levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements. The information collection requirement (Form OF–156) contained by reference in this rule was previously approved for use by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas.

In view of the foregoing, the Department amends 22 CFR as follows:

PART 41—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681 *et. seq.*

2. Section 41.2 is amended by revising paragraph (i)(2) and adding paragraph (i)(3) to read as follows:

§ 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.

* * * * *

(i) *Aliens in immediate transit without visa (TWOV).* * * *

(2) Notwithstanding the provisions of paragraph (i)(1) of this section, an alien is not eligible for this waiver if the alien is a national of a country whose citizens the Secretary of State and/or the Attorney General have designated to be ineligible to transit the United States without a visa. The Department and the INS may designate such nationalities based on a variety of considerations including, but not limited to, the following:

(i) Whether citizens of the country have abused this waiver privilege in the past;

(ii) Whether citizens of the country have a high nonimmigrant visa refusal rate;

(iii) Whether there is insurrection or instability in the country, such that citizens of the country should apply for visas to ensure that they are not intending immigrants;

(iv) Whether a significant number of citizens of the country are linked to terrorist activity, narcotics trafficking, or international criminal activity;

(v) Whether the President has issued a proclamation under section INA 212(f) pertaining to citizens of the country; or

(vi) Whether the country poses significant security concerns.

(3) The Secretary of State, acting jointly with the Attorney General, will review periodically and publish in the **Federal Register** an updated list of countries whose citizens they have determined are ineligible to transit without visa.

Dated: September 15, 2000.

Maura Harty,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 01–357 Filed 1–4–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–116468–00]

RIN 1545–AY43

Minimum Cost Requirement Permitting the Transfer of Excess Assets of a Defined Benefit Pension Plan to a Retiree Health Account

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed Income Tax Regulations relating to the minimum cost requirement under section 420, which permits the transfer of excess assets of a defined benefit pension plan to a retiree health account. Pursuant to section 420(c)(3)(E), these proposed regulations provide that an employer who significantly reduces retiree health coverage during the cost maintenance period does not satisfy the minimum cost requirement of section 420(c)(3). In addition, these proposed regulations clarify the circumstances under which an employer is considered to have significantly reduced retiree health coverage during the cost maintenance period. This document also provides a notice of public hearing on these regulations.

DATES: Written or electronic comments must be received by March 6, 2001. Requests to speak (with outlines of oral comments to be discussed) at the public hearing scheduled for March 15, 2001, must be received by February 21, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–116468–00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG–116468–00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.gov/tax__regs/regslist.html.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Vernon S. Carter or Janet A. Laufer, (202) 622–6060; concerning submissions, Treena Garrett, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The Revenue Reconciliation Act of 1990 (Pub. L. 101–508)(104 Stat. 1388), section 12011, added section 420 of the Internal Revenue Code (Code), a temporary provision permitting certain qualified transfers of excess pension assets from a non-multiemployer defined benefit pension plan to a health benefits account (defined as an account established and maintained under section 401(h) of the Code (401(h) account)) that is part of the plan.[1] One of the conditions of a qualified section 420 transfer was that the employer satisfy a maintenance of effort requirement in the form of a ''minimum cost requirement'' under which the employer was required to maintain employer-provided retiree health expenditures for covered retirees, their spouses, and dependents at a minimum dollar level for a 5-year cost maintenance period, beginning with the taxable year in which the qualified transfer occurs.

The Uruguay Round Agreements Act (Pub. L. 103–465)(108 Stat. 4809)

[1] Section 420(a)(1) and (2) provide that the trust that is part of the plan is not treated as failing to satisfy the qualification requirements of section 401(a) or (h) of the Code, and no amount is includable in the gross income of the employer maintaining the plan, solely by reason of such transfer. Also, section 420(a)(3) provides that a qualified transfer is not treated as either an employer reversion for purposes of section 4980 or a prohibited transaction for purposes of section 4975.

