

actuarial services, salvage administration services, and regulatory and monitoring services on indemnities and recovery services.)

(ii) [Reserved]

[FR Doc. 03-24130 Filed 9-22-03; 8:45 am]

BILLING CODE 3510-06-P

## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

#### 15 CFR Part 801

[Docket No. 030910228-3228-01]

RIN 0691-AA54

#### International Services Surveys: BE-25, Quarterly Survey of Transactions With Unaffiliated Foreign Persons in Selected Services and in Intangible Assets

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document sets forth a proposed rule to institute a new survey, BE-25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets, to be conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce.

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. The proposed survey is mandatory and will be conducted under the International Investment and Trade in Services Survey Act. Data from the proposed BE-25 survey are needed to monitor trade in services and intangible assets, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on financial services, conduct trade promotion, improve the ability of U.S. businesses to identify and evaluate market opportunities, and for other Government and public uses.

The proposed survey will cover some of the selected services presently covered by the BE-22, Annual Survey of Selected Services Transactions with Unaffiliated Foreign Persons. The selected services covered by the BE-25 survey will be removed from the BE-22 survey after the survey for 2003 is conducted. The BE-22 survey will continue to be conducted for those

services that were not moved to the BE-25 survey. The proposed survey will also cover construction, engineering, architectural, and surveying services presently covered by the BE-47, Annual Survey of Construction, Engineering, Architectural, and Mining Services Provided by U.S. Firms to Unaffiliated Foreign Persons, and will cover the same transactions in intangible assets presently covered by the BE-93, Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons; both of these annual surveys would be discontinued, following a final data collection for 2003.

**DATES:** Comments on this proposed rule will receive consideration if submitted in writing on or before November 24, 2003.

**ADDRESSES:** Direct all written comments to the Office of the Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230. To ensure that comments are received in a timely manner, please consider using one of the following delivery methods: (1) Fax to (202) 606-5318; (2) deliver by courier to U.S. Department of Commerce; Bureau of Economic Analysis, BE-50, Shipping and Receiving Section M100, 1441 L Street, NW., Washington, DC 20005; or (3) e-mail to [Obie.Whichard@bea.gov](mailto:Obie.Whichard@bea.gov). Comments will be available for public inspection in room 7006, 1441 L Street, NW., between 8:30 a.m. and 4:30 p.m., 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; or via e-mail at [Obie.Whichard@bea.gov](mailto:Obie.Whichard@bea.gov) (Telephone (202) 606-9800).

**SUPPLEMENTARY INFORMATION:** This proposed rule amends 15 CFR Part 801.9 to set forth the reporting requirements for the BE-25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets. 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). Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that the President shall, to the extent he deems necessary and feasible, conduct a regular data collection program to secure current information related to international investment and trade in services and publish for the use of the general public

and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection. In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated his authority granted under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The major purposes of the survey are to monitor trade in services and in intangible assets, analyze the impact of this trade on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on services and intangible assets, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

As proposed, BEA will conduct the BE-25 survey beginning with the first quarter of 2004. The survey will update the data provided on the universe of transactions between U.S. and unaffiliated foreign persons in selected services and in intangible assets. Reporting is required from U.S. persons whose sales of covered services to unaffiliated foreign persons exceeded \$6 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year, or whose purchases of covered services from unaffiliated foreign persons exceeded \$4 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. U.S. persons meeting any of these criteria must supply data on the amount of their sales or purchases for each type of covered service, disaggregated by country. U.S. persons that do not meet the mandatory reporting requirements are requested to provide voluntary estimates of their total sales and purchases of each type of covered service or intangible asset.

The proposed survey will also cover construction, engineering, architectural, and surveying services presently covered by the BE-47, Annual Survey of Construction, Engineering, Architectural, and Mining Services Provided by U.S. Firms to Unaffiliated Foreign Persons, and will cover the same transactions in intangible rights presently covered by the BE-93, Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons; both of these annual surveys would be discontinued, following a final data collection for 2003.

The proposed survey is mandatory and will be conducted under the

International Investment and Trade in Services Survey Act. The first survey conducted under this proposed rule will cover transactions in the first quarter 2004. BEA will send the survey to potential respondents in March of 2004; responses will be due by May 15, 2004.

#### Executive Order 12866

This proposed rule is not significant for purposes of E.O. 12866.

#### Executive Order 13132

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

#### Paperwork Reduction Act

This proposed rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA) and has been submitted to the Office of Management and Budget for review under the PRA.

