

NEOGEN CORP  
Form S-8  
December 21, 2007

As filed with the Securities and Exchange Commission on December 21, 2007

Registration No. 333-\_\_\_\_\_

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**UNITED STATE**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM S-8**  
**REGISTRATION STATEMENT**

*UNDER*  
*THE SECURITIES ACT OF 1933*

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**NEOGEN CORPORATION**

(Exact name of registrant as specified in its charter)

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**Michigan**  
(State or other jurisdiction of  
incorporation or organization)

**38-2364843**  
(I.R.S. Employer  
Identification No.)

**620 Leshar Place, Lansing, Michigan**  
(Address of Principal Executive Offices)

**48912**  
(Zip Code)

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**NEOGEN CORPORATION 2007 STOCK OPTION PLAN**

(Full title of the plan)

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**James L. Herbert**

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620 Lesher Place

Lansing, Michigan 48912

(Name and address of agent for service)

(517) 372-9200

(Telephone number, including area code, of agent for service)

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Calculation of Registration Fee

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Title of securities To be registered	Amount to be Registered	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee
Common Shares (1)	17,000 (2)	\$ 25.07 (5)	\$ 426,190 (5)	
Common Shares (1)	983,000 (3)	\$ 25.03 (6)	\$ 24,604,490 (6)	
Total	1,000,000			\$ 983.71

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- (1) \$0.16 par value per share.
  - (2) Represents 17,000 Common Shares reserved for issuance under the employee benefit plan described herein upon the exercise of outstanding options under such plan.
  - (3) Represents 983,000 Common Shares reserved for issuance under the employee benefit plan described herein upon the exercise of options to be granted.
  - (4) In addition, pursuant to rule 416(c) under the Securities Act of 1933, this registration statement also covers an indeterminate amount of interests to be offered or sold pursuant to the employee benefit plan described herein.
  - (5) Calculated pursuant to Rule 457(h) solely for the purpose of computing the registration fee and based on the exercise price of the options.
  - (6) Calculated pursuant to Rule 457(h) solely for the purpose of computing registration fee and based on the average of the high and low sales prices of the common shares, as quoted on The Nasdaq National Market, on December 18, 2007.
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Exhibit Index is on Page 8

**PART I**

**INFORMATION REQUIRED IN THE SECTION 10(a) of the PROSPECTUS**

Note: The information required by Part I of Form S-8 to be contained in a prospectus meeting the requirements of Section 10(a) of the Securities Act of 1933, as amended (the Securities Act ), is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act and the note to Part I of Form S-8.

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**PART II**

**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 3. Incorporation of Documents by Reference.**

The documents listed below are incorporated by reference in this registration statement:

1. Annual Report of Neogen Corporation (the Registrant) on Form 10-K for the fiscal year ended May 31, 2007 as filed with the Securities and Exchange Commission (the Commission) pursuant to the Securities Exchange Act of 1934, as amended (the Exchange Act).
2. Quarterly Report of the Registrant on Form 10-Q for the fiscal quarter ended August 31, 2007 and all other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year ended May 31, 2007.
3. The description of the Registrant's Common Shares included under the caption Description of Capital Stock on pages 18 and 19 of the Registrant's Prospectus, dated May 12, 2006, filed with the Commission pursuant to the Securities Act of 1933, as amended (the Securities Act) as part of its registration statement on Form S-3 (file no. 333-133614) effective May 15, 2006.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this registration statement and to be part hereof from the date of the filing of such documents.

**Item 4. Description of Securities.**

Not applicable.

**Item 5. Interests of Named Experts and Counsel.**

Not applicable.

**Item 6. Indemnification of Directors and Officers.**

Under Sections 561-571 of the Michigan Business Corporation Act, directors and officers of a Michigan corporation may be entitled to indemnification by the corporation against judgments, expenses, fines and amounts paid by the director or officer in settlement of claims brought against them by third persons or by or in the right of the corporation if those directors and officers acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interest of the corporation or its shareholders. The Articles of Incorporation of the Registrant so limit the liability of directors. The Registrant's Bylaws also provide for indemnification of directors and officers.

The Articles of Incorporation limit director liability for breaches of fiduciary duty as a director, except for liability for (i) the amount of a financial benefit received by a director to which he or she is not entitled; (ii) intentional infliction of harm on the Registrant or the shareholders; (iii) a violation of Section 551 of the Michigan Business Corporation Act; or (iv) an intentional criminal act. These provisions, however, do not affect liability under the Securities Act.

The Michigan Business Corporation Act authorizes a corporation under specified circumstances to indemnify its directors and officers (including reimbursement for expenses incurred) for any action taken or any failure to take any action as a director or officer, except for liability for specified acts. The provisions of the Registrant's Bylaws relating to indemnification of directors and officers limit director, officer and employee liability to the fullest extent permitted by Michigan Law. The provisions of the Michigan Business Corporations Act are broad enough to permit indemnification with respect to liabilities arising under the Securities Act and Michigan Uniform Securities Act.

