However, no data is available to us indicating the number of entities that export animal products, how many entities might export edible animal products under our proposed rule, or how many of these entities might be small entities. For these reasons, we are unable to determine whether this proposed action might have a significant economic impact on a substantial number of small entities. We invite comments on this impact. In particular, we are interested in determining the number of small entities that may incur costs associated with obtaining export certificates for inedible animal products.

Executive Order 12998

This proposed rule has been reviewed under Executive Order 12998, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 9 CFR Part 98

Exports, Livestock, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 156, would be amended as follows:

PART 156—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

1. The authority citation for part 156 would continue to read as follows:

Authority: 7 U.S.C. 1622 and 1624; 21 U.S.C. 136a; 7 CFR 2.22, 2.80, and 371.2(d).

2. The part heading would be revised as set forth above.

3. Section 156.2 would be amended as follows:

a. Paragraph (g) would be removed;

b. All paragraph designations would be removed;

c. All definitions would be placed in alphabetical order; and

d. A definition of *Animal product* would be added, in alphabetical order, to read as follows:

§ 156.2 Definitions.

* * * * *

Animal product. Anything made of, derived from, or containing any material of animal origin.

* * * * *

§§ 156.3, 156.5, and 156.8 [Amended]

4. In the following sections, the word ''byproducts'' would be removed and the word ''products'' would be added in its place:

a. § 156.3, each time it appears;

b. § 156.5; and

c. § 156.8(b), each time it appears.

5. In § 156.6, the first sentence would be revised to read as follows:

§ 156.6 Certificates.

The inspector shall sign and issue certificates in forms approved by the Administrator for animal products, if the inspector finds that the requirements as stated in the certification have been met. * * *

Done in Washington, DC, this 13th day of September 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–24039 Filed 9–18–96; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–245562–96]

RIN 1545–AU46

Relief From Disqualification for Plans Accepting Rollovers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Proposed regulations.

SUMMARY: This document contains proposed regulations that would provide guidance on the qualification of retirement plans that accept rollover contributions from employees. These regulations affect plan administrators of qualified plans that accept rollover contributions.

DATES: Written comments must be received by December 18, 1996.

ADDRESSES: Send submissions to CC:DOM:CORP:R (REG–245562–96), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (REG–245562–96), 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.ustreas.gov/prod/tax_regs/comments.html

FOR FURTHER INFORMATION CONTACT: Marjorie Hoffman, (202) 622–6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On September 22, 1995, Final Income Tax Regulations (TD 8619) under sections 401(a)(31) and 402(c) were published in the Federal Register (60 FR 49199). The final regulations provide guidance for complying with the Unemployment Compensation Amendments of 1992 (UCA).

UCA expanded the types of distributions from a qualified plan that are eligible to be rolled over to an individual retirement account or individual retirement annuity, or to another qualified plan that accepts rollovers (collectively referred to as eligible retirement plans). Such distributions are referred to as eligible rollover distributions. UCA also added a new qualification provision under section 401(a)(31) that requires qualified plans to provide employees with a direct rollover option. Under a direct rollover option, an employee may elect to have an eligible rollover distribution paid directly to an eligible retirement plan. The direct rollover option is provided in addition to the pre-existing rollover provisions under section 402. Thus, an employee who receives an eligible rollover distribution but who does not elect a direct rollover still has the option to roll over the distribution to an eligible retirement plan within 60 days of receipt.

The final regulations under section 401(a)(31) provide that a plan that accepts a direct rollover from another plan will not fail to satisfy section 401(a) or 403(a) merely because the plan making the distribution is, in fact, not qualified under section 401(a) or 403(a) at the time of the distribution, if, prior to accepting the rollover, the receiving plan reasonably concluded that the distributing plan was qualified under section 401(a) or 403(a). The regulations provide, as an example, that the receiving plan may reasonably conclude that the distributing plan was qualified

under section 401(a) or 403(a) if, prior to accepting the rollover, the plan administrator of the distributing plan provided the receiving plan with a statement that the distributing plan had received a determination letter from the Commissioner indicating that the plan was qualified. The plan administrator is not required to verify this information, such as by obtaining a copy of the distributing plan's plan document or determination letter, in order to reasonably conclude that the distributing plan is qualified under section 401(a) or 403(a).

Explanation of Provisions

1. Overview

The relief to be provided in these proposed regulations is intended to increase the portability of qualified plan benefits when an employee changes jobs. This objective would be achieved by reassuring a plan sponsor that acceptance of an amount as a rollover contribution, in appropriate circumstances, will not affect the plan's qualification under section 401(a) or 403(a).

