inspection required by paragraph (a) of this AD at the time specified in paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For airplanes on which any wire bundle has been replaced: Within 12 months after installation of the new wire bundle, accomplish the corrosion/resistance inspection required by paragraph (a) of this AD; and thereafter, repeat that inspection at intervals not to exceed 7 months.

(2) For airplanes on which any receptacle bond or bundle connector backshells have been repaired: Repeat the corrosion/resistance inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 7 months.

(d) Replacement of existing wire bundle connectors with new overmolded connectors, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, constitutes a terminating action for the repetitive inspection requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) Certain action(s) shall be done in accordance with Boeing Alert Service Bulletin 777–27A0019, dated April 3, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 21, 1997.

Issued in Renton, Washington, on April 28, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–11524 Filed 5–5–97; 8:45 am]

BILLING CODE 4910–13–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–7418; File Number S7–6–97]

RIN 3235–AH14

Definition of ''Prepared By or On Behalf of the Issuer'' for Purposes of Determining if an Offering Document is Subject to State Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The National Securities Markets Improvements Act of 1996 mandates that the Securities and Exchange Commission (''Commission'') adopt a definition of the phrase ''prepared by or on behalf of the issuer'' found in Section 18 of the Securities Act of 1933. The Commission today adopts this definition, thereby providing guidance as to when an offering document is subject to state regulation.

EFFECTIVE DATE: Rule 146 will be effective on May 6, 1997.

FOR FURTHER INFORMATION CONTACT: James R. Budge, Division of Corporation Finance, at (202) 942–2950, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today adds Rule 146 [1] Under the Securities Act of 1933 (''Securities Act'' or ''the Act'').[2] The Rule defines the term ''prepared by or on behalf of the issuer,'' for purposes of recently revised Section 18 of the Act.[3]

I. Background

Congress enacted the National Securities Markets Improvement Act of 1996, which became effective on October 11, 1996.[4] The statute reallocates regulatory responsibility relating to securities offerings between the federal and state governments based on the nature of the security or offering. Among other things, it preempts state laws requiring or with respect to registration or qualification of covered securities as defined in the Act.[5] It also prohibits states from directly or indirectly prohibiting, limiting or imposing any conditions on the use of any offering document for a covered security if the offering document is ''prepared by or on behalf of the issuer.'' [6]

II. Rule 146

The statute requires the Commission to define by rule the phrase ''prepared by or on behalf of the issuer,'' as used in connection with the prohibition on state regulation of offering documents for covered securities.[7] The Commission proposed a definition in February 1997 [8] and received three comment letters. Today it adopts the definition, slightly modified from the proposed version.

The Commission continues to believe, as it stated in the proposing release, that the phrase is intended to cover offering documents prepared with the issuer's knowledge and consent. Thus, the definition encompasses offering documents authorized and approved by the issuer. Conversely, documents that are prepared and circulated without issuer involvement are not covered, and are subject to state regulation.

Like the proposal, the final rule requires a two-step approach to this process. First, the issuer must authorize the production of the document. This provision does not require a board of directors to act with respect to each document connected to a securities offering. A company may authorize agents or representatives to act in its stead. The final rule clarifies the proposed language by specifically acknowledging authorization by an agent or representative chosen by the issuer for that purpose.

The second step requires the issuer, or its agent or representative, to approve an authorized offering document before its use. The proposal reflected this concept in its requirement that an authorized document be prepared by ''a director, officer, general partner, employee, affiliate, underwriter, attorney, accountant or agent of the issuer.'' In light of the public comment, and upon further consideration, the Commission has recrafted this provision to clarify its intentions and make the rule simpler. In the final rule, an issuer-authorized offering document (including one

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[1] The rule is codified at 17 CFR 230.146.

[2] 15 U.S.C. 77a *et seq.*

[3] 15 U.S.C. 77r.

[4] Pub.L. 104–290, 110 Stat. 3416 (1996).

[5] The term ''covered security'' is defined in new section 18(b) [15 U.S.C. 77r(b)].

[6] The term ''offering document'' is defined in new section 18(d)(1) [15 U.S.C. 77r(d)(1)], as follows:

(1) Offering Document.—The term ''offering document''—

(A) has the meaning given the term ''prospectus'' in section 2(10), but without regard to the provisions of subparagraphs (A) and (B) of that section; and

(B) includes a communication that is not deemed to offer a security pursuant to a rule of the Commission.

[7] Section 18(d)(2) requires the Commission to adopt this definition not later than six months after the section's enactment.

[8] Release No. 33–7388 (February 11, 1997) [62 FR 7186] (''Proposing Release'').

authorized by the issuer's agent or representative) is within the definition if the issuer or its agent or representative approves a prepared document before its use. The rule does not require the same person who authorized the document's production to be responsible for approving the prepared document. It is intended that this agent or representative will have reviewed the document in advance.

