at the earliest possible opportunity before the time set for the hearing. You must state the reason for your objection and state the site and/or time you want the videoconference hearing to be held or the time and/or place you want the in-person hearing to be held. If at all possible, the request should be in writing. The administrative law judge will change the site and/or time of the videoconference hearing or the time and/or place of the in-person hearing if you have good cause, as determined under paragraphs (e)(1) and (2) of this section. Section 416.1438 of this part provides procedures we will follow when you do not respond to a notice of hearing.

(e) The administrative law judge will find good cause for changing the site and/or time of your scheduled videoconference hearing or the time and/or place of your scheduled in-person hearing, and will reschedule your hearing if your reason is one of the following circumstances and is supported by the evidence:

(1) You or your representative are unable to attend or to travel to the scheduled hearing because of a serious physical or mental condition, incapacitating injury, or death in the family; or

(2) Severe weather conditions make it impossible to travel to the hearing.

(f) In determining whether good cause exists in circumstances other than those set out in paragraph (e) of this section, the administrative law judge will consider your reason for requesting the change, the facts supporting it, and the impact of the proposed change on the efficient administration of the hearing process. Factors affecting the impact of the change include, but are not limited to, the effect on the processing of other scheduled hearings, delays which might occur in rescheduling your hearing, and whether any prior changes were granted to you. Examples of such other circumstances, which you might give for requesting a change in the time or place of the hearing, include, but are not limited to, the following:

(1) You have attempted to obtain a representative but need additional time;

(2) Your representative was appointed within 30 days of the scheduled hearing and needs additional time to prepare for the hearing;

(3) Your representative has a prior commitment to be in court or at another administrative hearing on the date scheduled for the hearing;

(4) A witness who will testify to facts material to your case would be unavailable to attend the scheduled hearing and the evidence cannot be otherwise obtained;

(5) Transportation is not readily available for you to travel to the hearing;

(6) You live closer to another hearing location; or

(7) You are unrepresented, and you are unable to respond to the notice of hearing because of any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have.

8. Section 416.1438 is revised to read as follows:

§ 416.1438 Notice of a hearing before an administrative law judge.

(a) *General notice information:* After your hearing has been scheduled, we will mail notice of the hearing to you at your last known address, or give the notice to you by personal service, unless you have indicated in writing that you do not wish to receive this notice. The notice will be mailed or served at least 20 days before the hearing. The notice of hearing will contain a statement of the specific issues to be decided and tell you that you may designate a person to represent you during the proceedings. The notice will also contain an explanation of the procedures for requesting a change in the time or place of your hearing, a reminder that if you fail to appear at your scheduled hearing without good cause, the ALJ may dismiss your hearing request and other information about the scheduling and conduct of your hearing. If you or your representative do not acknowledge receipt of the notice of hearing, we will attempt to contact you for an explanation. If you tell us that you did not receive the notice of hearing, an amended notice will be sent to you by certified mail. See § 416.1436 of this part for the procedures we will follow in deciding whether the time of your scheduled videoconference hearing or the time or place of your scheduled in-person hearing will be changed if you do not respond to the notice of hearing.

(b) *Hearing via video conferencing:* If we determine that it is more efficient and if the technology is available in the area where you live, we will schedule your hearing as a video teleconference. If we schedule a video teleconference for you, your notice, in addition to the information in paragraph (a) of this section, will also clearly state what it means to have a video teleconference hearing and if we have scheduled an expert witness(es) to testify by video teleconference. The notice will contain an explanation of how to let us know if you do not want to have a video teleconference hearing or do not want an expert witness to testify via video teleconference. We will schedule an in-person hearing for you if you tell us that you do not want a video teleconference hearing or do not want an expert witness to testify via video teleconference. Your notice will also contain an explanation of the procedures for requesting a change in the time of your scheduled videoconference hearing.

(c) *For a hearing in-person before an administrative law judge:* If we determine that it is not more efficient or if the technology is not available in the area where you live, an in-person hearing will be scheduled for you.

[FR Doc. 01–319 Filed 1–4–01; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 3533]

RIN 1400–AA48

Bureau of Consular Affairs; Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act—Amendment of Transit Without Visa (TWOV) List.

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Proposed rule, with request for comments.

