inactivated during the U.S. person's 2004 fiscal year.

(4) The amount and type of data required to be reported vary according to the size of the U.S. Reporters or foreign affiliates, whether they are banks or nonbanks; and, for foreign affiliates, whether they are majority-owned or minority-owned by U.S. direct investors. For purposes of the BE-10 survey, a “majority-owned” foreign affiliate is one in which the combined direct and indirect ownership interest of all U.S. parents of the foreign affiliate exceeds 50 percent; all other affiliates are referred to as “minority-owned” affiliates. In addition, a “bank” is a business entity engaged in deposit banking or closely related functions, including commercial banks, Edge Act corporations, foreign branches and agencies of U.S. banks whether or not they accept deposits abroad, savings and loans, savings banks, bank holding companies, and financial holding companies. Elsewhere in this section, when “bank” is used, it refers to all such organizations.

(c) *Forms for nonbank U.S. Reporters and foreign affiliates.*—(1) *Form BE-10A (Report for nonbank U.S. Reporter).* A BE-10A report must be completed by a U.S. Reporter that is not a bank. If the U.S. Reporter is a corporation, Form BE-10A is required to cover the fully consolidated U.S. domestic business enterprise. However, where a U.S. Reporter's primary line of business is not in banking (or related financial activities), but the Reporter also has ownership in a bank, the bank, including all of its domestic subsidiaries or units, must file on the BE-10A BANK form and the nonbanking U.S. operations not owned by the bank must file on the BE-10A.

(i) If for a nonbank U.S. Reporter any one of the following three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes—was greater than \$150 million (positive or negative) at any time during the Reporter's 2004 fiscal year, the U.S. Reporter must file a complete Form BE-10A and, as applicable, a BE-10A SUPPLEMENT A listing each, if any, foreign affiliate that is exempt from being reported on Form BE-10B(LF), BE-10B(SF), BE-10B Mini, or BE-10B BANK. It must also file a Form BE-10B(LF), BE-10B(SF), BE-10B Mini, or BE-10B BANK, as appropriate, for each nonexempt foreign affiliate.

(ii) If for a nonbank U.S. Reporter none of the three items listed in paragraph (c)(1)(i) of this section was greater than \$150 million (positive or negative) at any time during the Reporter's 2004 fiscal year, the U.S. Reporter is required to file on Form BE-

10A only certain items as designated on the form and, as applicable, a BE-10A SUPPLEMENT A listing each, if any, foreign affiliate that is exempt from being reported on Form BE-10B(LF), BE-10B(SF), BE-10B Mini, or BE-10B BANK. It must also file a Form BE-10B(LF), BE-10B(SF), BE-10B Mini, or BE-10B BANK, as appropriate, for each nonexempt foreign affiliate.

(2) *Form BE-10B(LF), (SF), or Mini (Report for nonbank foreign affiliate).*

(i) A BE-10B(LF) (Long Form) must be filed for each majority-owned nonbank foreign affiliate of a nonbank U.S. Reporter, whether held directly or indirectly, for which any one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than \$150 million (positive or negative) at any time during the affiliate's 2004 fiscal year.

(ii) A BE-10B(SF) (Short Form) must be filed:

(A) For each majority-owned nonbank foreign affiliate of a nonbank U.S. Reporter, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2)(i) of this section was greater than \$25 million but for which none of these items was greater than \$150 million (positive or negative), at any time during the affiliate's 2004 fiscal year, and

(B) For each minority-owned nonbank foreign affiliate of a nonbank U.S. Reporter, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2)(i) of this section was greater than \$25 million (positive or negative), at any time during the affiliate's 2004 fiscal year, and

(C) For each nonbank foreign affiliate of a U.S. bank Reporter, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2)(i) of this section was greater than \$25 million (positive or negative), at any time during the affiliate's 2004 fiscal year.

(iii) A BE-10B Mini must be filed for each nonbank foreign affiliate, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2)(i) of this section was greater than \$10 million but for which none of these items was greater than \$25 million (positive or negative), at any time during the affiliate's 2004 fiscal year.

(iv) Notwithstanding paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this section, a Form BE-10B(LF), (SF), or Mini must be filed for a foreign affiliate of the U.S. Reporter that owns another nonexempt foreign affiliate of that U.S.