Of course, state law controls how a company authorizes activities. For example, if under state law the board of directors or other governing body may delegate authorization or approval authority for all offering documents to an individual, committee, or even an outside entity such as an underwriter, then the authorization or approval of that person would be sufficient for Rule 146.[9]

III. Cost-Benefit Analysis

There were no responses to the Commission's solicitation of comment regarding the costs and benefits of this definition. The Commission, at Congress' behest, crafted Rule 146 to provide guidance with respect to how to interpret the language of the statute. Therefore, the economic burdens and benefits relating to state preemption generally will be attributable to the statute. While the Commission expects the economic effects of this rule to be minimal, the definition will allow greater certainty about when an offering document is subject to state review.

IV. Summary of Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604 concerning this definition. The analysis notes that the rulemaking relates to a Congressional mandate to define the term ''prepared by or on behalf of the issuer'' for purposes of Section 18 of the Act and describes the reasons for and purposes of the definition.

The analysis states that no comments were received in response to Commission solicitation with respect to the Initial Regulatory Flexibility Analysis. The analysis goes on to state that there are approximately 1100 reporting companies that satisfy the definition of ''small business'' under Exchange Act Rule 0–10, but there is no reliable way to determine the impact of the rule on these entities, because it cannot be determined how many of these entities may raise capital, thereby benefiting from the rule. The Commission does not expect that significant changes to reporting, recordkeeping and compliance burdens will result from the rule, inasmuch as the substantive effects of the changes to Section 18 are controlled primarily by the terms of the legislation, and not by the terms of this definition. The purpose of the definition is to give guidance with regard to the meaning of a statutory term.

The Commission considered whether there are any appropriate steps available to minimize the economic impact of rule on small businesses and determined that establishing different requirements for small entities or exempting them from all or part of the definition would not serve the public interest, nor would it aid small businesses. The definition is purposefully crafted to give small entities equal footing with large companies with respect to the benefits of state preemption that Congress envisioned when it enacted revised Section 18.

V. Effective Date

The effective date for Rule 146 is May 6, 1997, the **Federal Register** publication date. In accordance with the Administrative Procedure Act 5 U.S.C. 553(d)(3), the Commission finds that the statutory mandate to adopt a rule within six months of the statute's effective date provides good cause to establish an effective date less than 30 days after publication of these rules. The early effective date will also allow affected persons to begin relying on the new definition immediately by eliminating confusion in the marketplace over whether a document is ''prepared by or on behalf of the issuer'' for purposes of the statute. Finally, because the definition does not impose any new burdens, the public would derive no benefit from the time provided by a delayed implementation date.

VI. Statutory Basis

Rule 146 is being adopted pursuant to Sections 18 and 19 of the Securities Act.

List of Subjects in Part 230

Reporting and recordkeeping requirements, Securities.

Text of the Amendment

In accordance with the foregoing, Title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The general authority citation for part 230 is revised to read as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77r, 77s, 77sss, 78c, 78d, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79t, 80a-8, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

* * * * *

2. By adding § 230.146, to read as follows:

§ 230.146 Definition of ''prepared by or on behalf of the issuer'' for purposes of Section 18 of the Act.

Prepared by or on behalf of the issuer. An offering document (as defined in Section 18(d)(1) of the Act [15 U.S.C. 77r(d)(1)]) is ''prepared by or on behalf of the issuer'' for purposes of Section 18 of the Act, if the issuer or an agent or representative:

(a) Authorizes the document's production, and

(b) Approves the document before its use.

Dated: April 30, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11692 Filed 5–5–97; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 573

[Docket No. FR–4108–C–06]

RIN 2506–AB87

Loan Guarantee Recovery Fund; Technical Amendment to Final Rule

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Technical amendment to final rule.

SUMMARY: On September 6, 1996 (61 FR 47404), HUD published a final rule implementing section 4 of the Church Arson Prevention Act of 1996. Specifically, the September 26, 1996 final rule established the procedures, terms, and conditions by which HUD will guarantee loans to assist nonprofit organizations in financing activities designed to rebuild and rehabilitate structures, to replace and restore personal property, and to finance other eligible activities as provided for in the final rule. The September 6, 1996 final rule inadvertently omitted from the list of eligible activities the refinancing of

[9] As provided by statute, the definition is applicable only to Section 18 of the Securities Act. As noted in the Proposing Release, in the case of a registered investment company, an agent of the issuer would include, without limitation, the issuer's investment adviser, attorney, underwriter, depositor or any other agent that performs administrative functions on behalf of the company.