SUMMARY: This rule proposes to amend the Department of State regulation that allows for a waiver of the visa and passport requirement under the Transit Without Visa (TWOV) Program authorized under section 233 of the Immigration and Nationality Act (INA) for citizens of certain countries who are in immediate and continuous transit through the United States. The Department proposes to remove from the current regulation the list of countries ineligible to participate in the TWOV Program and to publish a separate list which will be updated and published periodically.

This rule also sets forth the criteria, which among other factors, will be used in determining which countries will be ineligible for the TWOV privilege.

DATES: Interested persons should submit comments on or before March 6, 2001.

ADDRESSES: Submit comments, in duplicate, to the Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, D.C. 20522–0113.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Room L603–C, SA–1, Department of State, Washington, D.C. 20520–0106, (202) 663–1204; or e-mail: *odomhe@state.gov.*

SUPPLEMENTARY INFORMATION:

Background/Waiver Authority

Section 212(d)(4)(C) of the Immigration and Nationality Act (INA) provides authority for the Secretary of State, acting jointly with the Attorney General, to waive the passport and/or visa requirement for a nonimmigrant who is in immediate and continuous transit through the United States and is using a carrier that has entered into a Transit Without Visa (TWOV) Agreement as provided in INA 233(c).

Since TWOV does not involve the issuance of a visa, the Department's role in the day-to-day administration of the TWOV program is minimal.

Therefore, the Department's regulation at 22 CFR 41.2(i), for the most part, is merely a restatement of the INS regulation on the same subject. The Department does become involved, however, in designating those countries whose citizens are ineligible for the TWOV privilege.

How will the Regulation Be Changed

Amending the List of Ineligible Countries

The current regulation provides a list of countries whose citizens are ineligible for the TWOV privilege. The Department proposes to amend this regulation by removing the list of ineligible countries from the regulation and afterward, periodically, to publish such a list it in a **Federal Register** Notice. This will allow the Department to review and publish any revised list more frequently and more easily.

Determining Ineligibility to TWOV

In this rule the Department proposes criteria which will be used in determining for the purpose of publishing the list in the **Federal Register** those countries whose citizens will be ineligible to transit without visa. The list is not exhaustive. Other relevant factors, as determined by the Department and the INS, may be considered as well.

Based on these criteria, and other relevant factors, the Department and INS intend to periodically compile an updated list of countries whose citizens are ineligible for the waiver privilege and to publish the list in a notice in the **Federal Register**.

What Is the Authority for Allowing or Prohibiting Transit Without Visa

Section 212(d)(4)(C) of the Immigration and Nationality Act (INA) provides the authority for the Secretary of State, acting jointly with the Attorney General, to waive the passport and/or visa requirement for a nonimmigrant who is in immediate and continuous transit through the United States and is using a carrier that has entered into a Transit Without Visa (TWOV) Agreement as provided in INA 233(c)

Who Determines Which Countries Can Transit Without a Visa

Since TWOV does not involve the issuance of a visa, the Department's role in the day-to-day administration of the TWOV program is minimal. Therefore, the Department's regulation at 22 CFR 41.2(i), for the most part, is merely a restatement of the INS regulation on the same subject. The Department does become involved, however, in the designation of those countries whose citizens are ineligible to utilize the TWOV. The current regulation provides a list of ineligible countries.

What Criteria Will Be Considered in Determining Eligibility to TWOV

Along with other factors which the Department and the INS have determined relevant, the Department will consider.

(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.

Proposed Rule

How Will the Department of State Amend Its Regulations

The Department of State proposes to amend 22 CFR 41.2(i) by removing the list of countries for which the transit without visa privilege is not available. After consideration of the criteria outlined above, the Department and the INS propose to publish and update a list of countries whose citizens are ineligible for the TWOV privilege.

What Effect Will This Rule Have on Aliens Currently Excluded From the TWOV Privilege

This is a proposed rule and, therefore, does not affect aliens currently excluded from the TWOV privilege. Any changes to the list of ineligible aliens will take effect upon publication of a final rule. At the time of publication of the final rule, the Department will also publish a separate notice designating those countries whose citizens are ineligible for the TWOV privilege. The Department and the INS will review and update this list periodically.

Administrative Procedure Act

The Department is publishing this rule as a proposed rule, with a 60-day provision for public comments.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. 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 significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export 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, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

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.