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Issued in Kansas City, Missouri, on August 5, 2004.

**Dorenda D. Baker,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

#### 15 CFR Part 801

[Docket No. 030929241-4172-02]

RIN 0691-AA55

#### **International Services Surveys: BE-9, Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends regulations to set forth the reporting requirements for the BE-9, Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States.

The survey is mandatory and will be conducted under the International Investment and Trade in Services Survey Act. Data from the BE-9 survey are needed for the compilation of the U.S. balance of payments accounts. The information collected in this survey will be used in developing the "transportation" portion of the U.S. balance of payments accounts. The balance of payments accounts, which are published quarterly in the *Survey of Current Business*, are one of the major statistical products of BEA. They are used extensively by both government and private organizations. Without the information collected in this survey, quarterly data needed for estimating an integral component of the transportation account would be unavailable. The data are utilized by private organizations and numerous government agencies for analyzing economic trends. The data

collected are also used for compiling the U.S. national income and product accounts, and for reporting to international organizations such as the International Monetary Fund.

The survey will cover the transactions currently covered on the BE-36, Foreign Airline Operators' Revenues and Expenses in the United States, which is collected annually. The BE-36 will be discontinued following the final data collection for 2003.

**DATES:** *Effective Date:* This final rule will be effective September 13, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Edward Dozier, Balance of Payments Division (BE-58), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; via the Internet at [edward.dozier@bea.gov](mailto:edward.dozier@bea.gov); or via telephone at (202) 606-9559.

**SUPPLEMENTARY INFORMATION:** In the October 17, 2003, **Federal Register** (68 FR 59750-59751), BEA published a notice of proposed rulemaking that set forth the reporting requirements for the BE-9, Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States. The major purpose of the survey is for the compilation of the U.S. balance of payments accounts. The information collected in this survey is used in developing the "transportation" portion of the U.S. balance of payments accounts. The balance of payments accounts, which are published quarterly in the *Survey of Current Business*, are one of the major statistical products of BEA. They are used extensively by both Government and private organizations. Without the information collected in this survey, quarterly data needed for estimating an integral component of the transportation account would be unavailable. The data are utilized by private organizations and numerous government agencies for analyzing economic trends. The data collected are also used for compiling the U.S. national income and product accounts, and for reporting to international organizations such as the International Monetary Fund.

The BE-9 survey is mandatory and will be conducted under the International Investment and Trade in Services Survey Act. The survey requests information from foreign air carriers operating in the United States. Information is collected on a quarterly basis from foreign air carriers with total annual covered revenues or total annual covered expenses incurred in the United States of \$5 million or more. Foreign air carriers with total annual covered revenues and expenses below \$5 million are exempt from reporting. The

exemption criterion is based on the annual revenues or expenses covered by the survey for both the current and previous year. Thus, if a foreign airline operator had revenues or expenses covered by the survey of \$5 million or more during the previous year or if the company expects its revenues or expenses will be \$5 million or more during the current year, then it must complete the survey for each of the four quarters of the current year.

The BE-9 quarterly survey will cover the transactions currently covered on the BE-36, Foreign Airline Operators' Revenues and Expenses in the United States, which is collected annually. The BE-36 survey will be discontinued following a final data collection for 2003.

In response to the proposed rule published on October 17, 2003, three organizations commented on the proposed rule. As a result of these comments, BEA made one change in issuing this final rule. Specifically, the estimated average number of hours per response was increased from 5 hours to 8 hours, which increased the estimated annual reporting burden from 1,120 hours to 1,792 hours. BEA addressed all comments on the proposed rule in a December 23, 2003 letter that was sent to all organizations that provided comments and to OMB. Below is a summary of the comments received and BEA's response.

**Comment:** BEA has not demonstrated the need for a quarterly collection of data.

**Response:** The Bureau of Economic Analysis (BEA) is responsible for compiling the quarterly U.S. balance of payments (BOP) accounts, which are published in the *Survey of Current Business*. U.S. exports and imports of transportation services, which are derived in part from BEA surveys such as the BE-36, are major components of these accounts. The BOP accounts are used extensively by Government and by private organizations, for supporting U.S. international economic policy, including trade negotiations, and for analyzing the impact of that policy and the policy of foreign countries on international trade in services. The accounts also are included in the quarterly national income and product (or GDP) accounts.

Annual information on transportation services are now collected by BEA on annual form BE-36. Quarterly estimates of transportation services currently must be made by extrapolating forward data pertaining to the prior year (as reported on form BE-36 for the prior year) through the use of indicator series, such as on the number of travelers or on the

value or weight of goods imports and exports. In addition to these quarterly estimates, monthly estimates must also be prepared from these data through indicator series; these estimates are included in broader aggregates in the joint BEA-Census Bureau monthly news release on trade in goods and services.