2. Expansion of Existing Relief for Receiving Plans

These proposed regulations would expand and clarify in several respects the relief provided in the regulations under section 401(a)(31) issued last year. First, the proposed regulations would clarify and expand the relief from disqualification currently provided for plans that accept direct rollovers. The protection would be expanded to be available not only if the plan administrator reasonably concludes the distributing plan is qualified under section 401(a) or 403(a) (even if later it is determined that the distributing plan is not a qualified plan), but also if the plan administrator reasonably concludes that a distribution meets the other requirements to be an eligible rollover distribution (but later it is determined that this conclusion was incorrect). Further, the proposed regulation would clarify that if the plan administrator reaches these conclusions reasonably, and satisfies the corrective distribution requirement described below, the contribution will be treated as a rollover contribution for purposes of applying qualification requirements under section 401(a) or 403(a) to the plan. Thus, if the contribution was not, in fact, a distribution from a qualified plan or for any other reason fails to be an eligible rollover distribution within the meaning of section 402(c), the contribution nevertheless would be treated as a rollover contribution as opposed to, for example, an employee contribution for purposes of section 401(m) or for purposes of section 415.

Second, the regulations would extend this expanded relief from disqualification to plans that accept rollover contributions other than direct rollover contributions. Thus, the relief would apply to plans that accept rollover contributions made by an employee within 60 days of the date of the distribution from a plan. Further, the relief would apply to plans that accept rollover contributions from a ''conduit IRAs,'' i.e., an individual retirement plan that does not contain any amount attributable to any source other than a rollover contribution (as defined in section 402) from a plan qualified under section 401(a) or an annuity qualified under section 403(a). The relief would apply if (a) when accepting a rollover contribution, the plan administrator of the receiving plan reasonably concludes that the contribution is an eligible rollover distribution from a qualified plan (or an amount distributed from a conduit IRA) and that the contribution satisfies the other applicable requirements of section 402(c) or 408(d)(3) for treatment as a rollover contribution and (b) the receiving plan satisfies the corrective distribution requirement described below.

The regulations would provide examples of the actions that a plan administrator might take to reasonably conclude that an employee's contribution satisfies the requirements for treatment as a rollover contribution. The examples are intended to be merely illustrative. Plan administrators may develop other approaches or procedures for reasonably reaching this conclusion.

Finally, the regulations would provide that if the receiving plan later obtains actual knowledge or otherwise determines that the distributing plan was not qualified at the time of the distribution, that any portion of the distribution was not an eligible rollover distribution or an amount distributed from a conduit IRA, or that the contribution to the plan otherwise did not satisfy the applicable requirements of section 402 or 408 for treatment as a rollover contribution, a corrective distribution equal to the amount of the contribution plus any earnings attributable to the contribution would be required to be made to the employee within a reasonable time after such determination.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has 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 regulation does 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 Internal Revenue 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 Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or comments transmitted via Internet that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

Drafting Information

The principal author of these regulations is Marjorie Hoffman, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

Par. 2. Section 1.401(a)(31)–1 is amended as follows:

1. Under the heading ''List of Questions,'' redesignating Q–14 through Q–18 as Q–15 through Q–19, respectively, and adding new Q–14.

2. Under the heading ''Question and Answers,'' removing designation (a) and

the paragraph heading, and removing paragraph (b) from A–13.

3. Under the heading ''Question and Answers,'' redesignating Q&A–14 through Q&A–18 as Q&A–15 through Q&A–19, respectively, and adding Q&A–14.

The additions read as follows:

§ 1.401(a)(31)–1 Requirement to offer direct rollover of eligible rollover distributions; questions and answers.

* * * * *

List of Questions

* * * * *

Q–14: If a plan accepts an invalid rollover contribution, whether or not as a direct rollover, how will the contribution be treated for purposes of applying the qualification requirements of section 401(a) or 403(a) to the plan?

* * * * *

Questions and Answers

* * * * *

Q–14: If a plan accepts an invalid rollover contribution, whether or not as a direct rollover, how will the contribution be treated for purposes of applying the qualification requirements of section 401(a) or 403(a) to the plan?

A–14: (a) *Acceptance of invalid rollover contribution.* If a plan accepts an invalid rollover contribution, the contribution will be treated, for purposes of applying the qualification requirements of section 401(a) or 403(a) to the receiving plan, as if it were a valid rollover contribution, if the following two conditions are satisfied. First, when accepting the amount from the employee as a rollover contribution, the plan administrator of the receiving plan reasonably concludes that the contribution is a valid rollover contribution. Second, if the plan administrator of the receiving plan later determines that the contribution was an invalid rollover contribution, the amount of the invalid rollover contribution, plus any earnings attributable thereto, is distributed to the employee within a reasonable time after such determination.