Reporter, even if the foreign affiliate parent is otherwise exempt, *i.e.*, a Form BE-10B(LF), (SF), Mini, or BANK must be filed for all affiliates upward in a chain of ownership.

(d) *Forms for U.S. Reporters and foreign affiliates that are banks, bank holding companies, or financial holding companies.* (1) *Form BE-10A BANK (Report for a U.S. Reporter that is a bank).* A BE-10A BANK report must be completed by a U.S. Reporter that is a bank. For purposes of filing Form BE-10A BANK, the U.S. Reporter is deemed to be the fully consolidated U.S. domestic business enterprise and all required data on the form shall be for the fully consolidated domestic entity.

(i) If a U.S. bank had any foreign affiliates at any time during its 2004 fiscal year, whether a bank or nonbank and whether held directly or indirectly, for which any one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than \$10 million (positive or negative) at any time during the affiliate's 2004 fiscal year, the U.S. Reporter must file a Form BE-10A BANK and, as applicable, a BE-10A BANK SUPPLEMENT A listing each, if any, foreign affiliate, whether bank or nonbank, that is exempt from being reported on Form BE-10B(SF), BE-10B Mini, or BE-10B BANK. It must also file a Form BE-10B(SF) or BE-10B Mini for each nonexempt nonbank foreign affiliate and a Form BE-10B BANK for each nonexempt bank foreign affiliate.

(ii) If the U.S. bank Reporter had no foreign affiliates for which any one of the three items listed in paragraph (d)(2)(i) of this section was greater than \$10 million (positive or negative) at any time during the affiliate's 2004 fiscal year, the U.S. Reporter must file a Form BE-10A BANK and a BE-10A BANK SUPPLEMENT A, listing all foreign affiliates exempt from being reported on Form BE-10B(SF), BE-10B Mini, or BE-10B BANK.

(2) *Form BE-10B BANK (Report for a foreign affiliate that is a bank).* (i) A BE-10B BANK report must be filed for each foreign bank affiliate of a bank or nonbank U.S. Reporter, whether directly or indirectly held, for which any one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than \$10 million (positive or negative) at any time during the affiliate's 2004 fiscal year.

(ii) Notwithstanding paragraph (d)(3)(i) of this section, a Form BE-10B BANK must be filed for a foreign bank

affiliate of the U.S. Reporter that owns another nonexempt foreign affiliate of that U.S. Reporter, even if the foreign affiliate parent is otherwise exempt, *i.e.*, a Form BE-10B(LF), (SF), Mini, or BANK must be filed for all affiliates upward in a chain of ownership. However, a Form BE-10B BANK is not required to be filed for a foreign bank affiliate in which the U.S. Reporter holds only an indirect ownership interest of 50 percent or less and that does not own a reportable nonbank foreign affiliate, but the indirectly-owned bank affiliate must be listed on the BE-10A BANK SUPPLEMENT A.

(e) *Due date.* A fully completed and certified BE-10 report comprising Form BE-10A or 10A BANK and Form(s) BE-10B(LF), (SF), Mini, or BANK (as required) is due to be filed with BEA not later than May 31, 2005 for those U.S. Reporters filing fewer than 50, and June 30, 2005 for those U.S. Reporters filing 50 or more, Forms BE-10B(LF), (SF), Mini, or BANK.

[FR Doc. 04-18640 Filed 8-16-04; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR part 35

[Docket No. RM02-12-000]

#### Standardization of Small Generator Interconnection Agreements and Procedures

August 12, 2004.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of request for supplemental comments.

**SUMMARY:** On July 24, 2003, the Commission issued a Notice of Proposed Rulemaking in this docket, with comments due on or before October 3, 2003.<sup>1</sup> Since we first requested comments, the small generator industry has continued to evolve. Moreover, several states have adopted new guidelines for small generator interconnections and the various stakeholders who participated in the Commission's Advance Notice of Proposed Rulemaking consensus

<sup>1</sup> Standardization of Small Generator Interconnection Agreements and Procedures, Notice of Proposed Rulemaking, 60 FR 49974 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 32,572 (2003).