More current and accurate reported data on trade in services are needed in periods, such as now, when trade in such services may be experiencing sharp movements. One organization remarked about the sharp business downswing now being experienced by the airline industry. For BEA's quarterly estimates of international trade and GDP to accurately reflect the extent of the downswing, quarterly data are essential. For example, data on 2003 transactions are not reported to BEA until annual form BE-36 is filed, which was in the spring of 2004. At that time, only annual data was provided, which are not of significant help in monitoring changes in business conditions or for compiling the quarterly GDP or balance of payments accounts. The quality of the transportation estimates in international transactions accounts and national income and product accounts will substantially improve with the collection of accurate quarterly data on a quarterly survey. Quarterly surveys also will provide more accurate current information on U.S. trade in transportation services for use in connection with trade negotiations and for other international economic policy uses. In addition, they would provide the solid basis needed for assuring accuracy of the monthly goods and services trade estimates.

*Comment:* BEA's estimate of time and cost associated with filing the survey is substantially understated.

*Response:* BEA had estimated 5.0 hours as the average reporting burden on respondents for reviewing instructions and completing the report form. BEA first developed this estimate many years ago, based on conversations with a number of companies that file the annual BE-36 survey, and has periodically since then looked into its accuracy. For example, on April 2, 2003, BEA sent a letter and a description of the proposed BE-9 survey to 5 foreign air carriers, and requested comments and suggestions from the recipients on the proposed survey. BEA did not receive any comments on the burden estimate at that time.

Some of the concerns about the time needed to complete the survey may be based on a misunderstanding of some of the reporting requirements. For example, one organization commented that many of aircraft maintenance items

are incurred and paid overseas and should be attributed to expenses contemplated in this survey. In fact, the report form is designed to capture transactions between U.S. and foreign persons, and so, for example, expenditures made overseas for aircraft maintenance (and all other overseas expenses) should be excluded (see instructions for item 3 of the report form). BEA would be pleased to talk or to meet with any respondent to discuss survey reporting requirements, and would welcome suggestions for improving the clarity of survey instructions.

Also, it should be noted that estimates are acceptable where exact accounting figures are unavailable. Proposed form BE-9 has relatively few data items (consisting of just 9 data items). Basically, BEA is looking to see what foreign airlines spent in the United States (which are U.S. exports to foreigners), and what U.S. persons paid to foreign airlines (which are U.S. imports of services from foreigners), excluding passenger fares (which are estimated by BEA using other means).

Despite the above comments, BEA agrees that the estimate of average respondent burden for form BE-9 is probably too low. Based on the comments received, BEA increased the estimate of average reporting burden from 5.0 hours to 8.0 hours. Furthermore, BEA will consult with respondents after they have experience with form BE-9, and if it is determined that the burden estimate should be revised again at that time, BEA will do so.

*Comment:* The quality of reported data may be poor.

*Response:* One organization commented that many expenditures incurred during the year will not be booked in an airline's accounting system until the end of the year; before then, the expenditures may be placed in a pending account. They expressed a similar concern about actual commissions—these may be known with certainty only after final auditing is completed, which is at or after the end of the year.

BEA recognizes that final, audited data are often unavailable in time for quarterly (or even annual) reporting on its surveys. Thus, as noted above, respondents are encouraged to use estimates where precise final data are unavailable from readily available accounting data.

BEA also believes that it can identify substantial errors in reported data and obtain respondent cooperation in providing corrected data. BEA believes

that the quarterly estimates that it prepares will therefore be substantially correct and, certainly, they will be much more accurate than BEA estimates of quarterly transactions based on extrapolations of the respondent's prior year data.

It should also be noted that expenses reported on the proposed quarterly survey, as well as on the existing annual survey, must be disaggregated by major category—fuel and oil; wages and salaries; brokers' fees and commissions; aircraft handling and terminal expenses; aircraft leasing expenses; and all other expenses. Data for most of these categories should exhibit a relatively smooth trend from quarter to quarter unless there were substantial changes in the U.S. operations of the foreign air carrier. Thus, unusual quarterly changes in the reported data can easily be spotted by BEA and would be brought to the respondent's attention. If the respondent determined that the reported data incorrectly excluded major categories of expenses (or that expenses for the full year were incorrectly bunched in the fourth quarter of that year), corrected estimates would be provided.

