

Points, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

*Paragraph 6007—Offshore Airspace Areas.*

\* \* \* \* \*

**Norton Sound Low, AK [Amended]**

That airspace extending upward from 1,200 MSL within a 45-mile radius of the Deering Airport, Alaska, and airspace extending upward from 14,500 feet MSL within an area bounded by a line beginning at Lat. 59°59'57" N., long. 168°00'08" W.; to Lat. 62°35'00" N., long. 175°00'00" W.; to Lat. 65°00'00" N., long. 168°58'23" W.; to Lat. 68°00'00" N., long. 168°58'23" W.; to a point 12 miles offshore at Lat. 68°00'00" N.; thence by a line 12 miles from and parallel to the shoreline to Lat. 56°42'59" N., long. 160°00'00" W.; to Lat. 58°06'57" N., long. 160°00'00" W.; to Lat. 57°45'57" N., long. 161°46'08" W.; to the point of beginning, excluding that portion that lies within Class E airspace above 14,500 feet MSL, Federal airways and the Nome and Kotzebue, AK, Class E airspace areas.

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Issued in Washington, DC, on November 17, 2005.

**Edith V. Parish,**

*Manager, Airspace and Rules.*

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**DEPARTMENT OF COMMERCE**

**Bureau of Economic Analysis**

**15 CFR Part 806**

[Docket No. 050726200-5305-2]

**RIN 0691-AA58**

**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 U.S. Department of Commerce, Bureau of Economic Analysis (BEA), 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 nonbank U.S. parent companies and their nonbank foreign affiliates. To address the current needs of data users while at the same time keeping the respondent burden as low as possible, BEA is modifying, adding, or deleting items on the survey forms and in the reporting criteria. Most of the changes

will bring the BE-11 forms and related instructions into conformity with the 2004 BE-10, Benchmark Survey of U.S. Direct Investment Abroad.

**DATES:** This final rule will be effective December 28, 2005.

**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 or e-mail (*obie.whichard@bea.gov*).

**SUPPLEMENTARY INFORMATION:** In the August 22, 2005, **Federal Register**, 70 FR 48920-48923, BEA published a notice of proposed rulemaking setting forth revised reporting requirements 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, Annual Survey of U.S. Direct Investment Abroad, 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: (1) Increases the exemption level for reporting on the BE-11B(SF) form and BE-11C form from \$30 million to \$40 million; (2) increases the exemption level for reporting on the BE-11B(LF) form from \$100 million to \$150 million; and (3) increases the exemption level for reporting only selected items on Form BE-11A from \$100 million to \$150 million. In addition to certain identification items, U.S. Reporters with total assets, sales or gross operating revenues, and net income (loss) less than or equal to \$150 million report only selected items on the BE-11A report. In conjunction with the increase in the exemption level for reporting on Forms BE-11B(SF) and BE-11C, a schedule on Form BE-11A is introduced for reporting a few data items for affiliates with assets, sales, and net income between \$10 million and \$40 million that were established or acquired during the year. The foreign affiliate exemption level is the level of a foreign affiliate's assets, sales, or net income below which a Form BE-

11B(LF), BE-11B(SF), or BE-11C is not required.

In addition to the changes in reporting criteria mentioned above, BEA is introducing a statistical sampling procedure that utilizes a new BE-11B(EZ) form. This form provides a few basic indicators for non-sample foreign affiliates that can be used as a basis for estimating data that otherwise would have to be reported on the lengthier BE-11B(LF) and BE-11B(SF) forms.

BEA is introducing a few changes to the report forms themselves. BEA is adding questions to the BE-11A form, BE-11B(LF) form, and BE-11B(SF) form to bring the annual survey into conformity with the BE-10 benchmark survey. BEA is collecting detail on: (1) The broad occupational structure of employment, (2) premiums earned and claims paid by U.S. Reporters and foreign affiliates operating in the insurance industry, and (3) goods purchased for resale for U.S. Reporters and foreign affiliates operating in the wholesale and retail trade industries. In addition, BEA is expanding the ownership section on the BE-11B(LF) and (SF) forms to include components that are collected on the benchmark survey and to add a retained earnings reconciliation section on the BE-11B(LF) form similar to that on the benchmark survey.

