

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2006-45 on the subject line.

*Paper Comments*

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-ISE-2006-45. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to Amendment No. 1 of File Number SR-ISE-2006-45 and should be submitted on or before October 3, 2006.

**V. Conclusion**

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>63</sup> that the proposed rule change (SR-ISE-2006-45) and Amendment No. 1 thereto are approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>64</sup>

**Nancy M. Morris,**  
Secretary.

[FR Doc. E6-15054 Filed 9-11-06; 8:45 am]

**BILLING CODE 8010-01-P**

**UNITED STATES SENTENCING COMMISSION****Sentencing Guidelines for United States Courts**

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice of a temporary, emergency amendment to sentencing guidelines, policy statements, and commentary.

**SUMMARY:** Pursuant to section 1(c) of the Stop Counterfeiting in Manufactured Goods Act, Public Law 109-181, the Commission hereby gives notice of a temporary, emergency amendment to the sentencing guidelines, policy statements, and commentary. This notice sets forth the temporary, emergency amendment and the reason for amendment.

**DATE:** The Commission has specified an effective date of September 12, 2006, for the emergency amendment.

**FOR FURTHER INFORMATION CONTACT:** Michael Courlander, Public Affairs Officer, Telephone: (202) 502-4590.

**SUPPLEMENTARY INFORMATION:** The Commission must promulgate a temporary, emergency amendment to implement the directive in section 1(c) of the Stop Counterfeiting in Manufactured Goods Act, Public Law 109-181, by September 12, 2006. The statutory deadline for the promulgation of the temporary, emergency amendment, in conjunction with the Commission's public meeting schedule (the promulgation of such amendments must occur in a public meeting), made it impracticable to publish a proposed temporary, emergency amendment in the **Federal Register** in order to provide an opportunity for public comment, and to publish the promulgated amendment not less than 30 days before the effective date. The Commission therefore had good cause not to publish a proposed amendment before the specified effective date and not to publish the promulgated amendment 30 days or more before such date. See 5 U.S.C. 553(b), (d)(3).

The temporary, emergency amendment set forth in this notice also may be accessed through the Commission's Web site at <http://www.ussc.gov>.

**Authority:** 28 U.S.C. 994(a), (o), (p), (x); section 1(c) of Public Law 109-181.

**Ricardo H. Hinojosa,**  
Chair.

*Amendment:* The Commentary to § 2B5.3 captioned "Application Notes" is amended in Note 2(A) by adding at the end the following:

(vii) A case under 18 U.S.C. § 2318 or § 2320 that involves a counterfeit label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature (I) that has not been affixed to, or does not enclose or accompany a good or service; and (II) which, had it been so used, would appear to a reasonably informed purchaser to be affixed to, enclosing or accompanying an identifiable, genuine good or service. In such a case, the 'infringed item' is the identifiable, genuine good or service.

*Reason for Amendment:* This amendment implements the emergency directive in section 1(c) of the Stop Counterfeiting in Manufactured Goods Act, Public Law 109-181. The directive, which requires the Commission to promulgate an amendment under emergency amendment authority by September 12, 2006, instructs the Commission to "review, and if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under section 2318 or 2320 of title 18, United States Code \* \* \*." The directive further provides that the Commission shall:

determine whether the definition of "infringement amount" set forth in application note 2 of section 2B5.3 of the Federal sentencing guidelines is adequate to address situations in which the defendant has been convicted of one of the offenses [under section 2318 or 2320 of title 18, United States Code,] and the item in which the defendant trafficked was not an infringing item but rather was intended to facilitate infringement, such as an anti-circumvention device, or the item in which the defendant trafficked was infringing and also was intended to facilitate infringement in another good or service, such as a counterfeit label, documentation, or packaging, taking into account cases such as *U.S. v. Sung*, 87 F.3d 194 (7th Cir. 1996).

