

Done in Washington, DC, this 22nd day of September 2009.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E9-23327 Filed 9-25-09; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 354

[Docket No. APHIS-2009-0048]

RIN 0579-AC99

#### User Fees for Agricultural Quarantine and Inspection Services

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the user fee regulations by adjusting the fees charged for certain agricultural quarantine and inspection (AQI) services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. The recent downturn in the U.S. economy has negatively impacted travel volumes, and, as a result, our user fee collections, which fund these services, have diminished. Although the volume of international travel and trade has decreased, inspection and related support services continue to be provided at their existing levels, so expenses have not decreased. As a result, our user fee collections have not been sufficient to enable us to provide those services and maintain a reasonable reserve balance. We are therefore increasing our AQI user fees in order to provide adequate funds for these purposes.

**DATES:** This interim rule is effective October 1, 2009. We will consider all comments that we receive on or before November 27, 2009.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0048> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment

to Docket No. APHIS-2009-0048, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2009-0048.

**Reading Room:** You may read any comments that we receive on this docket in our reading room. The reading room is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** For information concerning program operations, contact Mr. William E. Thomas, Director, Quarantine Policy, Analysis, and Support, PPQ, APHIS, 4700 River Road Unit 131, Riverdale, MD 20737; (301) 734-5214. For information concerning rate development, contact Mrs. Kris Caraher, User Fee Section, Financial Services Branch, Financial Management Division, MRPBS, APHIS, 4700 River Road Unit 55, Riverdale, MD 20737-1232; (301) 734-0882.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a), referred to below as the FACT Act, authorizes the Animal and Plant Health Inspection Service (APHIS) to collect user fees for agricultural quarantine and inspection (AQI) services. The FACT Act was amended on April 4, 1996, and May 13, 2002.

The FACT Act, as amended, authorizes APHIS to collect user fees for AQI services provided in connection with the arrival, at a port in the customs territory of the United States, of:

- Commercial vessels,
- Commercial trucks,
- Commercial railroad cars,
- Commercial aircraft, and
- International airline passengers.

According to the FACT Act, as amended, these user fees should recover the costs of:

- Providing the AQI services for the conveyances and the passengers listed above,
- Providing preclearance or preinspection at a site outside the

customs territory of the United States to international airline passengers, commercial vessels, commercial trucks, commercial railroad cars, and commercial aircraft, and

- Administering the user fee program.

#### Introduction

In an interim rule published in the **Federal Register** on December 9, 2004 (69 FR 71660-71683, Docket No. 04-042-1), and effective on January 1, 2005, we amended the user fee regulations in 7 CFR part 354 by adjusting the fees charged for certain agricultural quarantine and inspection (AQI) services that are provided by the Animal and Plant Health Inspection Service (APHIS) and the Customs and Border Protection (CBP) Bureau of the Department of Homeland Security in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. Prior to the interim rule, user fees had not been adjusted since October 1, 2001. Due to the attacks of September 11, 2001, and the resulting increased security concerns, the Federal Government began to inspect a greater volume and variety of cargo entering the United States than it had before. In addition, the attacks of September 11 resulted in a reduction in airline travel, which lowered fee revenues. We determined that the fee adjustments contained in the December 2004 interim rule were needed to recover the costs of this increased inspection activity and to account for routine inflationary increases in the cost of doing business. The adjusted AQI user fees contained in that interim rule covered fiscal years (FYs) 2005 through 2010. A final rule affirming the interim rule without change was published in the **Federal Register** on August 24, 2006 (71 FR 49984-49986, Docket No. 04-042-2).

However, the effects of the recent and unanticipated downturn in the U.S. economy have been felt by all Americans, both personally and in their business concerns. These recent events have negatively impacted travel volumes and funds in the AQI user fee account. Due to the decrease in travel, we are collecting less in user fees while still maintaining the necessary enhanced level of inspection and related support services that we have since September 11, 2001. Although the volume of international travel and trade has decreased, inspection and related support services continue to be provided at their existing levels, expenses have not decreased. Moreover, while we have limited new hiring to

critical positions, we do not consider it advisable to cut back on existing personnel as a cost-saving measure because of the time required (2 to 3 years) to train agricultural inspectors. Reducing the number of fully trained, experienced inspectors during the current economic downturn could result in a shortage of such employees when the economy rebounds and volumes pick up again, thereby increasing the risk of plant or animal pest or disease introduction into the United States. Since our current user fee collections are not sufficient to enable us to continue to provide AQI services at their existing levels and to maintain a reasonable reserve balance, we are therefore increasing our AQI user fees in order to provide adequate funds for these purposes.

Because our AQI Programs are funded solely through user fee collections, it is imperative that we adjust the fees upward to maintain our existing level of services. We estimate that, absent the necessary fee adjustments, revenues will be inadequate, and the reserve balance in the AQI user fee account will be completely depleted. By February 2010, the AQI program could be forced to lay off significant numbers of employees and cut back on services. Such cutbacks would increase the potential for agriculturally devastating animal and plant pests and diseases to enter the United States and could disrupt trade if inspectors were not available to inspect and clear cargo on a timely basis.

Therefore, in this interim rule, we are amending our AQI user fees to enable us to continue to provide AQI services at their existing levels and to provide some replenishment of the reserve balance in the AQI account so that program operations can continue without interruption when volumes fluctuate due to economic conditions or other circumstances. Because user fee revenues were down in FY 2009, we have had to draw upon our reserve funds. We are adjusting the fees upward, at a rate of approximately 10 percent, for each type of conveyance or person to whom AQI services are provided: commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers. However, because commercial truck inspection has separate fees for trucks with and without transponders,<sup>1</sup> we are actually adjusting a total of six fees. We estimate that this action will result in

total revenues of \$578 million during the period from October 1, 2009 to September 30, 2010, an increase of \$53.4 million, or 10 percent from the \$524.6 million which we anticipate would be collected without the increase. This proposed increase would be sufficient to cover joint CBP and APHIS expenses for providing AQI services in FY 2010. This action will also bring our reserve funding level to \$48.5 million, about 1 month of AQI user fee funding. While we traditionally have sought to maintain a reserve balance sufficient to cover 3 to 5 months, we recognize that the significantly higher user fee increases that would be needed to build the reserve back to that level could be burdensome to affected entities in the present difficult economic climate. The smaller user fee increases contained in this interim rule, therefore, will not provide us with an optimal reserve balance; however, they are necessary to maintain a level of inspection services sufficient to prevent plant and animal diseases and pests from entering the United States.

#### *AQI User Fee Accounting*

We maintain all AQI fees we collect in distinct accounts, carefully monitor the balances in these accounts, and only use these funds to pay for our actual costs for providing these distinct services. Any surplus in the AQI account carries forward from year to year, is not subject to appropriation by Congress, and is available until expended to fund AQI activities.

#### *Types of AQI Program Costs*

As part of our accounting procedures, we maintain separate accounting codes to record costs that can be directly related to an inspection activity. These are referred to as "direct-charge costs." APHIS functions that are directly charged to AQI accounts include the following: Salary and benefits and other costs, e.g., travel, supplies, rents, equipment, for personnel in plant inspection stations inspecting propagative plants; for personnel performing identification services (entomology, pathology, botanical); for personnel performing investigative and enforcement and smuggling interdiction and trade compliance activities; for personnel performing risk analysis, science and technology, and methods development activities relating to AQI work; and for personnel performing training of CBP agricultural specialists and canines. CBP functions that are directly charged to AQI accounts include the following: Salaries and benefits for inspectors and canine officers, supervisors (such as officers-in-

charge), and clerical staff; equipment used only in connection with services subject to user fees; contracts; and large supply items such as x-ray equipment and uniforms.

Other program-delivery-related costs, at the State level and below, that cannot be directly charged to individual accounts are charged to "distributable" accounts established at the State level and are referred to as "distributable costs." The following types of costs are charged to distributable accounts: Utilities, rent, telephone, vehicles, office supplies, etc. The costs in these distributable accounts are prorated (or distributed) among all the activities that benefit from the expense, based on a formula under which the costs that are directly charged to each activity are divided by the total costs directly charged to each account at the field level. For example, if a work unit performs work on domestic programs, AQI user fee programs, and AQI-appropriated programs, the costs are distributed among each of these programs, based on the percentage of the direct costs for that activity at the field level that is charged to that activity.

AQI program costs also include program direction and support costs we incur at the regional and headquarters level, as well as Agency-level support costs. Headquarters-level costs include salaries and benefits for employees of APHIS' Plant Protection and Quarantine and International Services programs who are based at those programs' headquarters in Riverdale, MD, and Washington, DC. We incur Agency-level support costs through activities that support the Agencies (*i.e.*, APHIS and CBP), such as recruitment and development; legislative and public affairs; regulation development; regulatory enforcement; and budget, accounting, payroll, purchasing, billing, and collection services.