**Survey Background**

The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101-3108), hereinafter, the Act. Section 4(a) of the Act requires that with respect to United States direct investment abroad, 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, the President delegated authority granted under the Act as concerns direct investment to the Secretary of Commerce, who has redelegated it to BEA. The annual survey of U.S. direct investment abroad is a sample survey that provides 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 not to be 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 required in this final rule has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (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 OMB control number. The OMB control number for the BE-11 is 0608-0053; the collection will display the number.

The survey is expected to result in the filing of reports from approximately 1,500 respondents. The respondent burden for this collection of information will vary from one company to another, but is estimated to average 78.4 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total respondent burden of the survey is estimated at 117,600 hours (1,500 respondents times 78.4 hours average burden).

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 (Fax: 202-606-5311); and Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608-0053, 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 rule will not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding the economic impact of the rule. As a result, no final regulatory flexibility analysis was prepared.

#### List of Subjects in 15 CFR Part 806

U.S. investment abroad, Multinational corporations, Economic statistics, Penalties, Reporting and recordkeeping requirements.

Dated: November 14, 2005.

#### J. Steven Landefeld,

*Director, Bureau of Economic Analysis.*

■ For the reasons set forth in the preamble, BEA is amending 15 CFR Part 806 as follows:

#### PART 806—DIRECT INVESTMENT SURVEYS

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

**Authority:** 5 U.S.C. 301; 22 U.S.C. 3101-3108; 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 806.14(f)(3) is revised to read as follows:

#### § 806.14 U.S. direct investment abroad.

\* \* \* \* \*

(f) \* \* \*

(3) BE-11—Annual survey of U.S. Direct Investment Abroad: A report, consisting of Form BE-11A and Form(s) BE-11B(LF) (Long Form), BE-11B(SF) (Short Form), BE-11B(EZ), and/or BE-11C, is required of each nonbank U.S. Reporter that, at the end of the Reporter's fiscal year, had a nonbank foreign affiliate reportable on Form BE-11B(LF), (SF), (EZ), or BE-11C. Forms required and the criteria for reporting on each are as follows:

(i) Form BE-11A (Report for U.S. Reporter) must be filed by each nonbank

U.S. person having a foreign affiliate reportable on Form BE-11B(LF), (SF), (EZ), or BE-11C. If the U.S. Reporter is a corporation, Form BE-11A 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, banking activities should be included on the BE-11A using the equity method of accounting.

(A) 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 the end of, or for, the Reporter's fiscal year, the U.S. Reporter must file a complete Form BE-11A. It must also file a Form BE-11B(LF), (SF), (EZ), or BE-11C as applicable, for each nonexempt foreign affiliate.

(B) If for a nonbank U.S. Reporter no one of the three items listed in paragraph (f)(3)(i)(A) of this section was greater than \$150 million (positive or negative) at the end of, or for, the Reporters fiscal year, the U.S. Reporter is required to file on Form BE-11A only items 1 through 27 and Part IV. It must also file a Form BE-11B(LF), (SF), (EZ), or BE-11C as applicable, for each nonexempt foreign affiliate.

(ii) Forms BE-11B(LF), (SF), and (EZ) (Report for Majority-owned Foreign Affiliate).

(A) A BE-11B(LF) (Long Form) is required to be filed for each majority-owned nonbank foreign affiliate of a nonbank U.S. Reporter 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 the end of, or for, the affiliate's fiscal year, unless the nonbank foreign affiliate is selected to be reported on Form BE-11B(EZ).

(B) BE-11B(SF) (Short Form) is required to be filed for each majority-owned nonbank foreign affiliate of a nonbank U.S. Reporter for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than \$40 million (positive or negative), but for which no one of these items was greater than \$150 million (positive or negative), at the end of, or for, the affiliate's fiscal year, unless the nonbank foreign affiliate is selected to be reported on Form BE-11B(EZ).

(C) A BE-11B(EZ) is required to be filed for each nonbank foreign affiliate that is selected to be reported on this form in

lieu of Form BE-11B(LF) or Form BE-11B(SF).