The emergency amendment adds subdivision (vii) to Application Note 2(A) of § 2B5.3 (Criminal Infringement of Copyright or Trademark) to provide that the infringement amount is based on the retail value of the infringed item in a case under 18 U.S.C. 2318 or 2320 that involves a counterfeit label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature (I) that has not been affixed to, or does not enclose or accompany a good or service; and (II) which, had it been so used, would appear to a reasonably informed purchaser to be affixed to, enclosing or accompanying an identifiable, genuine good or service. In such a case, the

<sup>63</sup> 15 U.S.C. 78s(b)(2).

<sup>64</sup> 17 CFR 200.30-3(a)(12).

“infringed item” is the identifiable, genuine good or service.

[FR Doc. E6-15076 Filed 9-11-06; 8:45 am]

BILLING CODE 2211-01-P

## **SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration # 10567 and # 10568]

### **Texas Disaster Number TX-00195**

**AGENCY:** Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA-1658-DR), dated 8/15/2006.

*Incident:* Flooding.

*Incident Period:* 7/31/2006 and continuing through 8/25/2006.

**DATES:** Effective Date: 8/25/2006.

*Physical Loan Application Deadline Date:* 10/16/2006.

*EIDL Loan Application Deadline Date:* 5/15/2007.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of Texas, dated 8/15/2006, is hereby amended to establish the incident period for this disaster as beginning 7/31/2006 and continuing through 8/25/2006.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Roger B. Garland,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. E6-15100 Filed 9-11-06; 8:45 am]

BILLING CODE 8025-01-P

## **SMALL BUSINESS ADMINISTRATION**

### **Small Business Size Standards: Waiver of the Nonmanufacturer Rule**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of Waiver of the Nonmanufacturer Rule for Plastics Pallets (Twin Sheet Thermoformed).

**SUMMARY:** The U.S. Small Business Administration (SBA) is granting a

waiver of the Nonmanufacturer Rule for Plastics Pallets (Twin Sheet Thermoformed).

The basis for waiver is that no small business manufacturers are supplying this class of product to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

**DATES:** This waiver is effective September 27, 2006.

#### **FOR FURTHER INFORMATION CONTACT:**

Edith Butler, Program Analyst, by telephone at (202) 619-0422; by fax at (202) 481-1788; or by e-mail at [edith.butler@sba.gov](mailto:edith.butler@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any “class of products” for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines “class of products” based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on July 12, 2006, to waive the Nonmanufacturer Rule for Plastics Pallets (Twin Sheet Thermoformed).

In response, on August 9, 2006, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Plastics

Pallets (Twin Sheet Thermoformed). SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to this notice, no comments were received from any interested party. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for Plastics Pallets (Twin Sheet Thermoformed). NAICS code 326199 and product number 4141.

**Authority:** 15 U.S.C. 637(a)(17).

Dated: August 31, 2006.

**Karen C. Hontz,**

*Associate Administrator for Government Contracting.*

[FR Doc. E6-15096 Filed 9-11-06; 8:45 am]

BILLING CODE 8025-01-P

## **SOCIAL SECURITY ADMINISTRATION**

### **Additional Options for Requesting Administrative Review—Title II and Title XVI; Withdrawal**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Withdrawal of notice.

**SUMMARY:** We are withdrawing the notice we published in the **Federal Register** Notice on August 14, 2006. That notice explained that the Agency intended to expand the methods available for requesting administrative review by accepting oral requests from claimants in person or by telephone. In developing the business process, we discovered this change would not provide the same protections to the claimant that exist in the current process. As a result, we have determined that we will not change the appeal process in this manner at this time.

**DATES:** *Effective Date:* This withdrawal will be effective on September 12, 2006.

#### **FOR FURTHER INFORMATION CONTACT:**

Rosemary Carey, Leader, Due Process Team, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-7936 or TTY (410) 966-5609.

**SUPPLEMENTARY INFORMATION:** On August 14, 2006 (71 FR 46535), we published in the **Federal Register** a notice entitled Additional Options for Requesting Administrative Review—Title II and Title XVI. That notice explained that we intended to expand the methods available for requesting administrative review of our determinations or decisions in the Social Security and