(b) *Definitions.* For purposes of this Q&A–14:

(1) An invalid rollover contribution is an amount that is accepted by a plan as a rollover within the meaning of Q&A–1 of § 1.402(c)–2 (or as a rollover contribution within the meaning of section 408(d)(3)(A)(ii)) but that is not an eligible rollover distribution from a qualified plan (or an amount described in section 408(d)(3)(A)(ii)) or that does not satisfy the other requirements of section 401(a)(31), 402(c), or 408(d)(3) for treatment as a rollover or a rollover contribution.

(2) A valid rollover contribution is a contribution that is accepted by a plan as a rollover within the meaning of Q&A–1 of § 1.402(c)–2 or as a rollover contribution within the meaning of section 408(d)(3) and that satisfies the requirements of section 401(a)(31), 402(c), or 408(d)(3) for treatment as a rollover or a rollover contribution.

(c) The provisions of paragraph (a) of this Q&A–14 are illustrated by the following examples:

Example 1. (a) Employer X maintains for its employees Plan M, a profit sharing plan qualified under section 401(a). Plan M provides that any employee of Employer X may make a rollover contribution to Plan M. Employee A is an employee of Employer X, will not have attained age 70½ by the end of the year, and has a vested account balance in Plan O (a plan maintained by Employee A's prior employer). Employee A elects a single sum distribution from Plan O and elects that it be paid to Plan M in a direct rollover.

(b) Employee A provides the plan administrator of Plan M with a letter from the plan administrator of Plan O stating that Plan O has received a determination letter from the Commissioner indicating that Plan O is qualified.

(c) Based upon such a letter, absent facts to the contrary, a plan administrator may reasonably conclude that Plan O is qualified and that the amount paid as a direct rollover is an eligible rollover distribution.

Example 2. (a) Same facts as *Example 1,* except that Employee A elects to receive the distribution from Plan O and wishes to make a rollover contribution described in section 402 rather than a direct rollover.

(b) When making the rollover contribution, Employee A certifies that, to the best of Employee A's knowledge, Employee A is entitled to the distribution as an employee and not as a beneficiary, the distribution from Plan O to be contributed to Plan M is not one of a series of periodic payments, the distribution from Plan O was received by Employee A not more than 60 days before the date of the rollover contribution, and the entire amount of the rollover contribution would be includible in gross income if it were not being rolled over.

(c) As support for these certifications, Employee A provides the plan administrator of Plan M with two statements from Plan O. The first is a letter from the plan administrator of Plan O, as described in *Example 1,* stating that Plan O has received a determination letter from the Commissioner indicating that Plan O is qualified. The second is the distribution statement that accompanied the distribution check. The distribution statement indicates that the distribution is being made by Plan O to Employee A, indicates the gross amount of the distribution, and indicates the amount withheld as Federal income tax. The amount withheld as Federal income tax is 20 percent of the gross amount of the distribution. Employee A contributes to Plan M an amount not greater than the gross amount of the distribution stated in the letter from Plan O and the contribution is made within 60 days of the date of the distribution statement from Plan O.

(d) Based on the certifications and documentation provided by Employee A, absent facts to the contrary, a plan administrator may reasonably conclude that Plan O is qualified and that the distribution otherwise satisfies the requirements of section 402(c) for treatment as a rollover contribution.

Example 3. (a) The facts are the same as in *Example 2,* except that, rather than contributing the distribution from Plan O to Plan M, Employee A contributes the distribution from Plan O to IRA P, an individual retirement account described in section 408(a). After the contribution of the distribution from Plan O to IRA P, but before the year in which Employee A attains age 70½, Employee A requests a distribution from IRA P and decides to contribute it to Plan M as a rollover contribution. To make the rollover contribution, Employee A endorses the check received from IRA P as payable to Plan M.

(b) In addition to providing the certifications described in *Example 2* with respect to the distribution from Plan O, Employee A certifies that, to the best of Employee A's knowledge, the contribution to IRA P was made not more than 60 days after the date Employee A received the distribution from Plan O, no amount other than the distribution from Plan O has been contributed to IRA P, and the distribution from IRA P was received not more than 60 days earlier than the rollover contribution to Plan M.

(c) As support for these certifications, in addition to the two statements from Plan O described in *Example* 2, Employee A provides copies of statements from IRA P. The statements indicate that the account is identified as an IRA, the account was established within 60 days of the date of the letter from Plan O informing Employee A that an amount had been distributed, and the opening balance in the IRA does not exceed the amount of the distribution described in the letter from Plan O. There is no indication in the statements that any additional contributions have been made to IRA P since the account was opened. The date on the check from IRA P is less than 60 days before the date that Employee A makes the contribution to Plan M.

(d) Based on the certifications and documentation provided by Employee A, absent facts to the contrary, a plan administrator may reasonably conclude that Plan O is qualified and that the contribution by Employee A is a rollover contribution described in section 408(d)(3)(A)(ii) that satisfies the other requirements of section 408(d)(3) for treatment as a rollover contribution.

Par. 3. Section 1.402(c)–2 is amended by adding a sentence to the end of A–11 to read as follows:

§ 1.402(c)–2 Eligible rollover distributions; questions and answers.

* * * * *

A–11. * * * See § 1.401(a)(31)–1, Q&A–14, for guidance concerning the

qualification of a plan that accepts a rollover contribution.

* * * * *

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 96–24059 Filed 9–18–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SPATS No. OK–017–FOR]

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions pertaining to a previously proposed amendment to the Oklahoma regulatory program (hereinafter referred to as the ''Oklahoma program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for Oklahoma's proposed rules pertain to protected activities. The proposed amendment is intended to revise the Oklahoma regulations to be consistent with the Federal regulations.

DATES: Written comments must be received by 4:00 p.m., c.d.t., October 4, 1996.

ADDRESSES: Written comments should be mailed or hand delivered to Jack R. Carson, Acting Director, Tulsa Field Office at the address listed below.

Copies of the Oklahoma program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 521–3859.

FOR FURTHER INFORMATION CONTACT: Jack R. Carson, Acting Director, Tulsa Field Office, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program
II. Discussion of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Oklahoma Program

On January 19, 1981, the Secretary of the Interior conditionally approved the Oklahoma program. Background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 19, 1981, Federal Register (46 FR 4902). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 936.15 and 936.16.

II. Discussion of the Proposed Amendment

By letter dated February 21, 1996, (Administrative Record No. OK–973), Oklahoma submitted a proposed amendment to its program pursuant to SMCRA. Oklahoma submitted the proposed amendment at its own initiative. The provisions of the Oklahoma regulations that Oklahoma proposed to amend were at Oklahoma Administrative Code (OAC) 460:20–15–7 concerning permit conditions. Specifically, Oklahoma proposed to revise OAC 460:20–15–7 by adding a new permit condition at subsection (5) concerning protected activity and by renumbering existing subsections (5) through (8) to be (6) through (9).

OSM announced receipt of the proposed amendment in the March 5, 1996, Federal Register (61 FR 8536) and invited public comment on its adequacy. The public comment period ended April 4, 1996.

During its review of the amendment, OSM identified concerns relating to Oklahoma's proposed addition, at OAC 460:20–15–7(5), of a new permit condition concerning protected activities. OSM was specifically concerned that the existing state enforcement and citizens complaint regulations do not contain the procedures necessary to implement the requirements of the Federal regulations dealing with protected activities at 30 CFR Part 865. OSM notified Oklahoma of the concerns by letter dated June 25, 1996 (Administrative Record No. OK–973.06). Oklahoma responded in a letter dated August 28, 1996, (Administrative Record No. OK–973.08) by submitting a revised amendment.

Oklahoma proposed the additions of a new subchapter at OAC 460:20–16, concerning protection of employees, to replace the changes originally proposed for OAC 460:20–15–7.

Specifically, Oklahoma proposes to add new subchapter 16 concerning protection of employees that reads as follows.

460:20–16–1. Scope

This subchapter establishes procedures regarding:

(1) The reporting of acts of discriminatory discharge or other acts of discrimination under the Act and this Chapter caused by any person. Forms of the discrimination include, but are not limited to:
  (A) Firing,
  (B) suspension,
  (C) transfer or demotion,
  (D) denial or reduction of wages and benefits,
  (E) coercion of promises of benefits or threats of reprisal, and
  (F) interference with the exercise of any rights afforded under the Act and this Chapter:

(2) The investigation of applications for review and holding of informal conferences about the alleged discrimination; and

(3) The request for formal hearings with the Department's Legal Division.

460:20–16–2. Protected activity

(a) No person shall discharge or in any other way discriminate against or cause to be fired or discriminated against any employee or any authorized representative of employees because that employee or representative has:

(1) Filed, instituted or caused to be filed or instituted any proceedings under the Act and this chapter by:
  (A) Reporting alleged violations or dangers to the Director, the Department of Mines, or the employer or his representative.
  (B) Requesting an inspection or investigation; or
  (C) Taking any other action which may result in a proceeding under the Act and this Chapter.

(2) Made statements, testified, or is about to do so:
  (A) In any informal or formal adjudicatory proceedings;
  (B) In any informal conference proceeding;
  (C) In any rulemaking proceeding;
  (D) In any investigation, inspection or other proceeding under the Act and this Chapter;
  (E) In any judicial proceeding under the Act and this Chapter.

(3) Has exercised on his own behalf or on behalf of other any right granted by the Act and this Chapter.

(b) Each employer conducting operations which are regulated under this Act and this Chapter, shall within 30 days from the effective day of these regulations, provide a copy of this Subchapter to all current employees and to all new employees at the time of their hiring.

460:20–16–3. Procedures for filing an application for review of discrimination