In addition, Title I of the Employee Retirement Income Security Act of 1974 (88 Stat. 829), as amended (ERISA), provides that a qualified transfer pursuant to section 420 is not a prohibited transaction under ERISA (ERISA section 408(b)(13)) or a prohibited reversion of assets to the employer (ERISA section 403(c)(1)). ERISA also provides certain notification requirements with respect to such qualified transfers.

(December 8, 1994), extended the availability of section 420 through December 31, 2000. In conjunction with the extension, Congress modified the maintenance of effort rules for plans transferring assets for retiree health benefits so that employers could take into account cost savings realized in their health benefit plans. As a result, the focus of the maintenance of effort requirement was shifted from health costs to health benefits. Under this ''benefit maintenance requirement,'' which applied to qualified transfers made after December 8, 1994, an employer had to maintain substantially the same level of employer-provided retiree health coverage for the taxable year of the transfer and the following 4 years. The level of coverage required to be maintained was based on the coverage provided in the taxable year immediately preceding the taxable year of the transfer.

The Tax Relief Extension Act of 1999 (title V of H.R. 1180, the Ticket to Work and Work Incentives Improvement Act of 1999) (Pub. L. 106–170,113 Stat 1860) (TREA–99) extended section 420 through December 31, 2005. In conjunction with this extension, the minimum cost requirement was reinstated as the applicable ''maintenance of effort'' provision (in lieu of requiring the maintenance of the level of coverage) for qualified transfers made after December 17, 1999. Because the minimum cost requirement relates to per capita cost, an employer could satisfy minimum cost requirement by maintaining the average cost even though the employer defeats the purpose of the maintenance of effort requirement by reducing the number of people covered by the health plan. In response to concerns regarding this possibility, TREA–99 also added section 420(c)(3)(E), which requires the Secretary of the Treasury to prescribe such regulations as may be necessary to prevent an employer who significantly reduces retiree health coverage during the cost maintenance period from being treated as satisfying the minimum cost requirement of section 420(c)(3). If the minimum cost requirement of section 420(c)(3) is not satisfied, the transfer of assets from the pension plan to the 401(h) account is not a ''qualified transfer'' to which the provisions of section 420(a) apply.

Explanation of Provisions

These proposed regulations would provide that the minimum cost requirement of section 420(c)(3) is not met if the employer significantly reduces retiree health coverage during the cost maintenance period. The proposed regulations would measure whether this occurs by looking at the number of individuals (retirees, their spouses, and dependents) who lose coverage during the cost maintenance period as a result of employer actions, measured on both an annual basis and a cumulative basis.

In determining whether an employer has significantly reduced retiree health coverage, the regulations would provide that the employer does not satisfy the minimum cost requirement if the percentage decrease in the number of individuals provided with applicable health benefits that is attributable to employer action exceeds 10% in any year, or if the sum of the annual percentage decreases during the cost maintenance period exceeds 20%. The 10% annual limit would not apply to a taxable year that begins before February 5, 2001.

The regulations would provide a broad definition of employer action, including not only plan amendments but also situations in which other employer actions, such as the sale of all or part of the employer's business, operate in conjunction with the existing plan terms to have the indirect effect of ending an individual's coverage. The definition of employer action would include plan amendments that are executed before the cost maintenance period but take effect during the cost maintenance period, unless the amendment occurred before the later of December 18, 1999, and 5 years before the start of the cost maintenance period.

The regulations contain a special rule that addresses situations in which an employer adopts plan terms that establish eligibility for health coverage for some individuals, but provide that those same individuals lose health coverage upon the occurrence of a particular event or after a stated period of time. In those cases, an individual is not counted as having lost health coverage by reason of employer action merely because that individual's coverage ends upon the occurrence of the event or after the stated period of time.

Under the proposed regulation, when an individual's coverage ends by reason of a sale of all or part of the employer's business, the individual is counted as an individual losing coverage by reason of employer action. The proposed regulation contains no exceptions from this rule even if the buyer provides coverage for such individuals (on the implicit assumption that the buyer rarely undertakes to provide such coverage to retirees in these transactions). Comments are specifically requested as to (1) the circumstances, if any, in which buyers commonly provide the seller's retirees, and their spouses and dependents, with health coverage following a corporate transaction, and (2) in such cases, criteria that should apply to the replacement coverage in determining whether to treat those individuals as not having lost coverage.