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 Office of Management and Budget Control Number.

The BE-25 survey, as proposed, is expected to result in the filing of reports containing mandatory data from about 700 respondents on a quarterly basis, or 2,800 responses annually. The average burden for completing the BE-25 is estimated to be 16 hours. Thus, the total respondent burden of the survey is estimated at 44,800 hours (2,800 responses times 16 hours average burden). The actual burden will vary from reporter to reporter, depending upon the number and variety of their covered services transactions and the ease of assembling the data. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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, and either faxed (202-395-7245) or e-mailed ([pbugg@omb.eop.gov](mailto:pbugg@omb.eop.gov)) to the Office of Management and Budget, O.I.R.A. (Attention PRA Desk Officer for BEA).

#### Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under 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. The information collection excludes most small businesses from mandatory reporting. Companies that engage in international transactions in covered services or intangible assets tend to be quite large. In addition, the reporting threshold for this survey is set at a level that will exempt most small businesses from reporting. The proposed BE-25 quarterly survey will be required from U.S. persons whose sales of covered services to unaffiliated foreign persons exceeded \$6 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year, or whose purchases of covered services from unaffiliated foreign persons exceeded \$4 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. Thus, the exemption level will exclude most small businesses from mandatory coverage. Of those smaller businesses that must report, most will tend to have specialized operations and activities, so they will likely report only one type of transaction; therefore, the burden on them should be small.

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

International transactions, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: August 18, 2003.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA proposes to amend 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; E.O. 11961, 3 CFR, 1977 Comp., p. 86 as amended by E.O. 12013, 3

CFR, 1977 Comp., p. 147, E.O. 12318, 3 CFR, 1981 Comp., p. 173, and E.O. 12518, 3 CFR, 1985 Comp., p. 348.

2. Section 801.9 is amended by revising paragraph (c)(6) to read as follows:

#### § 801.9 Reports required.

(c) Quarterly surveys. \* \* \*

(6) BE-25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets:

(i) A BE-25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets, will be conducted covering the first quarter of the 2004 calendar year and every quarter thereafter.

(A) *Who must report—(1) Mandatory reporting.* Reports are required from each U.S. person that: (a) had sales of covered services to unaffiliated foreign persons that exceeded \$6 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year; or (b) had purchases of covered services from unaffiliated foreign persons that exceeded \$4 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. Because the thresholds are applied separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both sales and purchases. Quarterly reports for a year may be required retroactively when it is determined that the exemption level has been exceeded.

(2) *Voluntary reporting.* Reports are requested from each U.S. person that had sales of covered services to unaffiliated foreign persons that were \$6 million or less for the previous fiscal year and are expected to be less than or equal to that amount during the current fiscal year, or had purchases of covered services from unaffiliated foreign persons that were \$4 million or less for the previous fiscal year and are expected to be less than or equal to that amount during the current fiscal year. Provision of this information is voluntary. The estimates may be based on recall, without conducting a detailed records search.

(B) Any person receiving a BE-25 survey form from BEA must complete all relevant parts of the form and return the form to BEA. A person that is not subject to the mandatory reporting requirement in paragraph (c)(6)(i)(A) of this section and is not filing information on a voluntary basis must only complete the "Determination of reporting status" and the "Certification" sections of the survey. This requirement is necessary to

ensure compliance with the reporting requirements and efficient administration of the survey by eliminating unnecessary followup contact.

(C) Covered services and intangible assets. The services covered by this survey are: Accounting, auditing, and bookkeeping services; computer and data processing services; construction services; foreign expenses related to construction projects; data base and other information services; engineering, architectural, and surveying services; industrial engineering services; industrial-type maintenance, installation, alteration, and training services; legal services; management, consulting, and public relations services; operational leasing services; research, development, and testing services; and telecommunication services. The intangible assets covered by this survey are rights related to: industrial processes and products; books, compact discs, audio tapes and other copyrighted material and intellectual property; trademarks, brand names, and signatures; performances and events pre-recorded on motion picture film and television tape, including digital recording; broadcast and recording of live performances and events; general use computer software; business format franchising fees; and other intangible assets, including indefeasible rights of users.

