

# Supporting Statement for the Financial Reporting System, Form EIA-28 (OMB Number 1905-0149)

## Background

The Energy Information Administration (EIA) is requesting Office of Management and Budget (OMB) approval for revisions to the Energy Information Administration's (EIA's) Financial Reporting System (FRS), Form EIA-28 (OMB No. 1905-0149), as well as a three-year extension of the Form EIA-28. Form EIA-28 is used to collect data from 26 major energy producers.

U.S. major energy companies report financial and operating information to the FRS survey each year on a consolidated corporate level, by individual lines of business, by major functions within each line of business, and by various geographic regions. From this information, EIA produces the annual publication Performance Profiles of Major Energy Producers. The data are also used for analyses and inquiries concerning earnings, profitability, investments, production and refining costs, reserve growth, and other issues related to the financial performance of major energy producers.

In 2004, EIA expanded the form to include the downstream natural gas and electric power lines of business. The expanded form increased the time and cost of processing the additional data. In addition, some of the new questions required very detailed information from the operational units of the FRS respondent companies, which increased the time required for companies to compile data for the form.

After working with the expanded form for two years, EIA reviewed the detailed elements of the form and the responses and is proposing to reduce the scope of the data collected in the downstream natural gas and electric power sections of the Form EIA-28. The reductions will eliminate some of the intra-line of business flows and some detailed operating information, which will allow for more streamlined processing of the data and more effective use of resources, including providing more focus on information about profits, profitability, investment, and operating costs in these lines of business. Reducing the scope of the survey will also reduce the reporting burden on the survey respondents.

The information collection proposed in this supporting statement has been reviewed in light of applicable information quality guidelines. It has been determined that the information will be collected, maintained and used in a manner consistent with the OMB, DOE, and EIA information quality guidelines.

## A. Justification

1. Legal Authority for the Form EIA-28 Collection
  - a. Section 13(b) of the Federal Energy Administration Act of 1974, as amended, P.L. 93-275 (FEA Act) (15 U.S.C. 772(b)), states:

"All persons owning or operating facilities or business premises who are engaged in any phase of energy supply or major energy consumption shall make available to the [Secretary] such information and periodic reports, records, documents, and other data relating to the purposes of this Act, including full identification of all data and projections as to source, time and methodology of development, as the [Secretary] may prescribe by regulation or order as necessary or appropriate for the proper exercise of functions under this Act."

- b. The functions of the FEA Act are set forth in Section 5(b) of the Act (15 U.S.C. 764(b)), which states that the Secretary shall, to the extent he is authorized by Section 5(a) of the FEA Act:

"... (2) assess the adequacy of energy resources to meet demands in the immediate and longer range future for all sectors of the economy and for the general public;...

(5) promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise;...

(9) collect, evaluate, assemble, and analyze energy information on reserves, production, demand, and related economic data; ...."

- c. As the authority for invoking Section 5(b) above, subsection 5(a) of the FEA Act of 1974 (15 U.S.C. 764 (a)) states:

"Subject to the provisions and procedures set forth in this Act, the [Secretary] shall be responsible for such actions as are taken to assure that adequate provision is made to meet the energy needs of the Nation. To that end, he shall make such plans and direct and conduct such programs related to the production, conservation, use, control, distribution, rationing, and allocation of all forms of energy as are appropriate in connection with only those authorities or functions...

(3) otherwise specifically vested in the [Secretary] by the Congress."

- d. Authority for invoking Section 5(a) of the FEA Act, is provided in turn by Section 205(h) of the DOE Organization Act, P.L. 95-91, as amended (42 U.S.C. 7135). Key excerpts appear below.

Section 205(h)(1)(A):

"...The Administrator shall identify and designate "major energy-producing companies" which alone or with their affiliates are involved in one or more lines of commerce in the energy industry so that the energy information collected from such major energy-producing companies shall provide a statistically *accurate profile* (emphasis added) of each line of commerce in the energy industry in the United States."

Section 205(h)(2):

"The Administrator [of the Energy Information Administration of the Department of Energy] shall develop and make effective for use during the second full calendar year following the date of enactment of this Act the format for an energy-producing company financial report. Such report shall be designed to allow comparison on a uniform and standardized basis among energy-producing companies and shall permit for the energy-related activities of such companies—

- (A) an evaluation of company revenues, profits, cash flow, and investments in total, for the energy-related lines of commerce in which such company is engaged and for all significant energy-related functions within such company;
- (B) an analysis of the competitive structure of sectors and functional groupings within the energy industry;
- (C) the segregation of energy information, including financial information, describing company operations by energy source, and geographic area;
- (D) the determination of costs associated with exploration, development, production, processing, transportation, and marketing and other significant energy-related functions within such company; and
- (E) such other analyses or evaluations as the Administrator finds is necessary to achieve the purposes of this Act."

Section 205(h)(4):

"The Administrator shall require each major energy-producing company to file with the Administrator an energy-producing company financial report on at least an annual basis ..."

Section 205(h)(6)(A):

"...'energy-producing company' means a person engaged in:

- (i) ownership or control of mineral fuel resources or nonmineral energy resources;
- (ii) exploration for, or development of, mineral fuel resources;
- (iii) extraction of mineral fuel or nonmineral energy resources;
- (iv) refining, milling, or otherwise processing mineral fuels or nonmineral energy resources;
- (v) storage of mineral fuels or nonmineral energy resources;

- (vi) the generation, transmission, or storage of electrical energy;
- (vii) transportation of mineral fuels or nonmineral energy resources by any means whatever; or
- (viii) wholesale or retail distribution of mineral fuels, nonmineral energy resources or electrical energy"

## 2. The Uses of Data

The FRS program provides data to evaluate the competitive environment within which energy products are supplied and developed and to analyze the nature of institutional arrangements as they relate to energy resource development, supply, and distribution. The FRS report, entitled *Performance Profiles of Major Energy Producers (Profiles)*, has been published for each of the reporting years 1977 through 2004. A multi-year report utilizing FRS data for the 1974-1980 period, entitled *Energy Company Development Patterns in the Postembargo Era*, was published in October 1982. The *Profiles* report for 2005 will be published in December 2006. The standardized reporting requirements of the FRS program allow for comparison on a uniform basis among energy-producing companies in the *Profiles* report, and also permit the report to address energy industry questions of competition, energy supply and development, investment

and profits by lines of business and petroleum segments, and profits and investment by geographic divisions.

### Competition

Competition issues are addressed in several ways. For example, data on horizontal diversification are elicited in response to questions such as:

- What patterns of diversification are evident?
- How significant is the extent of major energy company involvement in various non-petroleum energy sectors?
- What trends in diversification are evident?
- How do trends in diversification relate to line-of-business profitability?
- Are trends among various size classes of firms similar or disparate? What have been the effects of major mergers?
- Is there any indication as to different levels of intensity of effort with respect to alternative fuel development?
- Does diversification effort include activities to design and develop new technologies?

- Is the rate of diversification associated with firm size, profitability, or degree of attained integration?
- What have been the effects of lower world oil prices on diversification?

Another aspect of competitive concern relates to vertical integration and the capacity of integrated firms to foreclose or impair the competitive viability of unintegrated firms. The FRS provides data relating to questions such as:

- Are changes associated with size or profitability? How extensive are changes caused by mergers and acquisitions?
- Are company patterns of profitability and development parallel or diverse?
- How has company restructuring affected patterns of integration?

### Energy Supply and Development

The FRS permits analysis of energy supply and development by addressing questions such as:

- What costs are associated with which development results?
- In what way are petroleum exploration and development costs associated with reserve accretions?
- What has been the role of mergers and acquisitions on resource development costs and performance?
- What is the balance between foreign and domestic development?
- How do investment and production rates of development compare among alternative fuel sources?
- Do rates of development differ among firms?
- Are differences in rates of development associated with firm size, profitability, or diversification?
- How are new investments financed?
- Do commitments differ among firms or fuel types?
- Are these commitments changing through time?

### Profits and Investment

Information on comparative profitability and investment patterns by major function affects the assessment of patterns of new investment. With respect to energy development the FRS monitors and analyzes policy initiatives and programs and asks questions such as:

- Relationship between capital markets and investment strategies;
- The interplay between mergers, restructuring, and investment patterns;
- The effects of Federal tax policies as they impact patterns of investment; and
- The effects of governmental efforts associated with the encouragement of development of petroleum resources.

### Proposed Changes to the Form

The EIA has consulted with data providers and data users to design a modified FRS that reflects the suggestions of both groups.

EIA is proposing a three-year extension with changes to the previously approved Form EIA-28 for the FRS survey to be conducted in 2007 collecting information for 2006.

The proposed modifications include elimination of Schedule 5341, “Domestic Coal Operations, Reserves and Production Statistics,” Schedule 5750, “Eliminations in Consolidation” for Downstream Natural Gas, and Schedule 5850, “Eliminations in Consolidation” for Electric Power.

The following schedules for the downstream natural gas and electric power lines of business will be reduced in scope:

- Schedule 5711, Downstream Natural Gas Operating Expenses,
- Schedule 5712, Purchases and Sales of Natural Gas and Natural Gas Liquids,
- Schedule 5741, Downstream Natural Gas Capacity Measures, and Downstream Natural Gas Output Measures,

and all of the Electric Power schedules, including:

- Schedule 5810, Consolidating Statement of Income,
- Schedule 5811, Electric Power Operating Expenses,
- Schedule 5812, Purchases and Sales of Fuel and Electric Power,
- Schedule 5841, Electric Power Capacity and Output Statistics.

### 3. Improved Information Technology

Since 1984, EIA has accepted computer-generated forms in lieu of hard copy forms for Form EIA-28. In addition, beginning with the 1986 reporting year, EIA developed (and provided to the FRS respondents) personal computer software to use for data entry and electronic submission of the survey form. The software system also allows them to perform all of EIA's automated edit and audit checks at their own location prior to submitting their Form EIA-28. The software was

updated to a Windows-based system beginning with the 2000 reporting year. All of the respondents use this software for submitting the form, and the entire submission process has been more timely and less burdensome on them. There are fewer submission errors, and less time required for desk audits and for follow-up comment letters.

#### 4. Availability of Similar Data

Other EIA programs collect data that are similar to some of the operating data collected by Form EIA-28. However, these data are collected in a way that is not suitable for FRS purposes. In order to use data from another EIA reporting program, the data would have to meet three important tests. It would have to be:

- Collected on an ownership basis (rather than an operator basis);
- Reported in total for all of a respondent's affiliates; and
- Collected at a level of detail and using definitions appropriate to FRS needs.

In the domestic refining area, EIA collects data on an operational or custodial basis on Form EIA-810 (refinery inputs and outputs). The FRS collects refinery inputs, outputs, and capacity for domestic and foreign operations on an ownership basis. EIA-810 data are operating data that would include oil run by one company for another company, under a processing or exchange agreement, or by one company for a third company which is not a refiner (or maybe not a processing company at all). Comparisons of equity versus operating data (both inputs and outputs) indicate an expected wide divergence in numbers.

The FRS collects refined product sales volume and revenue by class of trade for three primary products. The EIA-782A also collects refined product sales, and the EIA-782C collects data on the first sale of refined products delivered in a State for consumption. The EIA-782C makes no distinction by class of trade. The EIA-782A uses classes of trade that are more aggregated than on EIA-28. The FRS collects sales data for commercial sales direct to end users, company-owned and operated outlets, lessee and open dealer outlets, and wholesalers. The EIA-782A combines the latter two categories. Analyses of financial performance in refining/marketing have found that shifts between these latter channels of distribution had noticeable profitability consequences among the FRS companies.

In the domestic electricity area, EIA currently collects data on an operator basis on Forms EIA-412, EIA-423, EIA-860, EIA-861 and EIA-906. The proposed FRS data collection includes similar information, but on an ownership basis. Operation and ownership differ, resulting in a divergence between company-based information and operator-based information.

The proposed FRS data collection also includes information that is not collected on the other EIA forms. Without the proposed FRS data collection, certain analyses of financial performance in electricity could not be performed. For example, the current EIA forms do not collect information on total operating costs. Without these costs, the operating return on investment in electricity, a key financial indicator, cannot be determined.

#### Analysis of Similar Existing Information

Existing Federal data collection programs that collect information that might be similar to that collected by the FRS were carefully reviewed. In addition, the types of financial information made publicly available for the large energy companies were reviewed. These reviews indicate that the information collected from these other data collections is not sufficient from the standpoint of the FRS' need for one or more of the following reasons:

- Data reporting conventions are not consistent from company to company and, therefore, data are not comparable.
- Company definitions of business segments are not consistent from company to company and are changed over time resulting in lack of data comparability and precluding accurate statistical aggregation.
- Data are not available on a company-by-company basis.
- Data do not form part of an ownership-based cash flow, cost, or investment picture.
- Data do not have a consistent frame of reference and, therefore, are not comparable.
- Reporting cycles are not compatible or appropriate.
- Data are not collected in sufficient detail to allow for the analyses specified under Section 205(h) of the DOE Organization Act (P.L. 95-91).

5. Collection of Information from Small Businesses

No small businesses are surveyed using Form EIA-28.

6. Consequence of Less Frequent Report

As noted under the section above, entitled "Legal Requirements," Section 205(h)(4) of the DOE Organization Act (P.L. 95-91) specifically requires "... an energy-producing company financial report on at least an annual basis ...." Data for intervals longer than annual would be inconsistent with legal requirements.

7. Special Circumstances

No special circumstances apply.

8. Public Consultations

EIA filed a notice of request for comments in the *Federal Register* on February 6, 2006 (Vol. 71, No. 24, pages 6062-6063). Two responses were received during the public comment period that ended on April 7, 2006. One comment was from a company that is required to file the Form EIA-28 survey. The other comment was from a Federal Government agency that is a



user of the data. In summary, these responses resulted in a set of seven comments.

These comments, and EIA's responses, are as follows:

*Comment:*

The Bureau of Economic Analysis (BEA) strongly supports the continued collection of data by the Energy Information Administration on EIA Form 28, Financial Reporting System. The data collected on this form are crucial to key components of BEA's economic statistics.

BEA uses data from this form to prepare the national income and product accounts and gross domestic product (GDP) by industry. Information on depreciation, depletion and amortization, and pretax income from schedules 5120 and 5210 are used to transform the company-based estimates of these measures to an establishment basis which in turn are used in the estimates of GDP by industry (the items used are listed in the attachment).

*EIA Response:*

EIA is not proposing to change any reporting requirements that would affect the data requirements of the Bureau of Economic Analysis.

*Comment:*

The utility of the information collected could be improved by focusing on total line of business activity while deemphasizing intercompany activity. The EIA-28 General Instructions state the data is "used to evaluate the competitive environment within which energy products are supplied and developed and to analyze the nature of institutional arrangements as they relate to energy resource development, supply and distribution." Detailed intercompany analysis does not meet the competitive criterion the EIA is researching and may supply limited information in regards to the institutional arrangement criterion. Further, the most difficult and time consuming aspect of collecting EIA-28 data is accurately reflecting intercompany eliminations within the template guidelines. Currently, these guidelines vary significantly from our existing external segment reporting and thus require extensive re-evaluation of intra- and inter-company transactions. While we welcome the current proposals to eliminate certain intercompany schedules, we question the usefulness of the remaining intercompany schedules, specifically 5150 and 5250.

*EIA Response:*

EIA currently requires a standardized line-of-business reporting format on the Form EIA-28. The reason it does so is so that it can perform its Congressionally mandated requirement "...to allow comparison on a uniform and standardized basis among energy-producing companies..." The primary reason for collecting data on intersegment activity is so that EIA can determine the validity and accuracy of the line of business data. Further, in order to provide the line of business data that EIA requires, the companies must necessarily generate intersegment transactions in order to accurately regenerate the consolidated information as reported on the Securities and Exchange Commission (SEC) 10-K. Therefore, although it may be an added burden to produce the intersegment data, it is a necessary and critical component of the survey.

*Comment:*

As we noted in our 2004 filing, the discontinued operations reporting under the current EIA-28 instructions results in inconsistencies in reporting our operations. This was made evident when we were asked to provide discontinued operations data outside the scope of the written instructions. This resulted in our Form 5110 not agreeing with our 10-K. We received EIA approval for this variance. However, review of the 2005 instructions indicates that no changes have been made in this area.

*EIA Response:*

It is true that some of the EIA-28 reporting rules may result in conflicts between how a company reports to the SEC on form 10-K, but for purposes of standardizing the data across companies, there will be occasions when reporting inconsistencies will occur. In those cases, the reporting company is required to submit an exhibit explaining the inconsistency.

*Comment:*

Following our initial submission, we received comments that focused on relationships which are either not noted in the documents, instructions or the edit and audit checks. Noting all of these relationships would help in reducing comments subsequent to our initial filing.

*EIA Response:*

The comments that are sent to the companies in response to their submission are generated by a desk audit that it performed on each submission. The purpose of the desk audit is to ensure that the submission conforms to the 10-K filing, and that the breakdown by line of business and line of business segments are reasonable as determined by various industry performance metrics. To the extent possible, EIA provides the companies with guidelines to help them properly allocate activities to the lines of business. EIA also advises the companies to get guidance from EIA staff members when preparing the submission.

*Comment:*

With respect to minimizing the burden on the reporting companies, the EIA should consider whether XBRL (Extensible Business Reporting Language) will be a viable method to collect data used in the EIA-28. Also, the EIA should consider the use of web-based applications to collect data for the EIA-28 submission.

*EIA Response:*

EIA is always reviewing survey collection techniques in terms of efficiency and burden, and applies those techniques when funds are available.

A Federal Register notice announcing the FRS submission to OMB was published on Friday, August 25, (Vol. 71 No. 165 page 50405).

9. Payments or Gifts

No payments or gifts will be provided to respondents.

10. Provisions Regarding Confidentiality of Information

The information provided will be used for statistical purposes only. In accordance with the Confidential Information Protection provisions of Title V, Subtitle A of Public Law 107-347 and other applicable Federal laws, responses will be kept confidential and will not be disclosed in identifiable form to anyone other than employees or agents without the consent of the reporting company. By law, every EIA employee, as well as every agent, is subject to a jail term, a fine of up to \$250,000, or both if he or she discloses ANY identifiable information about the reporting company.

11. Justification for Sensitive Questions

There are no sensitive questions on Form EIA-28.

12 a. Estimate of Reporting Burden

The estimated respondent burden for the 2005 reporting year is 19,720 hours. (29 Form EIA-28 submissions x 680 hours (a 25-percent increase from the most recent average respondent burden of 545 hours) = 15,260 hours.

The estimated burden for the 2006 reporting year, the first year of the new reporting requirement, is 16,053 hours. The average burden for the 26 companies estimated to report for 2006 is 617 hours.

<u>Category</u>	<u>Hours per Submission</u>		<u>Number of Submissions</u>	<u>Total Hours</u>
Current Burden	680	X	26	= 17,680
Modify information systems	200	X	11	= 2,200
Reductions in Data Requirements for:				
Downstream Natural Gas	251	X	9	= -2,259
Electric Power	224	X	7	= <u>-1,568</u>
Total				16,053

In subsequent years the total estimated annual burden is 13,853 hours (16,053 minus 2,200 hours required to modify information systems in the first year). For the three-year requested approval period the average annual burden is 14,586 hours ((16,053+13,853+13,853)/3) for an average burden per response of 561 hours, for the 26 respondents.

12 b. Annualized Cost to the Respondents

The estimated cost to respondents in 2007 is \$915,021 (16,053 burden hours x \$57/hour).  
 The estimated cost to respondents in 2008 is \$789,621 (13,853 burden hours x \$57/hour).  
 The estimated cost to respondents in 2009 is \$789,621 (13,853 burden hours x \$57/hour).  
 The average annual cost over the three-year approval period is \$831,421 (\$31,978/respondent).  
 An average cost per hour of \$57 is used because that is the average loaded

(salary plus benefits) cost for an EIA employee. EIA assumes that the survey respondent workforce completing surveys for EIA is comparable with the EIA workforce.

13. Capital and/or Startup Costs

There are no capital and/or startup cost components or operations and maintenance associated with this data collection. The information is maintained in the normal course of business. Therefore, other than the cost of burden hours, there are no additional costs for generating, maintaining and providing the information provided in Item 12 above.

14. Annualized Cost to the Federal Government

The estimated cost of the Financial Reporting System (FRS) information collection, processing, analysis, and reporting program for the 2006 reporting year is estimated to be \$488,300. The composition of this 2006 reporting year Form EIA-28 cost is as follows:

Estimated Costs by Budget Categories:

Personnel (2.1 FTE)	\$258,300	
Contracts	225,000	
Collection costs	<u>5,000</u>	
Total Costs by Budget Categories:		\$488,300

Estimated Costs by Functional Categories:

a.	Development and Maintenance Costs	\$ 30,000
b.	Collection Costs:	
	• Printing	\$ 2,100
	• Mailing costs	<u>2,900</u>
	Total collection costs	\$ 5,000
c.	Processing Costs	\$204,300
d.	Analysis Costs	246,000
e.	Publication Costs	<u>3,000</u>

Total Costs by Functional Categories: \$488,300

15. Summary of Changes in Burden

For the 2006 survey, the EIA estimates a decrease from the OMB clearance estimate of 589 hours per response (15,907 total hours) to 561 hours per response (14,586 total hours). The total decrease of 1,321 hours (15,907 – 14,586) consists of 589 hours due to a reduction of 1 respondent from the survey (adjustment), and a decrease of 732 hours due to agency discretion (program change) because of a reduction in data collected for the downstream natural gas and electric power lines of business. For more explanation, see section A12. The average burden per response is estimated to decrease by almost 5 percent (a smaller decrease than the decrease in the number of elements on the form) because only 11 of the respondents are currently engaged in the

downstream natural gas and electric power lines of business.

16. Schedule

The filing due date for 2006 data will be May 1, 2007. It should be noted, however, that a two-week extension of this filing date is permitted by the Form EIA-28 Instructions if respondents require more time and request such an extension. Historically, it has been EIA's policy to approve such filing extension requests.

Publication of the *Profiles* report is scheduled for December 2007 for the 2006 reporting year data. Similar schedules will be followed for reporting years 2007 and 2008.

17. Valid OMB Number

As required, the following statement will appear at the top of the first page of the survey form: "You are not required to respond to any Federally sponsored collection of information unless it displays a valid OMB number." The OMB number and expiration date will be displayed on Form EIA-28.

18. Exceptions

There are no exceptions to the Certification for Paperwork Reduction Act submissions on OMB Form 83-1.