Proposed Effective Date

The regulations are proposed to be applicable to transfers of excess pension assets on or after December 18, 1999.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for March 15, 2001, beginning at 10 a.m. in the IRS Auditorium, Seventh Floor, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** portion of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments must submit written comments and an outline of the topics to be discussed and time to be devoted to each topic (a signed original and eight (8) copies) by February 21, 2001. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Vernon S. Carter and Janet A. Laufer, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding a new entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805, 26 U.S.C. 420(c)(3)(E) * * *

Par. 2. Section 1.420–1 is added to read as follows:

§ 1.420–1 Significant reduction in retiree health coverage during the cost maintenance period.

(a) *In general.* Notwithstanding section 420(c)(3)(A), the minimum cost requirements of section 420(c)(3) are not met if the employer significantly reduces retiree health coverage during the cost maintenance period.

(b) *Significant reduction*—(1) *In general.* An employer significantly reduces retiree health coverage during the cost maintenance period if, for any taxable year during the cost maintenance period, either —

(i) The employer-initiated reduction percentage for that taxable year exceeds 10%; or

(ii) The sum of the employer-initiated reduction percentages for that taxable year and all prior taxable years during the cost maintenance period exceeds 20%.

(2) *Special rule for certain taxable years.* Notwithstanding paragraph (b)(1)(i) of this section, an employer will not be treated as significantly reducing retiree health coverage for a taxable year that begins before February 5, 2001, merely because the employer-initiated reduction percentage for that taxable year exceeds 10%.

(3) *Employer-initiated reduction percentage.* The employer-initiated reduction percentage for any taxable year is the fraction B/A, expressed as a percentage, where

A = The total number of individuals (retired employees plus their spouses plus their dependents) receiving coverage for applicable health benefits as of the day before the first day of the taxable year.

B = The total number of individuals included in A whose coverage for applicable health benefits ended during the taxable year by reason of employer action.

(4) *Employer action*—(i) *General rule.* For purposes of paragraph (b)(3) of this section, an individual's coverage for applicable health benefits ends during a taxable year by reason of employer action, if on any day within the taxable year, the individual's eligibility for applicable health benefits ends as a result of a plan amendment or any other action of the employer (*e.g.,* the sale of all or part of the employer's business) that, in conjunction with the plan terms, has the effect of ending the individual's eligibility. An employer action is taken into account for this purpose regardless of when the employer action actually occurs (*e.g.,* the date the plan amendment is executed), except that employer actions occurring before the later of December 18, 1999, and the date that is 5 years before the start of the cost maintenance period are disregarded.

(ii) *Special rule.* Notwithstanding paragraph (b)(4)(i) of this section, coverage for an individual will not be treated as having ended by reason of employer action merely because such coverage ends under the terms of the plan if those terms were adopted contemporaneously with the provision under which the individual became eligible for retiree health coverage.

(c) *Definitions.* The following definitions apply for purposes of this section:

(1) *Applicable health benefits.* Applicable health benefits means applicable health benefits as defined in section 420(e)(1)(C).

(2) *Cost maintenance period.* Cost maintenance period means the cost maintenance period as defined in section 420(c)(3)(D).