(ii) [Reserved]

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[FR Doc. 03-24129 Filed 9-22-03; 8:45 am]

BILLING CODE 3510-06-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 261

[SW FRL-7562-9]

### Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

**AGENCY:** The Environmental Protection Agency (the EPA).

**ACTION:** Proposed rule and request for comment.

**SUMMARY:** The EPA is proposing to grant a petition submitted by Teris LLC (Teris) to exclude (or delist) a certain solid waste generated by its El Dorado, Arkansas, facility from the lists of hazardous wastes.

The EPA used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment.

The EPA bases its proposed decision to grant the petition on an evaluation of waste-specific information provided by the petitioner. This proposed decision, if finalized, would exclude the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

If finalized, the EPA would conclude that Teris' petitioned waste is nonhazardous with respect to the original listing criteria and that the stabilization of the incinerator ash generated from the hazardous waste incineration facility will adequately reduce the likelihood of migration of constituents from this waste. The EPA would also conclude that Teris' process minimizes short-term and long-term threats from the petitioned waste to human health and the environment.

**DATES:** The EPA will accept comments until November 7, 2003. The EPA will stamp comments received after the close of the comment period as late. These late comments may not be considered in formulating a final decision. Your requests for a hearing must reach the EPA by October 8, 2003. The request must contain the information prescribed in 40 CFR 260.20(d).

**ADDRESSES:** Please send three copies of your comments. You should send two copies to the Section Chief of the Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division (6PD-C), U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. You should send a third copy to Derick Warrick, P.E., Hazardous Waste Division, Arkansas Department of Environmental Quality (ADEQ), P.O. Box 8913, Little Rock, Arkansas, 72219-8913. Identify your comments at the top with this regulatory docket number: [F-03-ARDEL-TERIS]. You may submit your comments electronically to James Harris at [harris.jamesa@epa.gov](mailto:harris.jamesa@epa.gov).

You should address requests for a hearing to Steve Gilrein, Associate Director of RCRA, Multimedia Planning and Permitting Division (6PD), U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

**FOR FURTHER INFORMATION CONTACT:** James Harris (214) 665-8302.

**SUPPLEMENTARY INFORMATION:** The information in this section is organized as follows:

#### I. Overview Information

- A. What Action Is the EPA Proposing?
- B. Why Is the EPA Proposing To Approve This Delisting?
- C. How Will Teris Manage the Waste if It Is Delisted?

- D. When Would the Proposed Delisting Exclusion Be Finalized?
- E. How Would This Action Affect States?

#### II. Background

- A. What Is the History of the Delisting Program?
- B. What Is a Delisting Petition, and What Does It Require of a Petitioner?
- C. What Factors Must the EPA Consider In Deciding Whether To Grant a Delisting Petition?

#### III. The EPA's Evaluation of the Waste Information and Data

- A. What Wastes Did Teris Petition the EPA To Delist?
- B. Who Is Teris and What Process Do They Use To Generate the Petition Waste?
- C. How Did Teris Sample and Analyze the Data In This Petition?
- D. What Were the Results of Teris' Analysis?
- E. How Did the EPA Evaluate the Risk of Delisting This Waste?
- F. What Did the EPA Conclude About Teris' Analysis?
- G. What Other Factors Did the EPA Consider In Its Evaluation?
- H. What Is the EPA's Evaluation of This Delisting Petition?

#### IV. Next Steps

- A. With What Conditions Must the Petitioner Comply?
- B. What Happens if Teris Violates the Terms and Conditions?

#### V. Public Comments

- A. How May I as an Interested Party Submit Comments?
- B. How May I Review the Docket or Obtain Copies of the Proposed Exclusions?

#### VI. Regulatory Impact

#### VII. Regulatory Flexibility Act

#### VIII. Paperwork Reduction Act

#### IX. Unfunded Mandates Reform Act

#### X. Executive Order 13045

#### XI. Executive Order 13084

#### XII. National Technology Transfer and Advancements Act

#### XIII. Executive Order 13132 Federalism

### I. Overview Information

#### A. What Action Is the EPA Proposing?

The EPA is proposing to grant the delisting petition submitted by Teris to have its stabilized hazardous waste incinerator ash excluded, or delisted, from the definition of a hazardous waste.

#### B. Why Is the EPA Proposing To Approve This Delisting?

Teris' petition requests a delisting for the stabilized ash generated by its hazardous waste incinerator. Teris does not believe that the petitioned waste meets the criteria for which the EPA listed it. Teris also believes no additional constituents or factors could cause the waste to be hazardous. The EPA's review of this petition included consideration of the original listing criteria, and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA).