DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 6045]

Visas: Documentation of Non-immigrants Under the Immigration and Nationality Act

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends 22 CFR Part 41 in order to reflect increased security measures requiring fingerprinting and name checks of all visa applicants, with certain narrow exceptions, and to be consistent with an amendment to the Schedule of Fees for Consular Services including the cost of such checks in fees for non-immigrant and immigrant visas and border crossing cards.

DATES: This final rule becomes effective January 1, 2008.

FOR FURTHER INFORMATION CONTACT: Barbara J. Kennedy, Legislation and Regulations Division, Visa Services, Department of State; 2401 E Street, NW., Room L–603, Washington, DC 20520–0106, (202) 663–1206, e-mail *KennedyBJ@State.gov.*

SUPPLEMENTARY INFORMATION:

Background

What Is the Authority for This Action?

The Secretary of State is charged with the administration and enforcement of the provisions of the Immigration and Nationality Act (INA) and all other immigration and nationality laws relating to, *inter alia*, the powers, duties and functions of consular officers. 8 U.S.C. 1104. The Secretary is also authorized to establish regulations necessary for carrying out these duties. *Id.* In 2004, Congress found that existing procedures allowed many individuals to enter the United States showing only minimal identification and that greater security measures were necessary to protect the United States from terrorist attacks. Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Pub. L. 108–458 (Dec. 17, 2004), section 7209. In order to more effectively carry out its duties to administer and enforce the INA, and to respond to the congressional mandate in the IRTPA to increase the nation's border security, the Department has begun performing fingerprint and name checks on all visa applicants except those falling within a narrow range of exceptions. Fingerprints are now required of all visa applicants except those under 14 years of age or over 79 years of age, and certain diplomats and officials. The expansion of fingerprint and name checks to include the vast majority of visa applicants is a critical component of the Department's efforts to enhance the nation's border security.

Why is the Department Amending Part 41 at This Time?

The deletion of Part 22, section 41.105(b) is necessary at this time because the Department is conducting fingerprint checks and name checks on all visa applicants who do not fall within the exceptions noted above, and because beginning on January 1, 2008, the cost of such checks will be included in visa fees, including the fees for non-immigrant visas. In contrast, section 41.105(b) prescribes fingerprint and name checks of non-immigrant visa applicants only in certain circumstances, and provides that a fee for fingerprint checks will only be charged when a name check indicates the possibility of a criminal history. 22 CFR 41.105(b) should be deleted in order to ensure that the Department's regulations concerning fingerprint and name checks of non-immigrant visa applicants are consistent. In order to prevent any confusion as to when fingerprint and name checks are required of non-immigrant visa applicants and what fees for these services must be paid by visa applicants, the provision must be deleted effective January 1, 2008, simultaneously with the effective date of the amendment to the Schedule of Fees for Consular Services.

Regulatory Findings

Administrative Procedure Act

This regulation involves a foreign affairs function of the United States and, therefore, in accordance with 5 U.S.C. 553(a)(1), is not subject to the rule making procedures set forth at 5 U.S.C. 533.

Regulatory Flexibility Act/Executive Order 13272:

Small Business.

Because this final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth at sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UFMA), Pub. L. 104–4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

Executive Order 12866

The Department of State does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, this rule is exempt from review under E.O. 12866. The Department has nevertheless reviewed it to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

Paperwork Reduction Act

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

List of Subjects in 22 CFR Part 41

Visas, Nonimmigrants, Passports and Visas, Fees, Surcharge.

■ Accordingly, 22 CFR part 41 is amended as follows:

PART 41—[AMENDED]

■ 1. The authority citation for Part 41 continues to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681–795 through 2681–801; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458).

■ 2. Section 41.105 is amended by removing paragraph (b).

Dated: December 21, 2007.

Maura Harty,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. E7–25417 Filed 12–28–07; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9374]

RIN 1545–BF09

Nuclear Decommissioning Funds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and Temporary regulation.

SUMMARY: This document contains final and temporary regulations under section 468A of the Internal Revenue Code relating to deductions for contributions to trusts maintained for decommissioning nuclear power plants. The temporary regulations affect most taxpayers that own an interest in a nuclear power plant and reflect recent statutory changes. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on December 31, 2007.

Applicability Dates: For dates of applicability, see § 1.468A–9T.

FOR FURTHER INFORMATION CONTACT: Patrick S. Kirwan, (202) 622–3110 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in these regulations have been approved by the Office of Management and Budget on a temporary basis under control number 1545–2091 and pending receipt and review of comments, may be approved for a period of three years. Responses to these collections of information are required to obtain a tax benefit.

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 OMB control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble of the cross-referencing notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**.

Books or 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.

Background

This document contains amendments to 26 CFR part 1 providing temporary regulations under section 468A of the Internal Revenue Code of 1986 (Code). Section 468A was amended by section 1310 of the Energy Policy Act of 2005 (the Energy Policy Act), Public Law 109–58 (119 Stat. 594).

Explanation of Provisions

Section 468A provides a deduction for amounts contributed to a qualified nuclear decommissioning reserve fund. Under prior law, the deduction was limited to the lesser of the amount included in the utility's cost of service for ratemaking purposes or the ruling amount. As a result, only regulated utilities could take advantage of section 468A. The Energy Policy Act amendment of section 468A eliminated the cost-of-service limitation. Accordingly, decommissioning costs of an unregulated nuclear power plant may now be funded by deductible contributions to a qualified nuclear decommissioning fund.

Under prior law, deductible contributions were also limited to the amount necessary to fund the plant's post-1983 nuclear decommissioning costs (determined as if decommissioning costs accrued ratably over the estimated useful life of the plant). The Energy Policy Act amendment of section 468A also eliminated this limitation. Accordingly, taxpayers may now fund the entire cost of decommissioning a plant through a qualified nuclear decommissioning fund.

A plant's pre-1984 nuclear decommissioning costs can be funded by increasing the annual deductible contributions over the remaining useful life of the plant. In addition, however, the Energy Policy Act amendments to section 468A permit more rapid funding of the pre-1984 costs. A taxpayer may contribute, in a single taxable year, all or any portion of the amount needed to fund pre-1984 nuclear decommissioning costs that have not been previously funded (a ''special transfer''). A special transfer is not deductible in full in the year the contribution is made. Instead, the deduction is allowed ratably over the remaining useful life of the nuclear plant. Gain or loss is not recognized on any special transfer, and the transferred assets have a carryover basis.

Section 468A allows a deduction only if the Internal Revenue Service has given the taxpayer a schedule of ruling amounts (that is, a schedule specifying the maximum deductible contribution that can be made in each taxable year). The Energy Policy Act amendments provide that the taxpayer must obtain a new schedule of ruling amounts when the Nuclear Regulatory Commission (NRC) extends the operating license of the plant.

Useful Life

The schedule of ruling amounts may not provide for more rapid than level funding over the estimated useful life of the nuclear power plant. Also, as noted above, deductions for special transfers are allowed ratably over the plant's remaining useful life. Under the current regulations, the useful life of the plant begins on the first day of the taxable year that includes the date that the nuclear power plant begins commercial operations, and ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes. The proposed and temporary regulations retain this general framework for plants that were regulated by a public utility commission (PUC) before January 1, 2006, and permit the use of any reasonable method to determine the end of the estimated useful life for all other plants. The current regulations require adjustments to the estimated useful life to reflect changes in PUC assumptions regarding useful life. The proposed and temporary regulations eliminate this requirement. Taxpayers will, however, be permitted