(iii) Form BE-11C (Report for Minority-owned Foreign Affiliate) must be filed for each minority-owned nonbank foreign affiliate that is owned at least 20 percent, but not more than 50 percent, directly and/or indirectly, by all U.S. Reporters of the affiliate combined, and for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than \$40 million (positive or negative) at the end of, or for, the affiliate's fiscal year. In addition, for the report covering fiscal year 2007 only, a Form BE-11C must be filed for each minority-owned nonbank foreign affiliate that is owned, directly or indirectly, at least 10 percent by one U.S. Reporter, but less than 20 percent by all U.S. Reporters of the affiliate combined, and for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than \$100 million (positive or negative) at the end of, or for, the affiliate's fiscal year.

(iv) Based on the preceding, an affiliate is exempt from being reported if it meets any one of the following criteria:

(A) None of the three items listed in paragraph (f)(3)(ii)(A) of this section exceeds \$40 million (positive or negative). (However, affiliates that were established or acquired during the year and for which at least one of these items was greater than \$10 million but not over \$40 million must be listed, and key data items reported, on a supplement schedule on Form BE-11A.)

(B) For fiscal year 2007 only, it is less than 20 percent owned, directly or indirectly, by all U.S. Reporters of the affiliate combined and none of the three items listed in paragraph (f)(3)(ii)(A) of this section exceeds \$100 million (positive or negative).

(C) For fiscal years other than 2007, it is less than 20 percent owned, directly or indirectly, by all U.S. Reporters of the affiliate combined.

(D) Its U.S. parent (U.S. Reporter) is a bank.

(E) It is itself a bank.

(v) Notwithstanding paragraph (f)(3)(iv) of this section, a Form BE-11B(LF), (SF), (EZ) or BE-11C must be filed for a foreign affiliate of the U.S. Reporter that owns another non-exempt foreign affiliate of that U.S. Reporter, even if the foreign affiliate parent is otherwise exempt. That is, all affiliates upward in the chain of ownership must be reported.

\* \* \* \* \*

[FR Doc. 05-23316 Filed 11-25-05; 8:45 am]

BILLING CODE 3510-06-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 934

[ND-048-FOR, Amendment No. XXXV]

#### North Dakota Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We are approving a proposed amendment to the North Dakota regulatory program (the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). North Dakota proposed revisions to its statute which reduce notice requirements associated with bond release applications. North Dakota intends to revise its program to improve operational efficiency.

**EFFECTIVE DATE:** November 28, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Acting Field Office Director Frank Atencio, Telephone: 307/261-6550, e-mail address: [fatencio@osmre.gov](mailto:fatencio@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the North Dakota Program
- II. Submission of the Proposed Amendment
- III. Office of Surface Mining Reclamation and Enforcement's (OSM) Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

#### I. Background on the North Dakota Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the North Dakota program on December 15, 1980. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 15, 1980, **Federal Register** (45 FR 82214). You can also find later actions concerning North Dakota's program and program

amendments at 30 CFR 934.15, 934.16, and 934.30.

#### II. Submission of the Proposed Amendment

By letter dated April 20, 2005, North Dakota sent us an amendment to its program (amendment number XXXV, Administrative Record No. ND-JJ-01) under SMCRA (30 U.S.C. 1201 *et seq.*). The amendment includes changes made at the State's initiative. The provisions of its North Dakota Century Code (NDCC) that North Dakota proposed to revise are NDCC 38-14.1-17.1.a and b, Release of performance bond "Schedule—Notification—Public hearing.

We announced receipt of the proposed amendment in the July 5, 2005, **Federal Register** (70 FR 38639), Administrative Record No. ND-JJ-07. In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on August 4, 2005. We received one comment from the North Dakota State University.

#### III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

##### A. Minor Revisions to North Dakota's Statute

North Dakota proposed minor wording, editorial, punctuation, grammatical, and recodification changes to the following previously-approved statute: NDCC 38-14.1-17.1.a and b.

Because these changes are minor, we find that they will not make North Dakota's statute less stringent than SMCRA.

##### B. Revisions to North Dakota's Statute That Have the Same Meaning as the Corresponding Provisions of SMCRA

The following revisions to the NDCC proposed by North Dakota contain language that is the same as or similar to the corresponding sections of SMCRA.

NDCC 38-14.1-17.1.a and b (SMCRA 519(a)), [Release of performance bond-Schedule-Notification-Public hearing]

The first change deletes the requirement that the permittee publish newspaper notices in daily newspapers of general circulation in the mine's locality. However, the permittee is still required to publish bond release