(d) *Examples.* The following examples illustrate the application of this section:

Example 1. (i) Employer W maintains a defined benefit pension plan that includes a 401(h) account and permits qualified transfers that satisfy section 420. The number of individuals receiving coverage for applicable health benefits as of the day before the first day of Year 1 is 100. In Year 1, Employer W makes a qualified transfer under section 420. There is no change in the number of individuals receiving health benefits during Year 1. As of the last day of Year 2, applicable health benefits are provided to 99 individuals, because 2 individuals became eligible for coverage due to retirement and 3 individuals died in Year 2. During Year 3, Employer W amends its health plan to eliminate coverage for 5 individuals, 1 new retiree becomes eligible for coverage and an additional 3 individuals are no longer covered due to their own decision to drop coverage. Thus, as of the last day of Year 3, applicable health benefits are provided to 92 individuals. During Year 4, Employer W amends its health plan to eliminate coverage under its health plan for 8 more individuals, so that as of the last day of Year 4, applicable health benefits are provided to 84 individuals. During Year 5, Employer W amends its health plan to eliminate coverage for 8 more individuals.

(ii) There is no significant reduction in retiree health coverage in either Year 1 or Year 2, because there is no reduction in health coverage as a result of employer action in those years.

(iii) There is no significant reduction in Year 3. The number of individuals whose health coverage ended during Year 3 by reason of employer action (amendment of the plan) is 5. Since the number of individuals receiving coverage for applicable health benefits as of the last day of Year 2 is 99, the employer-initiated reduction percentage for Year 3 is 5.05% (5/99), which is less than the 10% annual limit.

(iv) There is no significant reduction in Year 4. The number of individuals whose health coverage ended during Year 4 by reason of employer action is 8. Since the number of individuals receiving coverage for applicable health benefits as of the last day of Year 3 is 92, the employer-initiated reduction percentage for Year 4 is 8.70% (8/92), which is less than the 10% annual limit. The sum of the employer-initiated reduction percentages for Year 3 and Year 4 is 13.75%, which is less than the 20% cumulative limit.

(v) In Year 5, there is a significant reduction under paragraph (b)(1)(ii) of this section. The number of individuals whose health coverage ended during Year 5 by reason of employer action (amendment of the plan) is 8. Since the number of individuals receiving coverage for applicable health benefits as of the last day of Year 4 is 84, the employer-initiated reduction percentage for Year 5 is 9.52% (8/84), which is less than the 10% annual limit. However, the sum of the employer-initiated reduction percentages for Year 3, Year 4, and Year 5 is 5.05% + 8.70% + 9.52% = 23.27%, which exceeds the 20% cumulative limit.

Example 2. (i) Employer X maintains a defined benefit pension plan that includes a 401(h) account and permits qualified transfers that satisfy section 420. X also provides lifetime health benefits to employees who retire from Division A as a result of a plant shutdown, no health benefits to employees who retire from Division B, and lifetime health benefits to all employees who

retire from Division C. In 2000, X amends its health plan to provide coverage for employees who retire from Division B as a result of a plant shutdown, but only for the 2-year period coinciding with their severance pay. Also in 2000, X amends the health plan to provide that employees who retire from Division A as a result of a plant shutdown receive health coverage only for the 2-year period coinciding with their severance pay. A plant shutdown that affects Division A and Division B employees occurs in 2000. The number of individuals receiving coverage for applicable health benefits as of the last day of 2001 is 200. In 2002, Employer X makes a qualified transfer under section 420. As of the last day of 2002, applicable health benefits are provided to 170 individuals, because the 2-year period of benefits ends for 10 employees who retired from Division A and 20 employees who retired from Division B as a result of the plant shutdown that occurred in 2000.

(ii) There is no significant reduction in retiree health coverage in 2002. Coverage for the 10 retirees from Division A who lose coverage as a result of the end of the 2-year period is treated as having ended by reason of employer action, because coverage for those Division A retirees ended by reason of a plan amendment made after December 17, 1999. However, the terms of the health plan that limit coverage for employees who retired from Division B as a result of the 2000 plant shutdown (to the 2-year period) were adopted contemporaneously with the provision under which those employees became eligible for retiree coverage under the health plan. Accordingly, under the rule provided in paragraph (b)(4)(ii) of this section, coverage for those 20 retirees from Division B is not treated as having ended by reason of employer action. Thus, the number of individuals whose health benefits ended by reason of employer action in 2002 is 10. Since the number of individuals receiving coverage for applicable health benefits as of the last day of 2001 is 200, the employer-initiated reduction percentage for 2002 is 5% (10/200), which is less than the 10% annual limit.

