

1977 Comp., p. 860 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 801.9 is amended by revising paragraph (b)(5)(i) to read as follows:

**§ 801.9 Reports required.**

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \*

(i) Who must report. Reports on Form BE-93 are required from U.S. persons who have entered into agreements with unaffiliated foreign persons to buy, sell, or use intangible assets or proprietary rights, excluding oil royalties and other natural resources (mining) royalties.

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

#### 15 CFR Part 801

[Docket No. 970903223-7300-02]

RIN 0691-AA30

#### International Services Surveys: BE-22 Annual Survey of Selected Services Transactions With Unaffiliated Foreign Persons

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

**ACTION:** Final rule.

**SUMMARY:** These final rules amend the reporting requirements for the BE-22, Annual Survey of Selected Services Transactions With Unaffiliated Foreign Persons. The BE-22 surveys is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act. It is the annual follow-on survey to the quinquennial BE-20, Benchmark Survey of Selected Services Transactions With Unaffiliated Foreign Persons, which was last conducted for 1996. Together, the two surveys produce a continuous annual time series of data on major types of services that are out of the scope of other international services surveys. In nonbenchmark years, universe estimates of these transactions are derived by adding to annually reported sample data extrapolations of data reported in the benchmark survey by companies exempt from annual reporting. The data are needed to support U.S. trade policy initiatives, compile the U.S. balance of payments, input-output, and national

income and product accounts, develop U.S. international price indexes for services, assess U.S. competitiveness in services, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

Two major changes to the BE-22 annual survey are contained in these final rules: (1) coverage of the BE-22 annual survey is expanded to conform with the most recent BE-20 benchmark survey, which covered 1996, and (2) coverage of general use computer software royalties and license fees is dropped. To consolidate on one form all transactions in intangible rights between U.S. and unaffiliated foreign persons, coverage of general use computer software royalties and license fees is being moved from the BE-22 to the BE-93, Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons.

**EFFECTIVE DATE:** These rules will be effective January 30, 1998.

**FOR FURTHER INFORMATION CONTACT:** R. David Belli, Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606-9800.

**SUPPLEMENTARY INFORMATION:** In the September 26, 1997 **Federal Register**, volume 62, No. 187, 62 FR 50531-50533, BEA published a notice of proposed rulemaking setting forth reporting requirements for the BE-22, Annual Survey of Selected Services Transactions With Unaffiliated Foreign Persons. No comments on the proposed rule were received. Thus, these final rules are the same as the proposed rules.

These final rule amend 12 CFR part 801 by revising paragraph 801.9(b)(6)(ii) to set forth revised reporting requirements for the BE-22, Annual Survey of Selected Services Transactions With Unaffiliated Foreign Persons. The survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act (P.L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108, as amended). Section 3103(a) of the Act provides that "The President shall, to the extent he deems necessary and feasible \* \* \* (1) conduct a regular data collection program to secure current information—related to international investment and trade in services \* \* \*". In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated the authority under the Act as concerns international trade in services to the Secretary of

Commerce, who has redelegated it to BEA.

The BE-22 survey is an annual survey of selected U.S. services transactions with unaffiliated foreign persons. It is intended to update the results of the BE-20 benchmark survey, which covers the universe of such transactions. In nonbenchmark years, universe estimates of these transactions are derived by adding to annually reported sample data extrapolations of data reported in the benchmark survey by companies exempt from annual reporting. The data are needed to support U.S. trade policy initiatives, compile the U.S. balance of payments, input-output, and national income and product accounts, develop U.S. international price indexes for services, assess U.S. competitiveness in, and promote, international trade in services, and improve the ability of U.S. businesses to identify and evaluate market opportunities for service trade.

In order to bring the BE-22 annual survey into conformity with the 1996 BE-20 benchmark survey, coverage of the BE-22 is expanded to include, for the first time, data on merchanting services (sales only), operational leasing services, selling agent services, and a variety of services included in a new "other" selected services category. This category covers satellite photography services, security services, actuarial services, salvage services, oil spill and toxic waste cleanup services, language translation services, and account collection services.

These final rules also drop coverage of general use computer software royalties and license fees from the BE-22. In the past, annual data on such fees and royalties were collected as part of an all-inclusive computer and data processing services category on the BE-22, and classified in "other services" in the U.S. balance of payments. However, this required some respondents to examine their accounting records on royalties and license fees for purposes of responding to two separate surveys and also made it impossible to classify these transactions in the most appropriate balance of payments category. (Current international standards recommend that computer royalties and license fees be classified in "royalties and license fees" rather than "other services" in the balance of payments.) Thus, BEA is moving coverage of general use computer software royalties and license fees from the BE-22 to the BE-93, Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons. To effect this change, these final rules strike language that previously included

coverage of copyrights and other intellectual property rights related to computer software on the BE-22. Separately, a proposed rulemaking for the BE-93 survey will add language to include coverage of computer software royalties and license fees.