In addition, the Registrant has obtained directors and officers liability insurance. The policy provides for \$8,000,000 in coverage, including liabilities under the Securities Act.



**Item 7. Exemption from Registration claimed.**

Not applicable.

**Item 8. Exhibits.**

- 4.1 Restated Articles of Incorporation, as restated, incorporated by reference to the exhibit filed with Registrant's Quarterly Report on Form 10-Q dated February 29, 2000.
- 4.2 Bylaws, amended, incorporated by reference to the exhibit filed with Registrant's Quarterly Report on Form 10-Q dated February 29, 2000.
- 4.3 Neogen Corporation 2007 Stock Option Plan.
- 5.1 Opinion of Honigman Miller Schwartz and Cohn LLP.
- 23.1 Consent of Independent Registered Public Accounting Firm Ernst & Young LLP.
- 23.2 Consent of Honigman Miller Schwartz and Cohn LLP (included in opinion filed as Exhibit 5.1. to this registration statement).
- 24.1 Power of Attorney (included after the signature of the Registrant contained in this registration statement).
- 24.2 Power of Attorney appointing Richard R. Current and James L. Herbert as attorney-in-fact to sign this registration statement on behalf of the Registrant's Board of Directors.

**Item 9 Undertakings.**

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being make, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-3 or Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such

securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

#### **EXPERTS**

The consolidated financial statements of Neogen Corporation and subsidiaries appearing in Neogen Corporation and subsidiaries Annual Report (Form 10-K) for the year ended May 31, 2007 including schedule appearing therein, and Neogen Corporation and subsidiaries management's assessment of the effectiveness of internal control over financial reporting as of May 31, 2007 included therein, have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their reports thereon, included therein, and incorporated herein by reference. Such consolidated financial statements and management's assessments are incorporated herein by reference in reliance upon such reports given on the authority of such firm as experts in accounting and auditing.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Lansing, State of Michigan, on December 20, 2007.

**NEOGEN CORPORATION**

By: /s/ James L. Herbert  
James L. Herbert  
Its: Chairman & Chief Executive Officer

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each of the undersigned officers and directors of NEOGEN CORPORATION, a Michigan corporation (the Company), hereby constitutes and appoints James L. Herbert and Richard Current, and each of them, the true and lawful attorneys-in-fact and agents of the undersigned, each with the power of substitution for him in any and all capacities, with full power and authority in said attorneys-in-fact and agents and in any one or more of them, to sign, execute and affix his seal thereto and file the proposed registration statement on Form S-8 to be filed by the Company under the Securities Act of 1933, as amended, which registration statement relates to the registration and issuance of the Company's Common Shares, par value \$0.16 a share, pursuant to the Neogen Corporation 2007 Stock Option Plan, as amended, and any of the documents relating to such registration statement; any and all amendments to such registration statement, including any amendment thereto changing the amount of securities for which registration is being sought, and any post-effective amendment, with all exhibits and any and all documents required to be filed with respect thereto with any regulatory authority; granting unto said attorneys, each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises in order to effectuate the same as fully to all intents and purposes as he might or could do if personally present, hereby ratifying and confirming all that said attorneys-in-fact and agents, and each of them, may lawfully do or cause to be done by virtue hereof.

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Pursuant to the requirements of the Securities Act, this registration statement has been signed by the following persons in the capacities and on the date indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ James L. Herbert James L. Herbert	Chairman, Chief Executive Officer and Director	December 20, 2007
/s/ Lon M. Bohannon Lon M. Bohannon	President & Chief Operating Officer and Director	December 20, 2007
Robert M. Book*	Director	
A. Charles Fischer*	Director	
Gordon E. Guyer, Ph.D*	Director	
Jack C. Parnell*	Director	
G. Bruce Papish *	Director	
Thomas H. Reed*	Director	
Clayton K. Yeutter, Ph.D*	Director	

\* Signed by Richard R. Current as attorney-in-fact as evidenced by Power of Attorney in Exhibit 24.2

**INDEX TO EXHIBITS**

**Exhibit**

**Number    Description**

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- 23.1    Consent of Independent Registered Public Accounting Firm Ernst & Young LLP.
- 23.2    Consent of Honigman Miller Schwartz and Cohn LLP (included in the opinion filed as Exhibit 5.1 to this registration statement)
- 24.1    Power of Attorney (included after the signature of the Registrant contained in this registration statement).
- 24.2    Power of Attorney appointing Richard R. Current and James L. Herbert as attorneys-in-fact to sign this registration statement on behalf of the Registrant's Board of Directors.