(e) *Effective date.* This section is applicable December 18, 1999, for qualified transfers occurring on or after that date.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01–249 Filed 1–4–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC82

Special Regulations, Areas of the National Park System

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to amend regulations specific to Rocky Mountain National Park that designate snowmobile routes inside the park. The routes currently designated are inconsistent with the protection of the resources and values of this park, management objectives, with the requirements of two executive orders, and NPS general regulations that govern snowmobile use in the National Park System. This amendment would eliminate three of the four routes currently designated for snowmobile use and bring the remaining route into compliance with the general regulations.

DATES: Written comments will be accepted through March 6, 2001.

ADDRESSES: Comments should be addressed to: National Park Service, Ranger Activities Division, 1849 C Street, NW., Room 7408, Washington, DC 20240. Fax (202) 208–6756. Email: WASO__Regulations@nps.gov.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Regulations Program Manager, National Park Service, 1849 C Street, N.W., Room 7413, Washington, DC 20240. Telephone: (202) 208–4206; Fax: (202) 208–6756; Email: Kym__Hall@nps.gov.

SUPPLEMENTARY INFORMATION:

Background

In January 1999, the NPS received a petition for rulemaking from the Bluewater Network, representing some 60 conservation organizations, requesting that we begin immediate rulemaking to prohibit snowmobile use within units of the National Park System. To gather information on how to respond, NPS conducted a survey of those parks in which snowmobile use is currently allowed. The survey gathered information from each relevant park on such matters as the basis on which a decision was originally made to allow snowmobile use in that park; how extensive that use is; what is known about the impacts of that use on park resources and values, including the enjoyment of other visitors; and what monitoring, if any, is conducted to determine those impacts. Additionally, the NPS held a two-day snowmobile ''summit'' in January 2000 at which officials from the Department of the Interior (including the Office of the Solicitor) and the National Park Service (including all but one affected park) reviewed the snowmobile use now occurring in the National Park System. We learned through the survey and the snowmobile ''summit'' that much of the snowmobile use that occurs in the National Park System is not consistent with management objectives or the protection of park resources and value, and is not in compliance with the requirements of the two executive orders and the NPS general regulations on snowmobile use.

In April 2000, the Department and NPS publicly announced an intention to propose changes in the snowmobile use allowed in parks, to protect park resources and values, to meet management objectives and to come into compliance with the legal requirements applying to that use. Consistent with that announcement, this is a proposed regulatory action to make those changes in the park-specific regulations governing snowmobile use in Rocky Mountain National Park, by repealing the current designation of three routes in the park as open to snowmobiles. Only one of those routes is currently open to snowmobile use. For the other two, this proposal would amend the park-specific regulations to conform to previous decisions by the park management to close the routes to snowmobile use. This proposed rule will leave one route in the park, the North Supply Creek Snowmobile Access Trail, designated for snowmobile use. An environmental analysis and a draft economic analysis have been prepared.

Existing Regulations

Executive Order 11644, issued by President Nixon in 1972, provides, among other things, that snowmobile use may be allowed in the National Park System only on areas and trails designated by NPS for that purpose, and only if NPS determines that the snowmobile use on those areas and trails will not adversely affect the park's natural, aesthetic, or scenic values. It requires NPS to monitor the effects of authorized snowmobile use in parks. It also requires NPS, on the basis of the information gathered through that monitoring, to amend or rescind designations of those areas and trails open to snowmobile use as necessary to avoid adverse effects on the park's natural, aesthetic, or scenic values.

Executive Order 11989, issued by President Carter in 1977, requires NPS, whenever it determines that the use of snowmobiles will cause or is causing considerable adverse effects on the natural resources of a park, to take steps to prevent those effects, including immediately halting that use.

NPS general regulations on snowmobile use, 36 CFR 2.18(c), state that:

The use of snowmobiles is prohibited, except on designated routes and water surfaces that are used by motor vehicles or