

a. Competition generally in fresh market agaricus mushrooms in the eastern United States will be restrained.

b. Actual and potential competition between the cooperative's members and other mushroom farmers will be prevented, forestalled and restricted;

c. Acreage and facilities available to produce mushrooms in the eastern United States will be artificially reduced; and

d. Consumers will be deprived of the benefits of competition.

### VIII. Requested Relief

Wherefore, Plaintiff requests:

1. That the deed restrictions the EMMC placed on the six properties identified above be adjudged and decreed to be unlawful and in violation of section 1 of the Sherman Act, 15 U.S.C. 1.

2. That the Defendant and all persons acting on its behalf be permanently enjoined and restrained from enforcing the deed restrictions on the above-mentioned properties and from entering into or carrying out any contract, agreement, understanding, or plan, the effect of which would be to limit, forestall or prohibit the conduct of any business related to the growing of mushrooms on any property in the United States;

3. That the Defendant be ordered to file appropriate documents in the land records of each jurisdiction in Georgia, Pennsylvania and Ohio where the EMMC previously filed deed restrictions, to nullify the recorded deed restrictions that had the effect of prohibiting the conduct of business related to the cultivation, growing, production or marketing of mushrooms; and

4. That Plaintiff have such other relief as the Court may deem just and proper.

Respectfully submitted,

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Assistant Attorney General.

J. Bruce McDonald,  
Deputy Assistant Attorney General.

Dorothy B. Fountain,  
Deputy Director of Operations and Civil Enforcement.

Roger W. Fones,  
Chief, Transportation, Energy & Agriculture Section.

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Assistant Chief, Transportation, Energy & Agriculture Section.

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Laura Heiser.

Anne Spiegelman,  
Trial Attorneys, Antitrust Division, Philadelphia Field Office.  
December 16, 2004.

### United States District Court for the Eastern District of Pennsylvania

*United States of America, Plaintiff, v. Eastern Mushroom Marketing Cooperative, Inc., Defendant; Stipulation*

Civil Case No.: 2:04-CV-5829.  
Judge Thomas N. O'Neill, Jr.  
Date Stamp: 12/16/2004.

It is stipulated by and between the undersigned parties by their respective attorneys that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the Eastern District of Pennsylvania.

2. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent.

3. The Defendant shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment, and shall, from the date of the filing of this Stipulation, comply with all the terms and provisions thereof as though the same were in full force and effect as an order of the Court.

4. In the event the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: December 16, 2004.

### Eastern Mushroom Marketing Cooperative

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### United States of America

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Counsel for the United States.

[FR Doc. 05-2495 Filed 2-9-05; 8:45 am]

BILLING CODE 4410-11-M

### NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8968-ML; ASLBP No. 95-706-01-ML]

### Hydro Resources, Inc.; Notice of Reconstitution

Pursuant to 10 CFR 2.1207, in the above captioned *Hydro Resources, Inc.* proceeding, Administrative Judge E. Roy Hawkens is hereby appointed to serve as Presiding Officer in place of Administrative Judge Thomas S. Moore.

In accordance with 10 CFR 2.1203, all correspondence, documents, and other material relating to any matter in this proceeding should be served on Administrative Judge Hawkens as follows: Administrative Judge E. Roy Hawkens, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Issued at Rockville, Maryland this, 4th day of February 2005.

G. Paul Bollwerk, III,  
Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 05-2565 Filed 2-9-05; 8:45 am]

BILLING CODE 7590-01-P

### SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17a-4; SEC File No. 270-198; OMB Control No. 3235-0279.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously

approved collection of information discussed below.

Rule 17a-4 requires approximately 6,900 active, registered exchange members, brokers and dealers ("broker-dealers") to preserve for prescribed periods of time certain records required to be made by Rule 17a-3 and other Commission rules, and other kinds of records which firms make or receive in the ordinary course of business. Rule 17a-4 also permits broker-dealers to employ, under certain conditions, electronic storage media to maintain these required records. The records required to be maintained under Rule 17a-4 are used by examiners and other representatives of the Commission to determine whether broker-dealers are in compliance with, and to enforce their compliance with, the Commission's rules.

The staff estimates that the average number of hours necessary for each broker-dealer to comply with Rule 17a-4 is 254 hours annually. Thus, the total burden for broker-dealers is 1,752,600 hours annually. The staff believes that compliance personnel would be charged with ensuring compliance with Commission regulation, including Rule 17a-4. The staff estimates that the hourly salary of a compliance manager is \$50 per hour.<sup>1</sup> Based upon these numbers, the total cost of compliance for 6,900 respondents is approximately \$87.63 million (1,752,600 yearly hours x \$50). The total burden hour decrease of 128,661 results from the decrease in the number of respondents from 7,217 to 6,900.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, by sending an e-mail to: [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov); and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within thirty days of this notice.

February 4, 2005.

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. E5-569 Filed 2-9-05; 8:45 am]

BILLING CODE 8010-01-P

<sup>1</sup> This figure is based on the SIA Report on Office Salaries In the Securities Industry 2003 (Compliance Manager) and includes 35% for overhead charges.

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission Office of Filings and Information Services, Washington, DC 20549.

Extensions: Schedule TO OMB Control No. 3235-0515; SEC File No. 270-456.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Schedule TO must be filed by a reporting company that makes a tender offer for its own securities. Also, persons other than the reporting company making a tender offer for equity securities registered under Section 12 of the Exchange Act (which offer, if consummated, would cause that person to own over 5% of that class of the securities) must file Schedule TO. The purpose of Schedule TO is to improve communications between public companies and investors before companies file registration statements involving tender offer statements. This information is made available to the public. Information provided on Schedule TO is mandatory. Approximately 2,500 issuers annually file Schedule TO and it takes 43.5 hours to prepare for a total of 108,750 annual burden hours. It is estimated that 50% of the 108,750 total burden hours (54,375 burden hours) is prepared by the company.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov); and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments

must be submitted to OMB within 30 days of this notice.

Dated: February 4, 2005.

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. E5-572 Filed 2-9-05; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[File No. 1-12451]

### Issuer Delisting; Notice of Application of New York Health Care, Inc. To Withdraw Its Common Stock, \$.01 Par Value, From Listing and Registration on the Boston Stock Exchange, Inc.

February 4, 2005.

On January 21, 2005, New York Health Care, Inc., a New York corporation ("Issuer"), filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 12d2-2(d) thereunder,<sup>2</sup> to withdraw its common stock, \$.01 par value ("Security"), from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").

On January 19, 2005, the Board of Directors ("Board") of the Issuer approved resolutions to withdraw the Issuer's Security from listing and registration on the BSE. In making the decision to delist the Security from the BSE, the Issuer stated various factors, including: (i) That the original listing of the Security on the Exchange was required by the underwriter of the Issuer's initial public offering—a contractual obligation that has expired; (ii) that the Security has not traded on the Exchange from at least January 2002 to the time of the application; (iii) the expense involved in responding to the Exchange's request<sup>3</sup> to make any

<sup>1</sup> 15 U.S.C. 78(d).

<sup>2</sup> 17 CFR 240.12d2-2(d).

<sup>3</sup> By letter dated December 3, 2004, the Exchange requested that the Issuer file a listing of additional shares form with the Exchange and pay any fees associated therewith, and provide information regarding: (i) The Issuer's previously reported delisting of its common stock from Nasdaq and the investigation resulting from the resignation of a former director; (ii) the business purpose of the resignations of the Issuer's Chief Executive Officer and Chief Financial Officer, which are anticipated to occur upon the completion of the Issuer's private placement of securities; (iii) the current number of beneficial holders of the Issuer, and (iv) a potential rescission right on certain shares issued to holders of BioBalance stock. On December 20, 2004, the Issuer requested an extension of the December 22, 2004 deadline to have more time to decide whether to expend the time and resources necessary to respond to the Exchange or to voluntarily delist. On