



To be sure, various interest groups, and legislators, at various times and for various reasons during the period of discussion that preceded the passage of the legislation, used one or more of these phrases, in various permutations and combinations. But the bottom line is that the words of the statute -- the bedrock upon which the regulations must stand -- are “extraordinary or exceptional.” And we note further that the words are used disjunctively: either “extraordinary” or “exceptional.”

“Extraordinary” -- “1. Beyond or out of the common order or method; not usual, customary or ordinary”

“Exceptional” -- “Forming an exception; not ordinary; uncommon; rare ...”

*Websters New International Dictionary, Second Edition.*

It is entirely possible -- in the modern world, one might say entirely predictable -- for an act to be extraordinary or exceptional, yet foreseeable and/or avoidable.

In short, Congress chose specific words, in a specific context, to achieve a specific legislative goal. It is the role of the Commission to provide a framework for the application of the established legislative standard, not to expand -- on contract -- the legislative mandate.

Respectfully submitted,



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