Departmental charges are assessed for various AQI program costs including Federal telephone service, mail, processing of payroll and money management, unemployment compensation, Office of Workers Compensation Programs, and central supply for storing and issuing commonly used supplies and forms.

In order to identify properly our actual AQI program costs in prior fiscal years, we first identify the direct-charge costs. We then add to this the pro-rata share costs of the distributable accounts maintained at the State, regional, headquarters, Agency, and departmental levels.

<sup>1</sup> In previous rulemakings, we referred to commercial truck decals rather than transponders. Because transponders are now being used, we are updating our terminology accordingly.

*Calculation of User Fees Contained in This Interim Rule*

*Results in FY 2009:* We originally anticipated collecting revenue of \$553.5 million in FY 2009, and planned to spend that same amount. If the economy had remained strong, this approach would have led to the AQI User Fees

Program keeping the strong reserve balance of \$100.6 million it had at the start of FY 2009. We have maintained our planned level of services and related costs during FY 2009; however, our current estimate for FY 2009 collections is only \$483.3 million, a difference of \$70.2 million [\$553.5 million (anticipated) – \$483.3 million (current

estimate)]. The reserve balance of \$100.6 million we had at the start of FY 2009 has allowed the program to continue operating even with the lower collections. We now estimate that only \$27.2 million will remain as the program’s reserve balance at the end of FY 2009 as follows:

TABLE 1—PROGRAM OVERVIEW—FY 2009 AND FY 2010  
[In millions]

	FY 2009 estimate	FY 2010 current fees	FY 2010 new fees
Reserve balance at the start of fiscal year .....	\$100.6	27.2	27.2
+ Estimated collections .....	+483.3	+524.6	+578.0
<b>Total availability .....</b>	<b>583.9</b>	<b>551.8</b>	<b>605.2</b>
– Program spending .....	–556.7	–556.7	–556.7
<b>Estimated reserve balance at the end of fiscal year .....</b>	<b>\$ 27.2</b>	<b>\$ (4.9)</b>	<b>48.5</b>

*FY 2010 program overview:* If we were to collect user fees in FY 2010 at the current published rates for FY 2010, we estimate that collections would be \$524.6 million. This amount falls short of our funding needs by \$32.1 million [\$556.7 million (FY 2010 funding needs) – \$524.6 million (estimated FY 2010 collections without this rule change)]. This \$32.1 million shortfall would leave APHIS and CBP to cover this difference, as well as ordinary annual increases in costs for pay and inflation. If we continue to maintain the same level of services in FY 2010, the program would consume the remaining amount in the reserve and face a shortfall of \$4.9 million in the program.

*FY 2010 planned fee increases:* We project that the revenue needed to maintain the same level of service in FY 2010 that we provided in FY 2009 and to begin rebuilding the reserve is \$578.0 million (\$556.7 million in program expenditures and \$21.3 million to help rebuild the reserve). To do so, we calculated an approximately 10 percent increase across the board in current user fees. This amount is used because it will allow us to maintain the same level of service in FY 2010 that we did in FY 2009 and to bring the reserve fund balance partially back up to the level it was at the start of FY 2009 without placing an excessive burden on those who pay the user fees. This action will

allow the program to continue operating while the economy recovers.

Once we identified that an approximately 10 percent across-the-board increase was needed for all AQI user fees, we calculated the fees on that basis and then rounded up in increments of \$1 for the commercial vessel fee, which is a significantly larger fee than all the others, and \$0.25 for the rest, as shown in Table 2. below. No rounding of the international air passenger fee was required, though it traditionally has been rounded up to the nearest \$0.05, nor of the commercial truck transponder fee, which is simply calculated at 20 times the individual rounded truck fee.

TABLE 2—ADJUSTED USER FEES

AQI user fee category	FY 2009 user fees	FY 2010 raw fees	FY 2010 rounded fees
International airline passengers .....	\$5.00	\$5.50	\$5.50
Commercial aircraft .....	70.75	77.83	78.00
Commercial vessels .....	494.00	543.40	544.00
Loaded rail cars .....	7.75	8.53	8.75
Commercial trucks .....	5.25	5.78	6.00
Commercial truck transponders .....	105.00	N/A	120.00

This rule is intended to provide sufficient funding to operate the program and partially replenish the AQI reserve funds. APHIS and CBP are also embarking on a review of the current fees and what costs are built into them and may, if needed, enter into a new rulemaking to set longer-term rates for AQI user fees.

*Projecting FY 2010 volumes:* In projecting our activity volumes and fee

collections for FY 2010, we assumed that the first two quarters of activity in FY 2010 will be similar to the diminished levels of FY 2009 and that the final two quarters of FY 2010 will see a rebound, with activity levels similar to those of the third and fourth quarters of FY 2008. In other words, our assumption is that the U.S. economy will fully recover by midway through FY 2010.

Table 3 below contains our actual volumes for each AQI service category for FY 2008 and our estimated volumes for FYs 2009 and 2010. Our estimated FY 2009 volumes are based on actual data from the first three quarters and an estimate for the fourth. Average actual quarterly volumes for the first three quarters of FY 2009 showed a 10.3 percent decrease in comparison with the same quarters in FY 2008. To estimate

the volumes for the final quarter of FY 2009, therefore, we projected that volumes for the fourth quarter of FY 2009 would be 10.3 percent less than the actual volumes for the fourth quarter of FY 2008.

We projected our volumes for the first and second quarters of FY 2010 using

the averages for the first three quarters of FY 2009, based on the assumption that the economy will not recover in the first half of FY 2010. We used actual FY 2008 volumes for the third and fourth quarter volumes for FY 2010, based on the assumption that the economy will bounce back completely in the second

half of FY 2010. These assumptions are considered reasonable.

Actual FY 2008 volumes, estimated FY 2009 volumes, projected FY 2010 volumes, adjusted FY 2010 user fees, and resulting estimated FY 2010 collections with the new user fees in place are as follows:

TABLE 3—VOLUMES AND ESTIMATED FY 2010 COLLECTIONS

AQI user fee category	Actual FY 2008 volumes	Estimated FY 2009 volumes	Estimated FY 2010 volumes	FY 2010 adjusted user fees	Estimated FY 2010 collections (volume × fee)
International airline passengers .....	79,152,044	77,004,184	80,337,817	\$ 5.50	\$441,857,994
Commercial aircraft .....	1,262,599	801,110	1,037,829	78.00	80,950,662
Commercial vessels .....	56,536	45,225	54,834	544.00	29,829,696
Loaded rail cars .....	1,300,645	934,463	1,069,345	8.75	9,356,769
Commercial trucks .....	888,693	645,169	748,712	6.00	4,492,272
Commercial truck transponders .....	111,875	83,184	96,262	120.00	11,551,440
Total .....					578,038,832

**Emergency Action**

This rulemaking, which adjusts our flat-rate AQI user fees, is necessary on an emergency basis to ensure the adequate funding and continued operation at necessary levels of CBP and APHIS activities vital to preventing the introduction of plant and animal pests and diseases into the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

**Executive Order 12866 and Regulatory Flexibility Act**

This interim rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this interim rule. The economic analysis provides a cost-benefit analysis, as required by Executive Order 12866, and an initial regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. The full analysis may be viewed

on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov) or obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

This interim rule amends the user fee regulations by adjusting the fees charged for certain AQI services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. This rulemaking is intended to enable us to continue to provide AQI services at their existing levels and to provide some replenishment of the reserve balance in the AQI account so that program operations can continue without interruption when volumes fluctuate due to economic conditions or other circumstances. We project that the revenue needed to maintain the same level of service in FY 2010 and begin rebuilding the reserve is \$578 million.

International airline passengers and the operators of commercial aircraft, commercial vessels, commercial trucks, and commercial railroad cars will be affected by this interim rule. Taken collectively, the changes in user fees in this rule are very large, amounting to more than \$53 million in user fees collected in FY 2010 over what we would have collected if the fees had remained at their previous levels. However, the impact of the individual increases in the user fees should be small. The fee increases are small compared to the overall costs of the affected travel and transport activities. For example, the user fee on international passengers increases from \$5 to \$5.50. The new fee equates to less

than 1 percent (about 0.3 percent) of the average international airfare.

The benefits associated with AQI services are the losses to U.S. animals, plants, and their products and markets that are avoided when foreign pests and diseases are prevented from entering the country. The cost of the introduction of a single foreign pest or disease can be immense. The increase in AQI user fees will ensure that the program operates at a level sufficient to minimize the risk of introduction of agricultural pests and diseases. Without the increase in fees, those services cannot be adequately provided.

Collections of \$556.7 million are required to maintain the current level of AQI services. If we were to collect user fees at the original rates for FY 2010 while continuing to provide services at the current level, we estimate that collections would be \$524.6 million, based on projected international airline passenger and transport volumes for the year. Therefore a shortfall in revenue of \$32.1 million would occur absent changes to the fees over the next year. In addition, the reserve fund is currently being depleted, and continuing to operate the program at the current level without fee increases will quickly and fully deplete the reserve. A reserve level of \$48.5 million represents 48 percent of the size of the reserve balance at the beginning of FY 2009.