Finally, BEA notes that it has collected quarterly revenue and expenses data from U.S. air carriers for many years, on quarterly form BE-37. That is, U.S. carriers have been providing the information on their foreign revenues and expenses for a considerable number of years, and BEA's proposal for the BE-9 is to collect similar information from foreign air carriers. While BEA agrees that the BE-9 entails some increase in burden for respondents now reporting on the annual BE-36 survey, our experience in collecting information from U.S. air carriers leads us to conclude that the quality of the quarterly data will be high.

#### **Executive Order 12866**

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

#### **Executive Order 13132**

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

#### **Paperwork Reduction Act**

The collection of information required in this final rule was approved by the Office of Management and Budget under the Paperwork Reduction Act.

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; such a Control Number (0608-0068) will be displayed.

The BE-9 survey is expected to result in the filing of reports from about 56 respondents on a quarterly basis, or about 224 responses annually. The average number of hours per response is 8.0 hours, or an annual reporting burden of 1,792 hours (224 responses multiplied by 8 hours average burden). 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. The actual burden may vary from reporter to reporter, depending upon the number and variety of the respondent's transactions and the ease of assembling the data.

Comments regarding the burden estimate or any 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; or 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 rule will not have a significant economic impact on a substantial number of small entities as that term is defined in the Regulatory Flexibility Act. The factual basis for the certification was published with the proposed rule. 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 801

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

Dated: August 5, 2004.

**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 is revised 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, January 19, 1977 (as amended by E.O. 12318, August 21, 1981; and E.O. 12518, June 3, 1985).

■ 2. Section 801.9 is amended by adding new paragraph (c)(3) to read as follows:

### § 801.9 Reports required.

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

(3) BE-9, Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States:

(i) *Who must report.* A BE-9 report is required from U.S. offices, agents, or other representatives of foreign airlines that are engaged in transporting passengers or freight and express to or from the United States. If the U.S. office, agent, or other representative does not have all the information required, it must obtain the additional information from the foreign airline operator.

(ii) *Exemption.* A U.S. person otherwise required to report is exempt from reporting if total annual covered revenues and total annual covered expenses incurred in the United States were each less than \$5 million during the previous year and are expected to be less than \$5 million during the current year. If either total annual covered revenues or total annual covered expenses were or are expected to be \$5 million or more, a report must be filed.

\* \* \* \* \*

[FR Doc. 04-18497 Filed 8-12-04; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

#### 19 CFR Part 101

[CPB Dec. 04-24]

### Extension of Port Limits of Chicago, IL

**AGENCY:** Customs and Border Protection; Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs and Border Protection (CBP) Regulations pertaining to the field organization of the Bureau of Customs and Border Protection by extending the geographical limits of the port of Chicago, Illinois, to include parts of the

City of Elwood, Illinois. There is an intermodal facility in Elwood. The change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

**DATES:** Effective September 13, 2004.

**FOR FURTHER INFORMATION CONTACT:** Dennis Dore, Office of Field Operations, 202-927-6871.

### SUPPLEMENTARY INFORMATION:

#### Background

In order to facilitate the clearance of international freight at an intermodal facility in the City of Elwood, Illinois, the Bureau of Customs and Border Protection (CBP) is amending § 101.3(b)(1) of the Customs and Border Protection Regulations (19 CFR 101.3(b)(1)) by extending the port limits of the port of Chicago to include certain parts of the City of Elwood, Illinois. The extension of the port limits to include the specified territory will provide better service to importers and the rail transportation industry in central Illinois.

A Notice of Proposed Rulemaking concerning this extension was published in the **Federal Register** (68 FR 42650) on July 18, 2003.

### Analysis of Comments and Conclusion

No comments were received in response to the Notice of Proposed Rulemaking. As CBP believes that the extension of the port of Chicago, Illinois, to include parts of the City of Elwood, Illinois, will improve service to importers and the rail transportation industry in central Illinois, CBP is expanding the limits of the port of Chicago as proposed.

### New Port Limits of the Port of Chicago, Illinois

CBP extends the limits of the port of Chicago, Illinois, to include additional territory in the City of Elwood, Illinois, so that the description of the limits of port will read as follows:

Beginning at the point where the northern limits of Cook County, Illinois, intersect Lake Michigan, thence westerly along the Cook County-Lake County Line to the point where Illinois State Highway Fifty-Three (53) intersects this Line, thence in a southerly direction along Illinois State Highway Fifty-Three (53) to the point where the highway intersects Interstate Highway Fifty-Five (55), thence southwesterly along Interstate Highway Fifty-Five (55) to the point where this highway intersects the north bank of the Kankakee River, thence southeasterly to