Reporting in the BE-22 annual survey is required from U.S. persons with sales to, or purchases from, unaffiliated foreign persons in excess of \$1,000,000 in any of the services covered during the reporting year. Those meeting this criterion must supply data on the amount of their total sales or total purchases of each type of service in which their transactions exceeded this threshold amount. Except for sales of merchanting services, the data are also disaggregated by country. U.S. persons with purchases or sales during the reporting year of \$1,000,000 or less in a given type of covered service are asked to provide, on a voluntary basis, estimates only of their total purchases or total sales, as appropriate, for the given type of service.

#### **Executive Order 12612**

These final rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

#### **Executive Order 12866**

These final rules have been determined to be not significant for purposes of E.O. 12866.

#### **Paperwork Reduction Act**

The collection of information required in these final rules has been approved by OMB (OMB No. 0608-0060) under the Paperwork Reduction Act. Notwithstanding any other provision of law, no person is required to respond to, nor shall a 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; such a Control Number (0608-0060) has been displayed.

Public reporting burden for this collection of information estimated to vary from 4 to 500 hours, with an overall average burden of 11.5 hours. This includes time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments regarding the burden estimate or any other aspect of this collection of information should be addressed to: Director, Bureau of Economic Analysis (BE-1), U.S.

Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608-0060, Washington, DC 20503.

#### **Regulatory Flexibility Act**

The Assistant General Counsel for Legislation and 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 these final rules will not have a significant economic impact on a substantial number of small entities. The exemption level for the survey excludes most small businesses from mandatory reporting. Reporting is required only if total sales or purchases transactions with unaffiliated foreign persons in a covered type of service exceed \$1,000,000 during the year. Of those smaller businesses that must report, most will tend to have specialized operations and activities and will likely report only one type of service; therefore, the burden on them should be small.

#### **List of Subjects in 15 CFR Part 801**

Economic statistics, Balance of payments, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: December 2, 1997.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA amends 15 CFR part 801, as follows:

#### **PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS**

1. The authority citation for 15 CFR Part 801 continues to read as follows:

**Authority:** 5 U.S.C. 301, 15 U.S.C. 4908, 22 U.S.C. 3101-3108, and E.O. 11961 (3 CFR, 1977 Comp., p. 860 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 801.9 is amended by revising paragraph (b)(6)(ii) to read as follows:

##### **§ 801.9 Reports required.**

\* \* \* \* \*

(b) \* \* \*

(6) \* \* \*

(ii) Covered services. With the exceptions given in this paragraph, the services covered by this survey are the same as those covered by the BE-20, Benchmark Survey of Selected Services Transactions With Unaffiliated Foreign

Persons-1996, as listed in § 801.10(c) of this part. The exceptions are elimination of coverage of general use computer software royalties and license fees from computer and data processing services, and the elimination of coverage of four small types of services—agricultural services; management of health care facilities; mailing, reproduction, and commercial art; and temporary help supply services.

\* \* \* \* \*

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## **DEPARTMENT OF THE TREASURY**

### **Customs Service**

#### **19 CFR Part 54**

[T.D. 98-4]

#### **Technical Change Regarding Duty Free Entry of Metal Articles**

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations, to conform with subheadings 9817.00.80 and 9817.00.90, Harmonized Tariff Schedule of the United States, relating to the duty free entry of metal articles imported to be used in remanufacture by melting or to be processed by shredding, shearing, compacting or similar processing which renders them fit only for the recovery of the metal content.

**EFFECTIVE DATE:** December 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Kathy Campanelli, National Commodity Specialist, Metals and Machinery Branch, (212) 466-5492.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

As part of a continuing program to keep its regulations current, the Customs Service has determined that a change in § 54.5(a)(2), Customs Regulations (19 CFR 54.5(a)(2)), is necessary in order to bring the regulations into conformity with subheadings 9817.00.80 and 9817.00.90, Harmonized Tariff Schedule of the United States (HTSUS), relating to the duty free entry of metal articles imported to be used in remanufacture by melting or to be processed by shredding, shearing, compacting or similar processing which renders them fit only for the recovery of the metal content.