The Regulatory Flexibility Act requires that agencies specifically consider the economic impact of their rules on small entities. Those entities most likely to be economically affected by the rule are domestic entities in the transportation sector moving goods into the United States. In addition to international air passengers, four modes

of conveyance—trucks, railroad cars, maritime vessels, and aircraft—are assessed AQI user fees upon arrival in the United States. According to the guidelines established by the Small Business Administration, most of the surface, waterborne, and air conveyance entities that are directly affected by the rule are small, although we do not have precise estimates of their numbers. However, the user fee changes represent a small portion of overall operating costs for affected transportation entities whether small or large, and should therefore have a small impact on those entities. We invite public comment on this interim rule, including any comment on the rule's expected impact on small entities.

Alternatives to this rulemaking that were considered included taking no action or enacting even higher fee increases to build the reserve quickly. For reasons discussed in the full analysis, these alternatives were not pursued.

**Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Has no retroactive effect; and (2) does not require administrative proceedings before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

**List of Subjects in 7 CFR Part 354**

Animal diseases, Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

■ Accordingly, we are amending 7 CFR part 354 as follows:

**PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES**

■ 1. The authority citation for part 354 continues to read as follows:

**Authority:** 7 U.S.C. 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 49 U.S.C. 80503; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 354.3 is amended by revising the tables in paragraphs (b)(1), (c)(1), (d)(1), (e)(1), and (f)(1) to read as set forth below.

**§ 354.3 User fees for certain international services.**

\* \* \* \* \*

(b) *Fee for inspection of commercial vessels of 100 net tons or more.* (1)

Effective dates	Amount
October 1, 2008, through September 30, 2009 .....	\$494.00
Beginning October 1, 2009 .....	544.00

\* \* \* \* \*

(c) *Fee for inspection of commercial trucks.* (1) \* \* \*

Effective dates	Amount
October 1, 2008, through September 30, 2009 .....	\$5.25
Beginning October 1, 2009 .....	6.00

\* \* \* \* \*

(d) *Fee for inspection of commercial railroad cars.* (1) \* \* \*

Effective dates	Amount
October 1, 2008, through September 30, 2009 .....	\$7.75
Beginning October 1, 2009 .....	8.75

\* \* \* \* \*

(e) *Fee for inspection of commercial aircraft.* (1) \* \* \*

Effective dates	Amount
October 1, 2008, through September 30, 2009 .....	\$70.75
Beginning October 1, 2009 .....	78.00

\* \* \* \* \*

(f) *Fee for inspection of international passengers.* (1) \* \* \*

Effective dates <sup>1</sup>	Amount
October 1, 2008, through September 30, 2009 .....	\$5.00
Beginning October 1, 2009 .....	5.50

<sup>1</sup>Persons who issue international airline tickets or travel documents are responsible for collecting the AQI international airline passenger user fee from ticket purchasers. Issuers must collect the fee applicable at the time tickets are sold. In the event that ticket sellers do not collect the AQI user fee when tickets are sold, the air carrier must collect the user fee from the passenger upon departure. Carriers must collect the fee applicable at the time of departure from the traveler.

\* \* \* \* \*

Done in Washington, DC, this 23rd day of September 2009.

**John Ferrell,**  
Deputy Under Secretary for Marketing and Regulatory Programs.  
[FR Doc. E9–23387 Filed 9–25–09; 8:45 am]

**BILLING CODE 3410–34–P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 1 and 602**

[TD 9465]

RIN 1545–BF71

**Determination of Interest Expense Deduction of Foreign Corporations**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations under section 882(c) of the Internal Revenue Code (Code) concerning the determination of the interest expense deduction of foreign corporations engaged in a trade or business within the United States. These final regulations conform the interest expense rules to recent U.S. Income Tax Treaty agreements and adopt other changes to improve compliance.

**DATES:** These final regulations are effective September 28, 2009.

**FOR FURTHER INFORMATION CONTACT:** Anthony J. Marra, (202) 622–3870 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Paperwork Reduction Act**

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2030. Responses to this collection of information are mandatory. The collection of information in these final regulations is in § 1.884–1(e)(3)(iv). This information is required by the IRS to allow a taxpayer to reduce U.S. liabilities to the extent necessary to prevent the recognition of a dividend equivalent amount.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.